



**CITY OF BRENTWOOD
PLANNING COMMISSION MINUTES
TUESDAY, 6:00 P.M.
MAY 20, 2008
COUNCIL CHAMBERS**

Jim Cushing, Vice Chairperson
David Bristow, Commissioner

Julie Gildersleeve, Chairperson

Don Stirling, Commissioner
Joseph Weber, Commissioner

Workshop - 6:00 PM - BRENTWOOD BOULEVARD SPECIFIC PLAN

Workshop to review and provide input on the proposed draft Brentwood Boulevard Specific Plan, consisting of approximately 436 acres located along the Brentwood Boulevard (State Route 4) corridor from Delta Road on the north to Second Street on the south. The project includes a proposed General Plan Amendment (GPA 08-03) and Rezoning (RZ 08-05) and consideration of a Draft Environmental Impact Report prepared in accordance with California Environmental Quality Act requirements.

Senior Planner Winston Rhodes gave a presentation of the Brentwood Boulevard Specific Plan.

Public hearing opened.

Emil Geddes, a resident on Lagoon Court in Brentwood, said that he was at the meeting partially as a real estate agent because he represented the property referred to as the "Dodge Garage" on Brentwood Boulevard which was being offered for lease for the last 4 to 5 months. He said that he had been unsuccessful in leasing the vacant property, although there was a lot of interest. He agreed that the Plan implementation would take a decade or two. He was concerned about page 53 of the BBSP document. Mr. Geddes thought that 6 months to a year rather than 60 days would be a more reasonable discontinuance period when dealing with commercial property. He explained the term "functional obsolescence" which referred to a property that has been designed for one particular use and then the use is no longer functional. The building would essentially need to be torn down before it could be used for a different kind of zoning. He said that this happens with car lots and could happen with Bill Brandt's building, where the building would have to eventually be torn down to change the zoning. Mr. Geddes suggested that the zoning in the plan is used, but not to get rid of the current zoning that the automotive people had, referring particularly to parcels 203 and 204. He suggested a transition process be included that does not push existing uses out, especially uses that have historically generated substantial sales tax revenue for the City. He said that our current economy needed the tax revenue associated with existing uses. Mr. Geddes would also like to see a destination business, such as "big box" commercial use on the Sciortino Ranch property, which would draw more traffic to the area.

Sandra Myers, a Park and Recreation Commissioner for the City of Brentwood, said that she previously served as a Commissioner for the town of Danville for several years and talked about how she was involved with helping to draft a specific plan for the Sycamore Valley/Tassajara corridor. Ms. Myers said that she noticed that a lot of the parcels in the BBSP area were small and developers would probably not want to dedicate parkland. She encouraged staff to work with the developers of larger properties in order to provide park land that was larger than one acre, such as 4 or 5 acre parks that would be more meaningful.

Craig Bronzan, the City's Director of Parks and Recreation, said that he appreciated the specific plan and the work that staff continues to do. He also appreciated staff working with the developers and their suggestions. He talked about the 2,246 mid-range density dwelling units that were noted on Table 1a on page 5 of the BBSP document and noted that Parks and Recreation used household size information as far as the range of recreation needs that could be met for required park acreage from Community Development. He said that the proposed plan could generate approximately 6,700 people that were not

accounted for in the current Parks and Recreation Master Plan. Consequently, approximately 30-32 acres of parkland would be necessary if the City wanted to keep the same level parks space for the residents for this part of the town that has been kept throughout the rest of the community. He said that if developers were allowed to pay in-lieu fees as opposed providing the park land, that would then shift the pressure onto the City's back to then try to find, within the City limits, adequate park land, which was very difficult to do. Mr. Bronzan said that Parks and Recreation was committed to be as creative as necessary, but they wanted to make sure that the future residents were served from a park acreage standpoint as everyone else in the City.

Tim Broderick, an occupant of an office building on Brentwood Boulevard, handed to the Commission comment letters relating to parcel numbers 150, 205 and 211. He said that these concerns were previously raised to the City Council and asked that they be considered and properly addressed. The property owners of these parcels were told that the City would take an even-handed approach and during the process they asked for a fair shake. Mr. Broderick said that the property owners tried to understand and embrace the City's vision of a grand boulevard and have made compromise after compromise, and so far they had seen nothing in the vicinity of a fair shake. Mr. Broderick said that he and the property owners had been misled repeatedly.

Rob Brandt, of Bill Brandt Ford on Brentwood Boulevard, said that he had seen a lot of change in the area since 1972. Mr. Brandt said that he attended a workshop meeting in 2005 and was glad that his concerns about "pocket parking" had been addressed. He felt that there needed to be some improvements on some pieces of property and understood the negative consequences for areas with dilapidated or vacant properties. Mr. Brandt talked about Brentwood Chrysler-Dodge, which had been out of business for 5 to 6 months, and felt that the 60 days was insufficient as far as a discontinuance period. He felt that 6 months to a year would be more appropriate to lease a property such as that, in today's economy. He thought that the City needed to be realistic and to not have so many illusions of grandeur of what the town as a community, and the business owners would like to see Brentwood Boulevard shape up to and to realize what it does for the City right now.

Carol Gwin applauded those that brought up the grandfather clause relating to the discontinuance period. She said that it was wonderful to have a plan in mind, however a transition couldn't be accomplished in 60 days. She thought that 6 months would be more viable. She understood that the City didn't want property owners to hang on to old non-conforming uses when there would be an opportunity to implement the new plan, however she felt that there were processes in place and resources available to prevent properties from becoming an eyesore. Ms. Gwin said that if someone was interested in renting or selling their property, it could possibly take years right now. Ms. Gwin said that she was speaking for several property owners and asked the Planning Commission to consider the proposed land use for the northeast corner of Brentwood Boulevard and Lone Tree Way - parcels 19, 21, 22, 23 and 26. She said that these parcels currently are planned for an office use in the draft plan, along with everyone north of Lone Tree Way, and they would like the Planning Commission to consider the corner properties as a mixed use designation of office/retail commercial. She thought it would be a good transition into the pure office use behind it and it gave more opportunity for combining the parcels into a workable unit. She said that if Parcel 27 was included, there would be almost 5 acres on the corner. Ms. Gwin said that the other three corners were going to be retail and this would allow either retail or office use and would expand the uses of the parcels. She mentioned that she and the property owners submitted a letter to the City.

Jolene Driskill, the owner of parcel number 21, said that her property was annexed into the City, had sewer and water, and received Brentwood police protection. She wanted to see that the property remain commercial and mentioned that she submitted a letter with her concerns to the City.

Reed Onate, representing New Urban Communities Partners, the owners of the old Sciortino property at the current terminus of Sand Creek Road. He said that they were anxious to see the specific plan and their property had been in limbo. Mr. Onate said that they were pleased to see it hit the street and they were happy to be discussing the plan with staff. He said that they submitted comment letters from AMS Engineering, CBG Engineering, Gates & Associates and SDG Architects. He said that Ralph Strauss with SDG was present and would have a few comments for the Planning Commission. He said that they

had some concerns and hoped to work them out with staff and would also like to work on some of the more detailed items with the Land Use and Development Committee. Mr. Onate thought that the specific plan was very strict and went beyond guidelines and was more of a prescription. He said that in these tough economic times, design standards and acceptable land uses that are more flexible are needed and would help encourage the development of the plan. He said that they share the vision of a grand boulevard, they want to make sure that the design guidelines and land uses are consistent.

