

Commissioner Delgadillo pulled the Minutes of October 17, 2007 to be voted on separately.

On motion by Commissioner Brandt and seconded by Commissioner Delgadillo, the Planning Commission approved the Minutes of October 17, 2007.

AYES: Brandt, Delgadillo, Travers
ABSENT: Azevedo
ABSTENTION: Trail, Westerman and Johnson

END OF CONSENT CALENDAR

CONTINUED PUBLIC HEARINGS

- 2. UP-07-16 – In Shape Health Club Exterior Pool Features – In Shape Health Club, Inc., requests approval of an amendment to the Planned Development and Use Permit to install three exterior water features including two pool slides and a spray fountain at the existing health club. The project is located at 4065 Lone Tree Way (APN 072-012-212).**

Deputy Director of Community Development (DDCD) Wehrmeister reported that Item No. 2 would be continued to January 16, 2008.

On motion by Commissioner Brandt and seconded by Commissioner Johnson, the Planning Commission continued Item No. 2 to January 16, 2008.

AYES: Brandt, Johnson, Westerman, Delgadillo, Trail and Travers
ABSENT: Azevedo

- 3. MDP-06-02 – Deer Valley Estates – Allied Investments requests review of a Master Development Plan and a Planned Development Rezone, for the development of a 135 unit single family home subdivision on an approximately 38 acre parcel. The project site is located in the southern portion of the City of Antioch and is bounded by Deer Valley Road to the west and Wellness Way and the Kaiser Hospital medical facilities to the south.**

DDCD Wehrmeister reported that Item No. 3 would be continued to January 16, 2008.

On motion by Commissioner Brandt and seconded by Commissioner Trail, the Planning Commission continued Item No. 3 to January 16, 2008.

AYES: Brandt, Trail, Westerman, Johnson, Delgadillo and Travers
ABSENT: Azevedo

NEW PUBLIC HEARINGS

Chairman Travers announced that Item No. 5 would be taken at this time and that Staff has requested that it be continued to January 16, 2008.

- 5. Z-07-01 – RDA Ordinance Update – The City of Antioch is requesting amendments to the City’s Zoning Ordinance, Title 9, Article 40 “Residential Development Allocation” (RDA), to address several development allocation processing requirements.**

On motion by Commissioner Delgadillo and seconded by Commissioner Brandt, the Planning Commission continued Item No. 5 to January 16, 2008.

AYES: *Delgadillo, Brandt, Westerman, Johnson, Trail and Travers*
ABSENT: *Azevedo*

Chairman Travers reported that Item No. 4 would be heard at this time.

- 4. RDA-07-04 – Wilbur Townhomes – Lloyd Harris and Joe Bosman request that the Planning Commission recommend approval of 40 residential development allocations in 2008 for a 63-unit townhome project. The project site is located at 701 and 810 Wilbur Avenue (APN 065-110-006 and 007).**

DDCD Wehrmeister provided a summary of the Staff Report dated December 14, 2007.

Commissioner Brandt requested that a qualifier be added to the Resolution regarding the tree that is to be placed in the rear yard.

OPENED PUBLIC HEARING

Norm Dyer, Loving and Campos Architects, spoke to open space issues and the decorative masonry wall. He stated that in regards to the back patio area, he is proposing an appropriate scaled species tree to fit the scaled rear yards, as well as leaving extra space for additional landscaping.

Commissioner Delgadillo requested information regarding past comments by the Commission regarding the addition of sidewalks being added to both sides of the street, as well as available storage for garbage cans. Mr. Dyer responded that this decision has not yet been made and will be brought forward as the project moves forward within the development process.

Commissioner Brandt requested that verbiage be added to Condition No. 9 that would read: ~~one~~ appropriately scaled tree in each private rear yard . . .+ Mr. Dyer concurred.

Commissioner Trail expressed concern to a new homeowner not being able to afford to landscape the backyard and requested that the applicant place a 15x24 area of sod to the rear yard with a sprinkler system. Mr. Dyer concurred.

Chairman Travers expressed his appreciation to the applicant for bringing this type of development to the community, as well as making changes per the Commissioner's suggestions. He also stated that he agreed that rear landscaping be added, per Commissioner Trail's suggestion.

