



## PLEASANT HILL CITIZENS *for* RESPONSIBLE GROWTH

10 Wildwood Ct.  
Pleasant Hill, CA 94523  
October 26, 2015

Mayor Ken Carlson and City Councilmembers  
City of Pleasant Hill  
100 Gregory Ln.  
Pleasant Hill, CA 94523

Re: Appeal of Planning Commission's October 13, 2015 Approval of Major Sign Adjustment for PLN 15-0162

Pleasant Hill Citizens for Responsible Growth (PHCRG) hereby appeals the Planning Commission's (Commission) decision in the above-referenced matter because the Commission failed to make and support the necessary legal findings.

### **I. BACKGROUND**

#### **A. Diablo Valley Plaza Shopping Center ("DV Plaza") Project: Pylon Sign**

The Commission's October 13, 2015 meeting included a public hearing to consider proposed signage for the DV Plaza shopping center remodel by owner Merlone Geier Partners. The proposed sign is a 67-foot tall pylon sign to be located off-site from the shopping center at 61 Chilpancingo Parkway (on the east side of Grayson Creek, opposite from the shopping center that is located on the west side of Grayson Creek at APN 153-270-001).

The October 13, 2015 staff report asks the Commission to "conduct the public hearing, receive and consider public testimony, and approve the major sign adjustment subject to the findings and conditions in the attached resolution." Doing so required the Commission to make findings regarding consistency with the General Plan and the zoning ordinance, including the following titles, chapters, and sections of the City's Municipal Code:

- Pleasant Hill Municipal Code (PHMC) Title 18 (Planning and Land Use), Part 2 (Base District Regulations); Chapter 18.25 (Commercial, Retail Business, Neighborhood Business, Office and Light Industrial Districts);
- PHMC Title 18, Part 4 (Regulations Applying in All Districts), Chapter 18.60 (Signs); and
- PHMC Title 18, Part 5 (Administration), Chapter 18.95 (Use Permits)

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## II. FINDINGS AND ANALYSIS

### A. Consistency with Base District Regulations

The proposed sign is to be located on a 0.37 acre (16,117 sq. ft.) vacant parcel off-site from the larger shopping center property and accessible from Chilpancingo Parkway. The Applicant plans to co-locate the sign with a commercial building, the details for which are not yet available. The zoning designation for this parcel is RB-Retail Business.

The Commission failed to consider whether the proposed sign is permissible under PHMC § 18.25.030, Property development regulations in the commercial, office and light industrial districts, as follows:

Code Requirement	Project Proposal	Finding
Maximum height 35 feet	Height is 67 feet, nearly twice the maximum.	Proposal substantially exceeds the maximum permissible height.

Approval of a Use Permit for a Major Sign Adjustment is precluded by the fact that **the zoning ordinance does not allow major exceptions/adjustments or even minor exceptions to the 35-foot building (and accessory structure) height limit.** The zoning ordinance requires a variance or creation of a legal planned unit development in order to exceed the 35-foot maximum height. Further, the municipal code sections that implement the sign regulations supplement – *are in addition to* – the base district regulations. The base district regulations must be met under all circumstances. Therefore, the Commission has discretion to approve a major adjustment from eight feet to 35 feet if, and only if, the adjustment is consistent with the intent of the sign regulations. However, the Commission is not authorized to approve an adjustment in excess of 35 feet through the use permit process.

Because the proposed sign exceeds the fundamental height restriction in PHMC §18.25.030, it can and should be rejected without further analysis.

**The Commission cannot approve a major adjustment that exceeds the 35-foot height limit in the base district regulations, because the base district regulations are controlling.**

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### B. Findings Required for Consistency with Sign Regulations

The Base District Regulations are supplemented by the Sign Regulations (contained in PHMC Title 18, Part 4 (Regulations Applying in All Districts), Chapter 18.60 (Signs). **The sign regulations do not replace or supplant the Base District Regulations.** Instead, the sign regulations place additional standards and restrictions on development, above and beyond that required by the Base District Regulations.

PHMC §18.60.100 Major sign adjustments states:

- A. *The planning commission may approve major adjustments involving more than a 20% change from any provision of this chapter through approval of a use permit.* [Emphasis added]

The municipal code states that major adjustments only apply to provisions or standards in Chapter 18.60 and not to provisions or standards in any other chapter in the zoning ordinance. Therefore, the Planning Commission may approve a major adjustment to the Chapter 18.60 8-foot maximum height limit for monument signs. However, the Commission may not approve a major adjustment that exceeds the Chapter 18.25 35-foot maximum height limit through the use permit process described in Chapter 18.60. (See PHMC §18.25.060 Accessory structures and uses. See also Part 5, Administration regarding “general administrative authority and procedures for decision making” for the zoning ordinance).

For the purposes of the sign regulations, the Commission was required to determine whether the subject parcel should be considered part of the proposed off-site DV Plaza shopping center. Notwithstanding this requirement, the Commissioners did not discuss this critical issue, despite the fact this application presents a unique and unprecedented circumstance.