Ralph Strauss with SDG Architects said that he was working with New Urban Communities' large parcel in the southern subarea, called Sciortino Ranch property, which is about 65 acres. Mr. Strauss said that he appreciated the vision and thought it was a great, overall concept and they took the time to study it in detail relative to the development standards and how they applied to creating the vision. He thought that one of the most important aspects was creating some flexibility to be able to accomplish the vision. He said that would show up primarily in the development standards and he felt that there was lots of room to add more flexibility into the standards. He talked about the apartments, as an example, and said that the density range encouraged the developer to go up to 30 units per acre and their goal was 24 to 25 units per acre. He said that with all of the standards applied, they were not able to exceed 19 units per acre. He thought that there was a need to study some of the things like the setbacks, floor area ratios and the parking requirements in a lot more detail before it came back. Another example was that they were being encouraged to face residential units out onto the roadways and felt that the traffic and noise related to that definitely would need some very careful consideration. Mr. Strauss talked about the southern subarea as it relates to commercial development and felt that flexibility was key. He said that after studying the plan, he found that the specific development standards actually discouraged office and retail development in the area, because there were no free-standing structures allowed, structures must be 2 stories and 30 feet tall, and if retail uses were to be placed in that area, office or residential would need to be above those uses. He felt that this would limit the retail tenants and said that second floor spaces were very challenging and difficult to lease in the City. He suggested that the plan allow taller, single story structures that would blend in with the vision, where single-story structures and two-story structures could be integrated while maintaining the aesthetic appearance. Mr. Strauss felt that the concept was great and the key word was flexibility. He felt that there was a strong need to very carefully study the impacts of the development standards as they apply to the residential and commercial aspects of the specific plan.

Bob Selders, a resident of Fairview Avenue in Brentwood, said that he did not represent a property owner or own property within the project area, however just happened to read the document. He said that he submitted a letter for the Planning Commission to staff last week and had more copies with him, if anyone needed a copy. He said that he identified a number of things in the document that was either confusing, perhaps not clear on how it was phrased, or was conflicting with other sections, etc. Mr. Selders said that his biggest concern was that the vision of the plan was very important, however the fronting of residential units on Brentwood Boulevard or some of the other major thoroughfares would not implement the grand boulevard appearance because of the traffic issues and noise. He felt that the noise impacts were such that significant building modifications to mitigate the noise so that the interior of the homes are at a noise level that was acceptable to the general plan was over and above the normal construction standards. Mr. Selders felt that the homes would have to keep their windows closed at all times and depend on mechanical ventilation and he didn't think that would be something that we would want the residents to depend on twelve months out of the year. Mr. Selders thought that those homes would be less-desirable to purchase or rent and consequently would probably not be maintained to the level that would be expected. He thought that the residential homes should be replaced with mixed-use or retail office that has the architectural detail that presents the grand boulevard concept.

Sarah Puckett with the Natural Heritage Institute, which is a non-profit organization based in San Francisco, said that the organization had been involved in the Marsh Creek Watershed since 2001 to improve and protect the water quality in the Delta. Ms. Puckett said that they are also a founding member of the Friends of Marsh Creek Watershed who have been actively working with members of the community to protect and restore the Marsh Creek Watershed. She said that her organization had also raised millions of dollars for projects to protect and improve the Marsh Creek water quality and habitat. She said that the City did a great job incorporating the Marsh Creek Watershed into the BBSP, especially

targeting elements of the General Plan that addressed Marsh Creek. She said that there were 11 parcels of land adjacent to Marsh Creek and 6 of which were undeveloped in the BBSP. Ms. Puckett submitted to the Planning Commission a handout which illustrated the required setbacks. She pointed out the setbacks as noted on page 39 of BBSP should be reviewed, as the Habitat Conservation Plan required a setback of 75 feet from the right of way. Ms. Puckett wanted to clarify that the HCP required a setback from the top of the bank of Marsh Creek and the BBSP required a setback from the right of way of the property line between flood control and the adjacent property owner, hence a possible consistency issue. She said that the Natural Heritage Institute recommended a minimum 50-foot setback in the plan. Ms. Puckett thought that the setbacks should be changed to 50 feet from both paved areas and the buildings. She wanted to give developers clear guidelines in order to protect the creeks and thought that all guidelines, in relation to the creek in the BBSP should be very consistent with the City's General Plan, including siting the future parks adjacent to the creeks and new residential subdivisions shall be designed so that public streets are parallel to or cul-de-sacs open onto the creeks, with backyards flanking the channel to be discouraged.

Chairperson Gildersleeve stated that the regular Planning Commission meeting would need to start at 7:00 PM, so she requested that a break be taken at this time and the meeting would again resume at 7:00 pm. Ms. Gildersleeve noted that she had some more speaker cards and the next speaker would then be Brian Curran.

An eight-minute break was taken at this time.

Call to Order - 7:00 PM

Chairperson Gildersleeve noted for the record that Planning Commissioner Don Stirling was absent.

Roll Call:

Present: Cushing, Bristow, Gildersleeve, and Weber.

Absent: Stirling.

Pledge of Allegiance

Old Business

1. Continuation of Brentwood Boulevard Specific Plan Workshop. (Rhodes)

Chairperson Gildersleeve said that the BBSP Workshop would resume at this time and asked Brian Curran to come up to the podium.

Brian Curran, a resident of Brentwood and also a member of the Friends of Marsh Creek, said that he was very happy to see that the City incorporated parks and open space along Marsh Creek. He encouraged staff to think of the creek as an amenity and thought that it should be highlighted and to concentrate parks along the creek wherever possible. Mr. Curran thought that the area where Marsh Creek crossed under Brentwood Boulevard had the potential to be sort of a grand entrance to the City and a place with creekfront opportunities and parks. He thought that the creek could be widened in that area to provide areas for native planting and increased riparian zones. Mr. Curran thought that the City had done a somewhat poor job of taking advantage of the creek, with the exception of Creekside Park. He felt that the City has ignored Marsh Creek and looked at it as just a flood control resource. He thought the creek could provide amazing educational, environmental, and aesthetic potential for the City and he encouraged the City to take advantage of the great natural resource.

Pat Sotelo, a resident of Brentwood and also a member of the Friends of Marsh Creek, thanked the City staff for doing an absolutely fantastic job. He said the BBSP was a very complex plan with so many elements to be considered. He felt that the Marsh Creek channel was a wonderful resource, which was ignored for many years as a flood channel, and considered it to be a living community. Mr. Sotelo said that if Marsh Creek was

incorporated into the BBSP, it would be a transformative event and would become a major draw for the community. He encouraged the City to really use this creek as a resource that it is. Mr. Sotelo said that not only could it be used as an educational resource, but businesses along Marsh Creek would be able to offer a place for residents to linger and enjoy and would benefit from the economic resources that the creek would bring, because it would draw an incredible amount of people on a daily basis. Mr. Sotelo asked staff when they were considering development along the creek, to consider the requirements set forth by the Habitat Conservation Plan and the Contra Costa County Flood Control District, and of course the City's BBSP. He talked about a recent national drive called the "No Child Left Inside" program, which showed that a child's future success was tied to unstructured, outdoor nature play and felt that Marsh Creek gave the residents and the children of Brentwood that opportunity. Mr. Sotelo said that he didn't own any property in the BBSP area, however as a resident he did have an interest in the BBSP area and thought that the City could change the area into a true, beautiful boulevard and gateway to the City that would draw people from all over. He said that the agencies involved in the creekside restoration were all ready and available to work with the City to bring it into reality. Mr. Sotelo suggested a linear park that would run along Marsh Creek that would tie the plan and several parcels together so that the community could enjoy it.