PUBLIC COMMENT

Gregg Piacitelli, resident, expressed concern to this proposed development being placed adjacent to his residence, and due to the project being constructed 15 feet higher than his property, he stated that his privacy would be taken away. He suggested that the applicant construct a masonry wall in this area to alleviate his concerns. Mr. Piacitelli also expressed concern to additional traffic, loss of privacy, loss of his view and construction dust and noise. He suggested that this area be utilized as some type of housing for disabled children and/or adults and felt this type of use would greatly benefit the community.

Cathy Dilley-Hall, resident, expressed concern to this proposed project creating additional traffic onto Minnaker and also felt this area could be better utilized with some type of housing facilities for disabled children and/or adults.

CLOSED PUBLIC HEARING

Commissioner Trail stated that she understood the concerns of the speakers, but felt this project would appreciate the value of the surrounding homeowners. Furthermore, she did agree that the existing neighbors should not be impacted by this proposed project and stated her appreciation for their concerns.

Commissioner Brandt stated her appreciation for the public's comments and encouraged the public to continue to follow this process. She also stated her support for the application from the RDA and encouraged the applicant to continue to work with Staff, in order that this project would benefit this particular area.

Chairman Travers stated that he felt this project would be a benefit to the existing area, and that the Commission will perform their due diligence in the planning stages, in terms of working through safety issues and ensuring that the project would meet all City standards.

RESOLUTION NO. 2007-30

On motion by Commissioner Brandt, and seconded by Commissioner Johnson, the Planning Commission approved an application from Joe Bosman and Lloyd Harris for the approval of 40 residential development allocations for a 63 unit townhouse project generally located at 701 and 810 Wilbur Avenue (APN's 065-110-006 and 007) with the amended change:

- ***Condition No. 9 to read: "The builder shall provide a concrete rear patio and one appropriately scaled tree in each private rear yard which the owner will maintain."***

AYES: Brandt, Johnson, Westerman Delgadillo, Trail and Travers
ABSENT: Azevedo

6. Z-07-06, UP-07-20 – Sunset Exploration is requesting a change to the existing "S" Study Zone and approval of a Use Permit to allow them to drill and operate an oil/gas well as a temporary use on a 158 acre parcel located south of the existing homes on Mammoth Way, west of Deer Valley Road and east of Empire Mine Road. The proposed oil/gas well location is approximately 1,500 feet south of the back fences of the homes and front on Mammoth Way. The adequacy of a Mitigated Negative Declaration for the requested Zone Change and Use Permit will also be considered.

Chairman Travers and Commissioner Johnson excused themselves, due to a conflict of interest. Commissioner Delgadillo was appointed as Acting Chair.

Deputy Director Community Development (DDCD) Carniglia provided a summary of the Staff Report dated December 12, 2007. He noted that three letters were entered into the record that were addressed from:

- Karl E. Geier of Miller, Starr and Regalia
- Wendy and Greg Larimore
- Vera and Darren Calhoun

Commissioner Trail expressed concern to the adjacent water wells, in terms of quality and contamination due to the drilling. DDCD Carniglia stated that it is required by the State of California that seepage is prevented into surrounding soil and given the horizontal and vertical distance of the drill; he felt this would not be a significant issue.

OPENED PUBLIC HEARING

Bob Nunn, Sunset Exploration, felt that due to the downturn of the real estate market, this would be a opportune time to drill in this area until the market turns around. In terms of noise, staff has placed specific concepts to protect and control the operation to a greater degree than is usually typical for his company. In regards to mineral rights, he

stated that he is controlled by the Shea/Dividend Group for three years and he is under a temporary use permit.

In responding to Commissioner Brandt, Mr. Nunn addressed noise issues and stated that noise could be mitigated with shielding the drilling operations away from the homes, and if the Commission so desires he would be amenable to conditioning that a sound engineer be placed on site.

Commissioner Brandt asked Mr. Nunn if he was in full agreement with the Staff Report, as presented. Mr. Nunn stated that he was in agreement with staff and it is acceptable to Sunset Exploration.