Public hearing closed.

Commissioner Bristow asked when the new zoning would kick in for the BBSP. He asked what would happen if a property owner's residential unit that wasn't zoned for single-family residential burned down and if they would they be allowed to rebuild in the current application because it did not conform to the future zoning.

Planner Rhodes said that it related specifically to the grandfathering nature of the plan. He said that the plan said that if a non-conforming use was discontinued for 60 days, the requirements of the plan would take effect, however if a property owner didn't discontinue the use, the residence would stay and continue as a residence. He talked about the differences between a residential property and a non-residential property that was raised during some of the stakeholder meetings and felt that staff could do more to address these types of issues to make the text more clear in the event that the property burned down or was affected by an act of God. Planner Rhodes stated that the grandfathering issue was a balancing between the flexibility to respond to the current market downturn in terms of taking longer to rent properties, but eventually the City would want the new uses and regulations to apply. He talked about a possible phase-in process where the period would be longer than 60 days at first, perhaps 6 months to a year, and as the economy improved, the period would eventually be shortened.

Commissioner Bristow asked for clarification on existing legal non-conforming buildings and structures on pages 52 and 53 of the BBSP for someone that would want to improve or increase the size of their building.

Planner Rhodes said that the intent was to allow people to maintain property that would be legal non-conforming, but to try to prevent the non-conforming uses from expanding over time so that the buildings and uses in the area would eventually be in conformance with the Specific Plan. He said that staff was anticipating that a lot of the non-conforming uses that the properties would need to be assembled with other properties to create new development and redevelopment within the Specific Plan area.

Commissioner Bristow felt that if someone currently had a non-conforming use in a building that certainly needed to be improved upon and the property owner was willing to make those improvements and go through the City to bring it closer to what the vision was, however the use wasn't conforming, the City shouldn't restrict them by saying that they could only add 100 square feet to it if they're bringing it into the style and architecture of the Plan. Commissioner Bristow asked for more information about the proposed school site parcel that sits outside of the Specific Plan (east of the Sciortino property) and how it would generate additional traffic.

Planner Rhodes talked about the future fire station and the 12-acre site that was planned for a future elementary school just east of the Specific Plan boundaries.

Commissioner Bristow asked if the traffic that would be generated by the school were taken into consideration with the Environmental Impact Report that was done.

Planner Rhodes said that the Environmental Impact Report acknowledged that the school site would be coming soon and was one of the reasons why the Specific Plan had designated Sand Creek Road, east of Brentwood Boulevard, as a 140-foot right of way arterial roadway. Planner Rhodes said that it had also been recognized that the elementary school would be at the intersection of two arterials, Sand Creek Road and Garin Parkway.

Commissioner Bristow asked if one of the goals was to remove auto sales completely from the boulevard.

Planner Rhodes said that one of the ten goals of the Specific Plan was to provide better access for all modes, so that it wasn't quite as auto-oriented, including excluding drive-thrus. He felt that as time went by, that the businesses would become more local-serving and the need for drive-thrus would not be necessary.

Commissioner Bristow asked if drive-thrus for banks would also not be approved as well.

Planner Rhodes said that the intent of the Plan was to encourage other modes of transit, such as pedestrian, bicycles, etc., rather than solely vehicular traffic.

Commissioner Bristow asked if the conditional automotive applications would only be allowed in the north corridor industrially zoned areas of the Plan. He didn't see them allowed in any other location.

Planner Rhodes said that the industrial area in the northeast portion of the Specific Plan was anticipated to have truck traffic associated with it and that is why so many future roadways are shown in that industrial area. Mr. Rhodes said that the industrial area would include more warehousing and light manufacturing with provisions for outdoor storage.

Commissioner Cushing asked about the EIR as it said that it "was prepared at the programmatic level to provide overall impact analysis upon build out of the Specific Plan" and wanted to know whether it had any future impact as it related to limiting development into the future and if this would assist the individual property owners so that they wouldn't have to go back to redo an EIR for their use.

Planner Rhodes said that when a project is based on an area plan, not a specific development site, and staff anticipates that it is going to be developed over many years, a program EIR is typically used because it provides the ability for future developments to tier off of the EIR. He said that in some cases, there might be projects that may be categorically exempt from environmental review or that may require mitigated negative declarations. He said if a long period of time went by, and if there were deviations from the assumptions in the program EIR, then certainly further environmental review may be necessary.

Commissioner Cushing wanted to know if the current design standards within the creek area would be fairly consistent with the discussions at the previously-held Creeks Workshop.

Planning Manager Heidi Kline said that the proposed right-of-ways which were shown in the Specific Plan came directly from the Creeks Master Plan, which was done a number of years ago, which was presented at the workshop. She said that it didn't require substantial dedication of right-of-way, but would allow for future expansion into the multi-stage channel, which has always been the goal of a lot of organizations. Ms. Kline said that while the Specific Plan doesn't actually address how that would happen, staff establishing a setback that was far enough away would reserve the ability for the City to come back later and be able to make that widening.

Commissioner Cushing said there were a lot of discussions last year about having the Sciortino property having a separate EIR, and now he understood that the decision was not to do that.

Planner Rhodes said that after options had been provided to the property owner, they chose to be part of and participate in the Specific Plan and have been very involved partners in that process.

Commissioner Cushing asked if the City was still looking at the Sciortino property owner to establish a separate set of regulations, specifically outside of the boulevard.

Planner Rhodes said that the Very High Density Residential and the Mixed-Use Office Retail were land use categories that currently applied only to that property; however the Medium Density Residential applied to other properties within the Specific Plan and the City had requests by the property owners in the northeast corner of Lone Tree Way and Brentwood Boulevard to also get the benefit of that same flexibility in terms of having retail, office and mixed-use category apply to them. Planner Rhodes said that the City was not planning on differentiating that property in any way as far as zoning and the Municipal Code codification process.

Chairperson Gildersleeve stated that she would like the Commission to go through the staff report that Planner Rhodes prepared to see whether it could answer any questions that he had before they made their individual comments. She asked the Commission for their comments in regards to land use transitions.

Commissioner Bristow would only have an issue if there were any concerns from land owners that had setback issues and if the setback issues were prohibitive in developing and building the type of structure that zoning allowed.

Planner Rhodes said that a property owner on Homecoming Way sent in a letter, which Mr. Broderick earlier spoke to the Commission about, requesting 30 to 35 feet between her rear property line and new development and also being concerned about the type of development. He said that currently, in the Homecoming Subdivision, homes that back on to each other required a 20-foot setback and thought that the same would apply in terms of keeping a consistent development pattern. Mr. Rhodes asked the Commission to refer to the top of page 39 of the BBSP where it said, "New residential developments proposed adjacent to existing residences shall include a minimum 20-foot setback from the shared lot line with the existing residence to any new dwelling", and said that this issue would come up a lot because there were a lot of existing residential neighborhoods abutting portions of the Specific Plan, including the Mixed-Use areas in the southern area, and the existing residential areas in the Central area. He said that most of the property owners of vacant land would likely want the ability to get to the high end of their density range. He said that with these transitions, it would be a little bit harder for them to get to the high end of the density transition area, unless they intensified further from the particular shared boundary line. Mr. Rhodes wanted the Planning Commission to give some thought how appropriate the transitions were.