Commissioner Trail asked that if in the event this well operated between 3-5 years, long enough for the real estate market to recover, what would be a reasonable projected royalty to Shea for a successful well that would consist of approximately 1-6 wells. Also, would it be reasonable to say that Shea would be grossing at least \$1M over the course of 3-5 years. Mr. Nunn stated that he did not want to make a promise on a blind income amount, but believed that would be an accurate figure and it was consistent with his projections on how he would run his economics on this project. Commissioner Trail asked if Mr. Nunn would hold the nearby homeowners harmless for any unforeseen water quality issue, as well as, provide a yearly test water quality test. Mr. Nunn stated that he did not foresee any problem with this and furthermore, he stated that he would be willing to name any existing residents that have existing water wells on Sunset Exploration's insurance policy.

Commissioner Trail asked if Mr. Nunn has had any discussions with the City's Planning Department in regards to giving back any royalties to the community of Antioch, and in particular to the Antioch Unified School District. Mr. Nunn stated that any increase in property valuation, on the part of a successful well, would benefit the school district in terms of the tax base. He opposed any different type of criteria than what is proposed for his operation, and would resist any type of government mandating his business unless it is applied for other businesses also. He also stated that he would not pledge any type of royalties at this time and felt it was an inappropriate business requirement.

PUBLIC COMMENT

Robia Chang with Miller, Starr and Regalia, Representing the Zocchi Company, stated that she was not opposed to the use that is being proposed for the drill site and requested that the zoning amendment itself incorporate the distance requirement as one of the regulations that would apply where drilling activities are allowed under the zoning amendment.

Walt Bartlett, resident, expressed concern to the current 14 wells that exist along Deer Valley Road and have always have been concerned to the noise and water quality created that he felt occurs from drilling operations. He further did not want to set a precedent of adding additional drilling operations in this area.

A resident expressed concern to above ground storage, in terms of secondary containment.

Mr. Nunn distributed information to the Commission regarding secondary containment and noted that it is requirement by the State of California. He stated that he would mitigate noise and that he has had no previous registered complaints from past drilling operations within the County.

CLOSED PUBLIC COMMENT

Through discussions amongst the staff and the applicant, DDCD Carniglia stated that a within the Staff Report, Exhibit %A+, Requirement No. 4, verbiage would be added to read: %with a minimum of 1,500 feet from the existing homes on the northern boundary of the subject property.+

DDCD Carniglia stated that per Exhibit %A+, Requirement No. 11, verbiage could be added if the aggregate does manage to spill onto the adjacent roadway to read: %in the event that gravel of the all weather surface spills onto Deer Valley Road that some type of paving be provided that would be acceptable to the City Engineer.+

Commissioner Brandt stated that she would move forward with an approval to the City Council, and that she would trust the City Council to address any outstanding concerns.

Commissioner Westerman felt that the applicant had adequately addressed the concerns of the Commission and stated that he would move forward with an approval.

Commissioner Trail expressed concern with the current real estate market and with this; she stated that she could not support the proposed zoning change. She again expressed concern to water quality issues for nearby residents.

Acting Chairman Delgadillo felt that all issues had been addressed by the applicant, but did express a concern to setting a precedent for other individuals with similar requests.

RESOLUTION NO. 2007-31

On motion by Commissioner Brandt, and seconded by Commissioner Westerman, the Planning Commission recommended approval of a request from Sunset Exploration requesting a change to the existing "S" Study Zone to allow them to drill and operate an oil/gas well as a temporary use on a 158 acre parcel located south of the existing homes on Mammoth Way, west of Deer Valley Road, and east of Empire Mine Road (APN 057-021-003). The proposed oil/gas well location is approximately 1,500 feet south of the back fences of the homes that front on Mammoth Way, with the following:

- **Determining that the Mitigated Negative Declaration is adequate, per the Staff Report**
- **Amending Exhibit "A", Requirement No. 4, to read at the end of the first sentence and to be approved by Staff: "but in no event less than 1,500 feet from existing homes unless otherwise provided in the Use Permit".**
- **Defining language within the Use Permit to read that the oil/gas well shall be located not less than 1,500 from the existing homes on the northern boundary of the subject property.**
- **Recommending approval of the Use Permit contingent upon the City Council approval of Exhibit "A".**