Commissioner Cushing thought that it was important that the City be sensitive to the property owners because some of the residential areas were abutting fairly large size industrial business-park type uses and wanted to make sure that different types of setbacks were set for those properties, as opposed to the properties abutting residential areas. He said that Sciortino had its own elements and if it was all Medium Density Residential, which would actually solve the problem. But if it turned out that the property became a different type of use, i.e. big box retail, the appropriate setbacks would need to apply.

Chairperson Gildersleeve was concerned about the residential area on Sims Road, located between the industrial area and the office use area, because the residents had been there for a while and she didn't think that industrial buildings should be in their backyard. Ms. Gildersleeve would like to see that a buffer of office be located between the industrial and the residential neighborhood.

Commissioner Cushing wanted to make sure that high density could be gotten if the guidelines were followed and if the answer would be no, then something would need to be changed. The City would need to admit the fact that the density could not be gotten and not have it there, or the setbacks would need to be augmented.

Commissioner Bristow agreed with one of the citizens' comments relative to the office-only designation at the northeast corner of the intersection of Lone Tree Way and Brentwood Boulevard. He talked about the office/retail/commercial that existed on the corners along Brentwood Boulevard at Lone Tree Way, Sand Creek Road and Balfour Road and felt that it should also be applicable at the intersection of Lone Tree Way and Brentwood Boulevard.

Chairperson Gildersleeve and Commissioner Cushing agreed with Commissioner Bristow's comments.

Commissioner Bristow appreciated the goal and the overage and shortages of uses in Brentwood, but thought that trying to solve it all in the BBSP area was not realistic and thought it should be considered by staff.

Chairperson Gildersleeve asked the Commission to discuss the next item, Distinctive Architecture, and to help Planner Rhodes in gathering information on building massing, building height and pedestrian comfort, especially to influence the streetscape appearance. Ms. Gildersleeve agreed with Bob Selders and the comment that he made about homes facing the street, and felt that Brentwood Boulevard was going to be a busy street. Chairperson Gildersleeve agreed with the walkable communities and felt that people needed to get out of their cars and their houses and start moving around more because of the obesity issues that existed. Ms. Gildersleeve said even though she appreciated the idea of having the residential face Brentwood Boulevard, she thought that staff needed to be creative in figuring out exactly how that could be created without not having the noise issue. She felt that it would be really noisy if cars were driving at 45 miles per hour on Brentwood Boulevard. She did not want to see a lot of soundwall barriers.

Commissioner Cushing said that Mr. Selders felt that residential over retail or office would be difficult and typically you would find that in a very high density environment.

Commissioner Bristow agreed with Chairperson Gildersleeve and Commissioner Cushing.

Planner Rhodes talked about the noise analysis and noise contours that are part of the Environmental Impact Report process. He said that the noise consultant would develop a noise design manual as part of the scope of work, which would answer a lot of questions and list some of the different techniques that could be done to reduce the noise. Mr. Rhodes said that the windows would probably need to be closed on the fronts of the homes, however felt that the way the buildings were oriented, with the patios in the back or on the side, would help shield the outdoor usable areas for the units from a lot of the noise. He thought that there were a lot of measures that could be taken and was not an impossibility that hasn't come up and been addressed in other communities. He said that the speeds would be important, however there were a lot of different techniques that could be looked at, like using rubberized asphalt on the streets, to address the concern of noise without having soundwalls up and down the boulevard.

Commissioner Bristow thought that not permitting single-story retail buildings would be a mistake just by having that as a policy. He thought that needed to be addressed in terms of what the development looked like and needed to be taken into consideration. Mr. Bristow thought that the option of having single-story retail and the flexibility as the City looked at how the land would be developed was needed and asked that it be taken out of the plan.

Commissioner Cushing agreed and felt that what the streetscape had become, after many workshops and comments from the public, turned out to be very exciting and vibrant. He felt that how it played out with the economy would be a very different process, however the process wouldn't be complete until 5 to 15 years from now. He thought that based on those densities, having office space on the second floor, or high density residential would be good and single-story homes could be brought into the equation on a case by case basis as it related to individual projects. Commissioner Cushing thought that the architecture was fabulous.

Chairperson Gildersleeve felt that the examples that were shown for architecture were wonderful. She had concerns about the 30-foot building height because the roof-mounted equipment might not be able to be shielded and thought that the height should possibly be raised so that the articulation and design within the buildings wouldn't be inhibited.

Planner Rhodes said that one of the ways that they could deal with that issue is to allow exceptions for screening of roof-mounted equipment to give them the flexibility of whether they would want to screen the equipment by going up or drop the equipment down with wells. He knew that was something that the development community resisted in the past because of the cost, but felt that it was certainly more aesthetically appealing.

Commissioner Weber just wanted to mention that he had plenty of comments, but for the sake of time, he was holding his comments for a later time.

Chairperson Gildersleeve asked the Commission to comment on parks and open space and to get further clarification on whether the land use map should be modified to reflect future parks rather than open space, in relation to parcel number 235. Chairperson Gildersleeve had a comment on parcel 147, which was retail/commercial, and parcel 147.5, which was designated as a green space. She said that the retail/commercial parcel was located along the creek and felt that it would be better designated as a park along Brentwood Boulevard. She thought that parcel 147 and the two green spaces could be combined into a park.

Planning Manager Heidi Kline said that those parcels were owned by the City's Redevelopment Agency and she would pass those comments along.

Commissioner Bristow asked if the subject parcels were the old Davis Camp.

Commissioner Weber talked about the speaker that requested a linear park along Brentwood Boulevard and said that his vision was to allow both individuals on bike and/or foot access to a large park in that area.

Planner Rhodes asked for clarification on the linear park. He said that in the past, the Park and Recreation Department had said that in order to get the park credits, the park would need to be 100-feet wide. He asked the Commission if the linear park that they had in mind should be a minimum of 100 feet wide.

Commissioner Weber thought that if staff was able to do that, he could see a long term value in it.

Commissioner Cushing thought that Creekside Park was a good example of a park that had a lot of amenities in the park, as well as access for families to the trails and exploring the creek. He had a concern with the densities and asked whether the plan was under-"parked".

Planner Rhodes said that staff had designated in the Specific Plan a certain number of open space/parks (8.1 acres). He said that there were also a bunch of future parks shown throughout the Plan, however didn't know what the size of those individual parks would be and it would be dependent upon the number of residential dwelling units on each of those sites. Planner Rhodes noted that both Craig Bronzan, Director of the Parks and Recreation Department, as well as the Park and Recreation Commissioner, talked about how a lot of the owners of the smaller properties that would have residential units on them would not be able to meet their obligation for parks on-site, rather feeing out of a portion of that obligation. Planner Rhodes said that if they chose to fee out, we would be in a bind in terms of coming up with the suitable acreage so that the City wouldn't become under-"parked" as we added population through the Specific Plan. He said that we were taking acres that were non-residential in the General Plan and changing them to residential uses and that created the additional park demand, above and beyond what was considered previously to the preparation of the Plan. Planner Rhodes said that could be addressed by showing more future parks on some of the larger properties or even discussing the possibility of showing them on the larger, non-residential properties that are near residential so that those property owners would be aware of it. Mr. Rhodes said that staff was trying to balance flexibility with a certain amount of certainty from issue to issue and that was why staff wanted to bring it to the Commission's attention and highlight that issue of parks. He said that the precise acreage and location for property number 235 was identified and the property owner wanted to know why they were being treated differently and wanted to know whether they could move the park to a different location within their property. Staff wanted to get the Commission's input on whether the park could be shown as a future park and not specify the acreage in the tables, but the text could show the total acreage of the park, because the parcel would have the most residential units of any property in the Specific Plan and would be an important property to make progress on the amount of park acreage in the Plan.

Commissioner Cushing felt that the Sciortino property park needed to be defined as to scope of acreage, but not specifically located because it would be a lot more complex and was the single-largest piece of property in the Plan. He said that the Sciortino property has been tracked as a separate venue in the Land Use and

Development Subcommittee meetings. Commissioner Cushing was concerned more about the amenities that each park would have and didn't think that the acreage of the park alone was important. He felt that they were very dependent on where they were located and the population and uses that surrounded them.

Chairperson Gildersleeve agreed with Commissioner Cushing. She asked the Commission for their comments on the 60-day period and whether it was insufficient to enable property owners to avoid regarding specific plan requirements when they wish to maintain current established uses.

Commissioner Weber felt that the 60-day period was insufficient and thought that a minimum of 1 year would be more sufficient.

Commissioner Cushing said that there were legal ramifications in the event that a tenant ceases to pay their rent, where they would end up in a court situation to evict them plus to get constructive receipt of the property and to then take it back out to market for use, would take a lot of time and felt that 60 days wouldn't be sufficient. Commissioner Cushing would like to see a 6-month timeframe with the option of renewing it and the landlord basically coming before a forum to explain why he couldn't get a tenant during that timeframe. Commissioner Cushing thought that they needed to be careful because these were existing job-producing properties and these were existing buildings which were obsolete given the changes in the economy and ultimate changes to the underlying zoning. He said that the reality was that they could be useful, physical buildings in place to generate for the benefit of jobs coming into the community, etc. Commissioner Cushing wanted to make sure that the process was not so onerous for a property owner that had an empty building of which they were financially hemorrhaging, that the City would be telling them to hurry up and get a new tenant in their building. He felt that the City would not be doing this to property owners with vacant lots and would therefore it would not be fair to make it impossible for a property owner with a building on it. Commissioner Cushing was in favor of a 6-month period with 2 6-month extensions and to be heard by a body to explain the status. He also wanted to comment on what Commissioner Bristow commented on earlier, the fact that a property owner would be restricted on adding improvements. He said that clearly, if they wanted to expand by double of what was permitted, then that would be a different story. He thought that the 100 square feet was onerous for existing businesses that may actually want to make some improvements to an existing building, but the use isn't compatible.

Commissioner Bristow thought that was the goal and not to drive out the automotive or non-compliant uses. He said that the goal was to create this grand boulevard that had all of the other elements in the Plan. He agreed with Commissioner Cushing's idea of a 6-month period and perhaps up to 2 6-month extensions. Commissioner Bristow realized that a tenant couldn't be in a building forever without any sort of specific use, because that was not the goal, but it did show that the City respected them because they had been there for such a long time. He said that the goal was not to drive them away, but to create more of an atmosphere.

Commissioner Cushing said that he worked with the Chamber of Commerce in Livermore. He said that Livermore made some very serious errors in judgment in regards to trying to control commerce. He said that Livermore was once the defacto place that one would go in the Tri-Valley area, prior to the development of Stoneridge and Hacienda Business Park, and because they became so onerous in not wanting to move those dealerships to another location, all of the dealerships packed up and went to the City of Dublin.

Planner Rhodes wanted to clarify that all of the automobile dealerships in Brentwood had been sort of the backbone of the City's tax base for many years. He said that one of the things that staff was trying to anticipate with the Specific Plan was that there were forces beyond the City that when the third segment of the Highway 4 Bypass gets completed, that would affect those particular auto dealerships. He said that the current properties and configurations were developed for an auto dealership in a different era; an era that is not consistent with what makes an auto dealership competitive in the future and couldn't handle the same level of inventory that the new dealerships desire. The question for the Planning Commission was how long they desired the grandfathering period be lengthened. He thought that the modification from 2 months to 6 months or a year could be made very easily, however he was concerned over time if someone wanted to make improvements to an existing automobile dealership and add a drive-thru, he wanted to make sure that the Plan was very clear on how that type of request would be handled. Planner Rhodes said that there were

some fundamental basics of the Plan, and that if the progress of goals or the vision is to be reached, there would have to be a point where the non-conforming uses would need to be phased out in a way that the market allows them to be phased out. He thought that the Planning Commission gave some good feedback in allowing the property owners to make more than 100 square feet of improvements, as long as they are moving closer to the Plan. Planner Rhodes asked the Planning Commission if it would be in favor of having a phased decrease in the grandfathering or if it would be too speculative, given changes in the future.

Commissioner Cushing wasn't in favor of having a phased decrease in grandfathering. He said that what would drive the changes on the properties was a robust economy surrounding the properties, which pushes them, based upon the value of the dirt, to scrape the building off and put something else in its place. He said that anything less than that and it would never happen. He said that it would not happen on a building that was already in existence because the economics beg to differ; however it would happen on an adjacent property where there is a good land base and they could build and construct a brand new facility which would drive the property owner in an antiquated building to effectively having the upside benefit of tearing it down and building something else.

Planner Rhodes wanted to know whether 1 year for the discontinuance would be sufficient.

Commissioner Bristow said that he would like to see 1 year for the discontinuance with a 6-month extension or a 6-month period for the discontinuance with 2 6-month extensions.

Planner Rhodes asked the Commission if after a year, they could go through some special process and be able to maintain their grandfathered status for an additional 6 months.

Commissioner Bristow felt that the property owner would need to come before the Planning Commission or another body of the City to explain the situation and not just be able to ask for extensions.

Commissioner Cushing would like to see a 6-month period with 2 additional 6-month extensions because if the property was let go for a year, the property might become blighted and should have probably been pushed to do something else.

Planner Rhodes asked if the Community Development Director could make the initial determination at staff level and if he/she saw fit, then the matter could be brought forward to the Planning Commission.

Commissioner Bristow would like to see the matter come directly to the Body.

Planner Rhodes asked the Commission if they all agreed.

Chairperson Gildersleeve said that she agreed with Commissioner Bristow.

Chairperson Gildersleeve asked the Commission to share their comments on considering the range of permitted and conditionally-permitted uses for each land use category, as well as the form-based development standards and that the Specific Plan reflects adopted City Design Guidelines. Ms. Gildersleeve felt comfortable that the Commission had already discussed this issue.

Planner Rhodes asked the Commission for their thoughts on whether the issue of drive-thrus was handled appropriately in the text of the different development standards.

Commissioner Cushing would like to see drive-thrus approved as a conditional use. He wondered whether gas stations and car washes were considered as drive-thrus.

Planner Rhodes said that gas stations and car washes would be uses that would not be allowed in the Specific Plan. He said that flexibility was important, however if too much flexibility was given, the vision would never be achieved.