RESOLUTION NO. 2007-32

- **Add Project Specific Condition No. 30 to read: "That a sound engineer be on site during the first drilling to determine sound levels and make any recommendations to further mitigate sound."**
- **Add Project Specific Condition No. 31 to read: "Properties within a certain radius, as well as residents along the Deer Hill Lane, who are currently on well water could be named by endorsement as additional insured on the general liability policy of Sunset Exploration's insurance policy in order to safeguard well water for the duration of the drilling operations."**

AYES: Brandt, Westerman and Delgadillo
NOES: Trail
ABSTENTION: Travers and Johnson
ABSENT: Azevedo

A break was taken at 9:50 p.m. and reconvened at 10:00 p.m.

7. **HO-07-230 – The decision of the Community Development Department to approve a Home Occupation Use Permit for a florist has been appealed. The project site is located at 2350 Galloway Court (APN 052-450-052).**

City Attorney Nerland announced that Commissioner Trail would be excused, due to a conflict of interest.

DDCD Wehrmeister provided a summary of the Staff Report dated December 13, 2007.

OPENED PUBLIC HEARING

Mike Massone, Appellant, former owner of Antioch Florist, expressed concern to Cottage Florist running their business out of their garage and not operating it in their leased space located on West Second Street. He distributed photographs to the Commission of a truck delivery that he felt was illegal. Mr. Massone expressed concern to the fact that the owner of Cottage Florist called the police stating that he was a threat to Ms. Trail.

Doug Rimbald, Springyard Florist, felt that a florist is a manufacturer, in nature, and stated his objection that if this is approved, the City is subsidizing this business, in terms of utilities.

Roger Henry, representing Cottage Florist, stated that Cottage Florist does operate of 2350 Galloway Court since 2006, and previously operated out of the now Paula's Florist Shop on A Street. Due to the high cost of operating on A Street, Ms. Trail has reduced her volume by 30 percent, cut out all overhead, with the exception of one employee, and now operates the business out of her residence, as does other residents within the community. There are no walk-in customers or business conducted and the location on West Second Street is opened for a display area for Tele-Florist.

Dennise Myers, employee of Cottage Florist, stated that she makes all deliveries herself and that no business is conducted out of the Galloway residence and the majority of the work is conducted over the telephone. A truck delivery occurs once a week, with van deliveries more often.

Jason Bowen, resident, stated that he was not concerned that this business is being operated in his cul-de-sac and had never witnessed customers coming to the business. He also added that there is never a high volume of garbage, due to the business.

Fred Brown, resident, requested that the appeal be denied.

Linda Locke, resident, stated her support of small businesses and supported City Staff's recommendation.

Eddie Trail, owner of Cottage Florist, distributed a document signed by nearby residents stating their support for this floral business. He further expressed a concern to Mr. Massone's appearance in the neighborhood.

CLOSED PUBLIC HEARING

Commissioner Johnson stated that he felt that Cottage Florist was in compliance with the City's Municipal Code.

Commissioner Westerman felt that by moving this business from a retail area to a residence was based on a business decision and felt this business did meet the City's Municipal Code.

Commissioner Brandt felt that this business did not violate the Home Occupation Use Permit process.

Chairman Travers felt that the business complied with the City's Municipal Code.

RESOLUTION NO. 2007-33

On motion by Commissioner Brandt, and seconded by Commissioner Johnson, the Planning Commission Upheld Staff's decision to approve a Home Occupation Use Permit for a Florist Business and denied the appeal.

AYES: Brandt, Johnson, Delgadillo, Westerman and Travers
ABSENT: Azevedo
ABSTENTION: Trail

ORAL COMMUNICATIONS

None.

WRITTEN COMMUNICATIONS

DDCD Wehrmeister distributed information pertaining to the League Planner's Institute to be held on March 26.

Chairman Travers read correspondence from the Smart Voter and League of Women Voters.

COMMITTEE REPORTS

Commissioner Westerman reported that a Design Review Guideline Subcommittee meeting was held on December 10 that was a continuation of a review of the Draft Guidelines.

ADJOURNMENT

Chairman Travers adjourned the Planning Commission at 11:10 p.m. to the next regularly scheduled meeting to be held on January 16, 2008.

Respectfully Submitted,

Debra Lawson