Chairperson Gildersleeve asked the Commission for comments in regards to signage.

Commissioner Cushing thought that it was important for staff to review some of the comments mentioned by Mr. Selders; in particular, monument signs and corner locations. He thought that making the sign program too restrictive may preclude some of the corporations from not locating in the Specific Plan area because their sign would not be allowed.

Commissioner Bristow thought that it would also depend on what the particular development would look like and thought that flexibility and basic guidelines were a good thing.

Chairperson Gildersleeve asked the Commission for comments in regards to considering the draft circulation maps and the connection to existing roadways in established neighborhoods abutting the Specific Plan boundary.

Commissioner Weber wanted to acknowledge staff's efforts for the bikeway route map on page 117 of the Specific Plan. He asked staff to explain the significant roadway dimensions from 140 down to 100, and why the roadway narrowed to the south where the density increases.

Planner Rhodes said that there were fewer vacant properties to the south, but also more smaller properties with buildings that were closer to the street frontage. He said that in the central and northern area, there were less existing structures and a 140 foot dedication could be obtained.

Commissioner Weber recommended that the center median in the southern area be reduced and that the sidewalk be widened to allow for passive movement to people to walk on the sidewalk areas. Mr. Weber asked if staff ever considered a transit station in the area of parcel numbers 188 and 189.

Planner Rhodes said that there had been discussion about having an eBART station in the downtown and felt that parcels 188 and 189 would be too far away. He said that the timeframe for eBART may be as long, if not longer, than implementation of the Specific Plan. Mr. Rhodes said that in the future, the Plan would allow some sort of regional transit facility on parcel numbers 188 and 189.

Commissioner Weber said that there was no land in the downtown corridor for the required parking for a transit hub.

Planner Rhodes said that the Central site was officially the preferred area that has been endorsed by the Community and Council for study although the eBART scope had changed.

Commissioner Bristow asked if the bike lane would continue from Garin Parkway to Sunset Road and wanted to know how bikes could get to Brentwood Boulevard at that point, since there was not a proposed bike lane on Sunset Road.

Planner Rhodes said that there was a Class I trail that exists on the south side of Sunset Road. He said that bike lanes outside the Specific Plan were not shown on the Bikeway Routes Map on page 117 of the Specific Plan. He said that one could view the Parks, Trails and Recreation Master Plan that shows the bikeway network for the entire City.

Commissioner Cushing asked if the Specific Plan would need to be revisited by the Land Use and Development Committee in regards to the Sciortino Property.

Planner Rhodes said that staff would probably take some items to the Land Use and Development Committee for further clarification on some of the issues that are being raised by the Sciortino Ranch property owners, specifically as stated in the letters forwarded to them by their design team, prior to or after the June 6th Planning Commission meeting.

Commissioner Cushing recommended that it come back before the Land Use and Development Committee.

Reed Onate, representing New Urban Community Partners, encouraged that Sciortino Ranch's issues be

brought back to the Land Use and Development Committee prior to action taken by the Planning Commission because they had serious concerns regarding drive-thrus, adjacency of commercial uses, prohibition against "big box" retail, etc. He said that there might also be implications in the EIR that might also need to be addressed before action is taken by the Planning Commission.

Commissioner Bristow asked staff for clarification on Mr. Broderick's concerns.

Planner Rhodes said that Mr. Broderick was concerned because he once proposed a movie theatre for parcel 150, just west of the Homecoming Subdivision, and then the City adopted requirements that the movie theatre be located downtown only and the moratorium was again lifted. He said that residential had also been discussed for this property and the densities had gone down as a result of feedback from the existing neighborhood east of the site. Mr. Rhodes said that the property owner was also interested in about 2 acres of retail on the southern portion of the approximately 10-acre site.

Commissioner Bristow asked Planner Rhodes if he saw any problem with having retail at the southwest corner of Brentwood Boulevard and Homecoming Way.

Commissioner Bristow felt that since it was a 10-acre property on Brentwood Boulevard, some flexibility would be in order since there weren't too many parcels of this size available in the area.

Commissioner Cushing agreed. He said that it would be advantageous to offer higher densities or some other type of financial incentive to the small property owners that could possibly aggregate their individual properties together. He thanked staff for doing such a great job.

A 5-minute break was taken at this time.

Revisions and Omissions to the Agenda (Staff)

Planning Manager Heidi Kline said that staff requested that Agenda Item Number 5, which was for the Casa Bella Apartments, be continued until the June 3rd Planning Commission Meeting. She said that the applicant had let staff know that they would not be available on June 3rd, so it would be likely that it would be continued again on the next Planning Commission Agenda, to June 17th. She requested that this item be continued to June 3rd.

Citizen Comments

At this time the public is permitted to address the Planning Commission on items that are not on the agenda. Persons addressing the Planning Commission are required to limit their remarks to five (5) minutes unless an extension of time is granted by the Chairman subject to approval of the Planning Commission. Please file your name with the Chairman on the form provided at the podium. Speakers desiring answers to questions should direct them to the Commission and, if relevant, the Commission may direct the questions to the appropriate staff member.

None.

Consent Calendar

All matters listed on the Consent Calendar are considered routine in nature and will be enacted by one motion. If discussion is required, that particular item will be removed from the consent calendar and will be considered separately.

2. Approve the Minutes of the Planning Commission meeting of May 6, 2008.

Motion to approve the Minutes of the Planning Commission meeting of May 6, 2008.

Moved by Weber; seconded by Bristow.

Vote: 4-0-0-1

Yes: Cushing, Bristow, Gildersleeve and Weber

No:

Abstain:

Absent: Stirling

New Business

3. Public Hearing: An application for a conditional use permit to operate a restaurant known as It's A Grind Coffee House within an approximately 1,500 square-foot tenant space located on the northeast corner of Balfour Road and John Muir Parkway at 2261 Balfour Road, Suite A within the Balfour Retail Center (APN 019-150-097).

Applicant: Ryan Perez

File No.: CUP 08-15

Planner: Tim Nielsen

Assistant Planner Tim Nielsen gave a brief overview of the staff report. He said that the applicant was asking for a modification to the hours of operation for the project.

Commissioner Bristow asked about the remaining 3600 square feet in the center, if a restaurant application came before the Planning Commission, and whether there would be a problem with parking because of the deficit of 26 parking spaces that would be created.

Planner Nielsen said that if it were a restaurant, it would need to be analyzed more in depth when they come for their conditional use permit, however since the Walgreens had a drive-through, it was found that there was never more than 33 vehicles for that particular use at that time. He said that the ITE Manual for a drugstore of this size would require 40 spaces for peak hour usage and 74 spaces had been set aside.

Commissioner Cushing asked Tim to read off the proposed hours of operation, as requested by the applicant.

Planner Nielsen said that they were originally proposing 6:00 am to 9:00 pm and their request was Monday thru Thursday from 4:30 am to 10:00 pm, Friday from 4:30 am to 11:00 pm, Saturday from 6:00 to 11:00 pm, and Sunday from 6:00 am to 10:00 pm.

Commissioner Cushing asked about the hours of operation for Walgreens.

Planning Manager Kline said that she believed that Walgreens closed at 10:00 pm, but wasn't sure at what time they opened.

Olazin Biagas, the applicant, introduced himself and said that he was available for questions.

Chairperson Gildersleeve had a concern with the coffee house being open until 11:00 pm because there was residential behind the building.

Mr. Biagas said that the coffee house, It's a Grind, was more of a casual type of place with a wi-fi hot spot and a hospital across the street. He mentioned that students from the extension college had a tendency of wanting to study at coffee shops and felt that the demographics would support it. He didn't think that a disruption would be caused in the community.

Chairperson Gildersleeve knew that people loitered and conversations were loud enough at the Starbucks coffee houses that were open late and didn't want it to become a problem for the residential area.

Mr. Biagas said that he was trying to give something to the community and there was a huge wall behind and space between the actual building itself and the community behind the building. He said that there was a walkway going directly to the shopping center, so he thought he was contributing something to the community on the weekend versus actually having to get onto the Highway 4 Bypass and traveling west. He said that there was also a nice restaurant across the street, and felt that he was also contributing to that, as far as the community was concerned.

Commissioner Weber asked whether Mr. Biagas was in agreement with all of the conditions, other than condition number 7, as stated in the staff report.

Mr. Biagas said that he was in agreement with the conditions.

Public hearing closed.

Commissioner Cushing thought that the project was a great addition. He was concerned with the hours of operation and the outdoor element. He asked how late the Subway Restaurant and Digger's diner would be open.

Planner Nielsen said that he had correspondence from the property owner and it was indicated that the hours of operation for Walgreens was 7:00 am to 10:00 pm, although the drive-through use might be open a little later than that. He said that the Subway Restaurant was open until 10:00 pm and Digger's Diner would be open on Friday and Saturday until 11:00 pm.

Chairperson Gildersleeve stated that Digger's Diner was located in the interior of the building, whereas the coffee house would have people sitting on the side of the building and voices would echo and possible be heard by the neighbors.

Commissioner Cushing thought that it would be in a great location and use and thought that the coffee house would do very well. He would approve the project, but was in favor of limiting the hours of operation to 10:00 pm, because the noise on the corner might become problematic.

Planning Manager Kline said that she worked on the original approval of the Walgreen's store and there were concerns of the noise coming from the speakers for the drive-through because of the amplification. While she didn't recall the particulars of the noise study, she recalled that it was approved to be open until 11:00 pm. She said that even with the speaker, they took into consideration the several hundred feet from the neighborhood because there was a public trail and masonry soundwall between the building and the adjacent neighborhood. Ms. Kline said that the Commission could consider either allowing them to keep the inside area open until 11:00 pm and then cease outdoor seating until 10:00 pm, or if they were concerned with the noise because the project was located at the end of the building, they could ask people not to sit on the side.

Commissioner Weber said that the Firehouse to the west would generate emergency response noises. Also, an 11:00 pm closing time on a Friday night would be convenient for people leaving the sporting events at Heritage High School. He was sure that the applicant did a lot of studying to identify that there was a need for him to have employees on staff until 11:00 pm, and he said that the applicant would peel that back until 10:00 pm if it didn't work. Mr. Weber thought that this was a great site, it would benefit the community, and the residents would be able to access it from their neighborhood.

Commissioner Bristow agreed with Commissioner Weber and was in favor of the 11:00 pm close time. He felt that the conditional use permit allowed the project to be brought back to the Planning Commission if it were to become a problem.

Chairperson Gildersleeve asked the Commission if the condition should be modified with the requested hours

of operation and to add a statement saying that the project could come back to a future Planning Commission meeting if the noise were to become a problem.

Motion to approve 3. Public Hearing: An application for a conditional use permit to operate a restaurant known as It's A Grind Coffee House within an approximately 1,500 square-foot tenant space located on the northeast corner of Balfour Road and John Muir Parkway at 2261 Balfour Road, Suite A within the Balfour Retail Center (APN 019-150-097), with the following changes: 1.) Modify Condition of Approval number 7 to state the following hours of operation: Monday thru Thursday, 4:30 am to 10:00 pm, Friday, 4:30 am to 11:00 pm, Saturday, 6:00 am to 11:00 pm, and Sunday, 6:00 am to 10:00 pm.

Moved by Bristow; seconded by Weber.

Vote: 4-0-0-1

Yes: Cushing, Bristow, Gildersleeve and Weber

No:

Abstain:

Absent: Stirling

4. Public Hearing: An application for a conditional use permit to allow an on-sale liquor license for the 760 Cigar Lounge & Boutique, located in an 851-square-foot tenant space at 613 First Street, Valverde Plaza (APN 013-100-005).
Applicant: Keith Piacente
File No.: CUP 08-10
Planner: Jeff Zilm

Senior Planner Jeff Zilm gave a brief overview of the staff report.

Commissioner Bristow said that Hiro's had outdoor alcohol consumption in the courtyard and why staff didn't want to allow alcohol consumption as long as there wasn't any smoking in the area.

Planner Zilm thought that alcohol should not have been served within an open, public area. He said that typically, outdoor areas would need to be barricaded off away from everyone else who might publicly pass by the area. He was not aware what Hiro's license allowed them to do.

Commissioner Bristow wondered whether Hiro's was not in conformance with the ABC license.

Commissioner Weber asked whether the police had any written documentation to planning staff for this project.

Planner Zilm said that the police wanted the owner to operate his business as a membership-only type setup, however the License 48 that he was applying for would not require him to.

Commissioner Weber said that he was intrigued to see the business plan that was submitted by the applicant and asked whether staff requested it from the applicant.

Planner Zilm said that staff asked for a detailed description of how the business operates, the hours of operation, number of employees, etc. and that is what he had presented to staff.

Commissioner Weber said that he certainly went above and beyond for the information that staff had requested from him. He asked about location number 2 that would potentially be located in The Streets of Brentwood Center.

Planner Zilm said that he had not submitted an application for location number 2 at this time.

Commissioner Cushing asked what the liquor license would include.

Planner Zilm said that the License 48 included beer, wine and hard distilled liquor.

Keith Piacente, the applicant, said that it was his understanding when Hiro's was opened that their liquor license allowed them to serve alcohol within the gated area. He said that he would adhere to keeping the smoking inside, however felt that there would be occasions where patrons would want to enjoy a glass of wine or cocktail in the outdoor dining area.

Commissioner Bristow asked Mr. Piacente whether his liquor license would allow alcohol to be served in the patio area.

Mr. Piacente said that that was what he was being told.

Commissioner Bristow asked if the applicant was requesting that consumption of alcohol be allowed in the outdoor patio area.

Mr. Piacente said that he would like that. He said that he met with the broker for The Streets of Brentwood location, however was putting it on hold because it was too expensive for him at the time and was focusing his efforts on the downtown location. He said that License 48 allowed anyone to come in and have a cocktail, but according to what the police told him, he couldn't market his business around the alcohol. He said that most of his clientele was in their late 30's and up and was a very distinguished crowd and the alcohol would be a compliment to the cigars.

Commissioner Weber asked Mr. Piacente if he read the conditions of approval in the staff report and whether he was in agreement with them.

Mr. Piacente asked if he could review them. He asked Condition Number 8, which required him to leave his front door closed, be removed.

Commissioner Weber asked Mr. Piacente to explain how leaving the door closed would impact his business.

Mr. Piacente said that it would be nice to get some fresh air in the building and the smoke, with the new ventilation area, would be going out through the roof and not out into the courtyard area.

Commissioner Weber asked Mr. Piacente how the business name, 760 Cigar Lounge & Boutique, was created.

Mr. Piacente said that he was raised in Walnut Creek and lived in Brentwood since 2003. He said that he really liked visiting the Palm Desert/Rancho Mirage area in Southern California. He said that when he was going through his divorce, he decided to move to Palm Desert/Rancho Mirage area because he didn't want to go through it in Brentwood. He said that he met his business partner down there and the area code was 760 for Palm Desert and Palm Springs.

Commissioner Bristow asked for the total occupancy of his facility.

Mr. Piacente said that he was never given one.

Planner Zilm said that he did not know what the occupancy was for the building.

Commissioner Bristow felt that the operation would be a cigar bar and not an alcohol bar and was sure that the occupancy would drive that factor.

Mr. Piacente said that the building was 851 square feet and he said that 25 people plus was cozy, so he thought it would be nice for someone to sit in the courtyard to enjoy a cocktail.

Planning Manager Kline stated that staff received a call from an office worker on the second floor complaining

about tobacco smell. She said the City did have a non-smoking Ordinance, however it pre-dates the current State Labor Code on smoking, so it was less restrictive and actually allowed smoking in bars and taverns which has been ruled out since 1998 by the State. Ms. Kline said that the ordinance defined no-smoking in an enclosed space. She said that even though the patio was enclosed with 4 sides around it, it did not have a ceiling and the Code spelled out that it would have to have a ceiling. Ms. Kline said that typically, by Ordinance, smoking would be allowed in the plaza. She said that the State was somewhat silent on the issue and she didn't see that the State Law disallowed smoking in the area. She felt that the new circulation system may assist with the elimination of smoke, however it was not uncommon in multi-tenant buildings where you have a tobacco shop where you would be constantly chasing the smoke migrating into adjacent suites. She said that the condition was added as an attempt to address the other tenant's concerns.

Commissioner Cushing asked why that condition was added.

Planning Manager Kline said that staff had issues with the cigar smoke.

Public hearing closed.

Commissioner Weber was in support of the application.

Commissioner Cushing was in complete support of the application and was not in favor of eliminating Condition Number 8.

Commissioner Bristow was in favor of the conditional use permit and also did not want to eliminate Condition Number 8. He was in favor of the use of alcohol in the courtyard area, because he thought that a couple might visit the lounge and one partner would prefer to sit in the outdoor patio area so that they wouldn't have to smell the smoke. He said that as long as this was allowed by the ABC License, he was in favor of it and would like to see that Condition Number 5 be modified to allow the consumption of alcohol in the courtyard, however no smoking would be allowed. Mr. Bristow was in favor of the project, felt that it was a very high-end, classy place and wished them all the success.

Commissioner Cushing agreed with Commissioner Bristow's comments.

Chairperson Gildersleeve was in favor of allowing the consumption of alcohol.

Commissioner Cushing said that the Commission recently discussed the consumption of alcohol and he didn't understand why alcohol would be an issue on public property.

Planner Zilm said that the courtyard was open to the public and minors could walk through and potentially grab a glass of alcohol as they were walking by.

Motion to approve 4. Public Hearing: An application for a conditional use permit to allow an on-sale liquor license for the 760 Cigar Lounge & Boutique, located in an 851-square-foot tenant space at 613 First Street, Valverde Plaza (APN 013-100-005), with the following changes: 1.) Amend Condition Number 5 to say that the applicant shall ensure that patrons do not use the common interior courtyard for smoking, but alcohol consumption will be allowed and that all business-related activities take place within the existing tenant space as allowed by the ABC License issued to the applicant.

Moved by Bristow; seconded by Weber.

Vote: 4-0-0-1

Yes: Cushing, Bristow, Gildersleeve and Weber

No:

Abstain:

Absent: Stirling

5. Continued Public Hearing: An application for a General Plan amendment (GPA 07-01) to change the land use on 5.14 acres within Special Planning Area P from Semi-Public to Very High Density Residential, a corresponding rezone (RZ 07-05) establishing development standards consistent with this use, and a design review (DR 07-12) for a 120-unit apartment project known as Casa Bella, generally located at the northeast corner of the intersection of Jeffery Way and Amber Lane (APN 019-032-001). A Mitigated Negative Declaration was prepared for this project pursuant to the California Environmental Quality Act, to assess potential environmental impacts.
 Applicant: Mark Marcotte / Loving & Campos Architects, Inc.
 File No.: GPA 07-01/RZ 07-05/DR 07-12
 Planner: Debbie Hill
 STAFF HAS REQUESTED THAT THIS ITEM BE CONTINUED TO THE NEXT PLANNING COMMISSION MEETING OF JUNE 3, 2008.

Motion to continue Public Hearing for an application for a General Plan amendment (GPA 07-01) to change the land use on 5.14 acres within Special Planning Area P from Semi-Public to Very High Density Residential, a corresponding rezone (RZ 07-05) establishing development standards consistent with this use, and a design review (DR 07-12) for a 120-unit apartment project known as Casa Bella, generally located at the northeast corner of the intersection of Jeffery Way and Amber Lane (APN 019-032-001) to the next Planning Commission meeting of June 3, 2008.

Moved by Cushing; seconded by Weber.

Informational Reports from Staff

Planning Manager Kline stated that the ARCO Station on Lone Tree Way and Empire Way filed an application for an evaporative mechanism that is needed on gas stations and staff will let them know, prior to the approval of the application, that they will need to install the landscaping per the previous approval.

Chairperson Gildersleeve asked about the status of the landscaping for the AM/PM on Balfour Road.

Planning Manager Kline said that she was not sure about the history of the lack of landscaping and staff would look into it.

Chairperson Gildersleeve asked Ms. Kline if she received any information in regards to the plaque for Griffith.

Ms. Kline said that she did not receive any information, however would work on it.

Meeting Schedule

Transplan Committee	Weber - Primary Bristow - Alternate	June 12, 2008 (2nd Thursday of every month)
Design Review Subcommittee	Stirling & Gildersleeve	May 22, 2008 June 12, 2008 (2nd & 4th Thursday of every month)
Land Use & Development Committee	Cushing & Bristow	June 2, 2008

June 16, 2008
(1st and 3rd Monday of every month)

Commissioner Weber had nothing to report for the Transplan Committee.

Chairperson Gildersleeve had nothing to report for the Design Review Subcommittee Meeting.

Commissioners Cushing and Bristow had nothing to report for the Land Use and Development Committee Meeting.

Requests For Future Agenda Items

Commissioner Cushing asked for the status on the Creeks item.

Chairperson Gildersleeve told the Commission that Planning Manager Kline was very busy because she was working on approving parks and working on The Streets of Brentwood project, and she would be able to address their requests once things slowed down.

Adjournment

Adjournment of the May 20, 2008 Planning Commission Meeting. The next Regular Planning Commission Meeting is scheduled for Tuesday, June 3, 2008, at 7:00 PM.

Motion to adjourn of the May 20, 2008 Planning Commission Meeting.

Moved by Gildersleeve; seconded by 0.

There being no further business to discuss, the meeting was adjourned at 9:25 PM. The next Regular Planning Commission Meeting is scheduled for Thursday, June 3, 2008 at 7:00 PM.

Respectfully submitted,

Christie Pollock
Administrative Secretary