Further, for the purposes of the sign regulations, the Commission was required to determine whether a major sign adjustment was consistent with the intent of the specific purposes of the sign regulations. However, the Commissioners did not deliberate or discuss the specific purposes beyond those identified in the staff report.

Analysis of the sign regulations reveals the following:

PHMC § 18.60.010 Specific purposes	Proposal Consistent?	Comments
A. Provide each sign user an opportunity for effective identification by limiting the number and area of signs permitted on all sites.	No	<p><b>Analysis:</b> The regulations limit the number of signs. However, the area of the pylon sign vastly exceeds the total area permitted on all sites by 1,212 square feet (1,276 square feet proposed vs. 64 maximum square feet per the sign regulations). This represents a 1,894% increase over the limit.</p> <p><b>Conclusion:</b> The proposed sign exceeds the limits of the City's sign regulations. The adjustment is inconsistent with the intent of this specific purpose stated in the ordinance.</p>

PHMC § 18.60.010 Specific purposes	Proposal Consistent?	Comments
B. Maintain and enhance the quality of the City's appearance by limiting off-premise signs to avoid clutter.	No	<p><b>Analysis:</b> The pylon sign is a massive, off-premise sign. It does not "maintain and enhance the quality of the City's appearance" – quite the contrary. The pylon sign is inconsistent with the letter and spirit of City sign regulations. Further, if the City approves this sign, it will set precedent. Consequently, it is anticipated other businesses will ask for the same privilege.</p> <p><b>Conclusion:</b> <b>The proposed pylon sign contributes to clutter due to its massive size. If approved, this project is likely to encourage additional off-premise pylon signs and "clutter" by other businesses.</b></p> <p><i>Note: The zoning ordinance limits the number of on-site signs. The DV Plaza project already proposes the maximum number of on-site signs the zoning ordinance allows.</i></p>
C. Enable users of goods and services to readily identify establishments offering services to meet their needs.	Yes	<p><b>Analysis:</b> The sign identifies shops in the DV Plaza at the expense of other shopping centers and retail establishments in Pleasant Hill.</p> <p><b>Conclusion:</b> <b>This sign cannot be approved because doing so would grant special privileges to the property owner that are inconsistent with the limitations on other properties in the vicinity. Users of goods and services cannot readily identify other establishments offering goods or services to meet their needs if they are focused on a massive pylon sign for DV Plaza.</b></p>
F. Provide fair and equitable regulations throughout the community.	No	<p><b>Analysis:</b> Allowing a massive, 67-foot tall pylon sign for one developer is not fair and equitable to other commercial property owners or residents.</p> <p><b>Conclusion:</b> <b>This sign cannot be approved because doing so would grant special privileges to the property owner that are inconsistent with the limitations on other properties in the vicinity and throughout Pleasant Hill. In addition, this sign fails to shield neighboring residential districts from adverse impacts (especially at night when the illuminated sign will be conspicuously visible).</b></p>
G. Provide substantial compliance with City-wide sign design guidelines.	No	<p><b>Analysis:</b> City-wide sign design guidelines strictly prohibit pylon and pole signs.</p> <p><b>Conclusion:</b> <b>A 67-foot, massive pylon sign does not comply with City-wide sign design guidelines that prohibit pylon signs. In fact, the two are completely incompatible.</b></p>
Additional Sign Regulations:	Proposal Consistent?	Comments
PHMC § 18.60.050 A. 2. b. provides that a monument sign may not "be closer to an interior property line than one-half its height."	To be determined	<p><b>Analysis:</b> Based on the site plans, it appears the proposed pylon sign may encroach into the required 33.5 foot setback (1/2 of the 67-foot height).</p> <p><b>Conclusion:</b> <b>Additional review and analysis is required to ensure the proposed sign will maintain the proper setback from interior property lines.</b></p>

Additional Sign Regulations:	Proposal Consistent?	Comments
PHMC § 18.60.050 A. 2. f. provides that a monument sign may not “be considered a double-faced sign unless the two faces are an integral part of a single sign and the sign faces are designed to be identical in size and located back to back on opposite parallel planes.”	No	<p><b>Analysis:</b> The proposed pylon sign contains three faces and the two largest faces are not “back to back on opposite parallel planes.”</p> <p><b>Conclusion:</b> The zoning regulations apply to monument signs – not pylon signs which are strictly prohibited by the City-wide sign design guidelines. However, the proposed pylon sign does not conform to the monument sign standards in PHMC § 18.60.050 A. 2. f.</p>
PHMC § 18.60.050 D. provides that off-premises signs are not permitted unless the sign “is needed to provide visibility of the business(es) from the nearest arterial or commercial collector street.”	No	<p><b>Analysis:</b> The shopping center is visible from the nearest arterial, Chilpancingo Parkway. The code addresses visibility from the nearest arterial or commercial collector, not visibility from multiple arterials or the freeway.</p> <p><b>Conclusion:</b> As proposed, the sign is not permitted.</p>
PHMC § 18.60.100 provides that the Planning Commission may approve major sign adjustments involving more than a 20% change from any provision of the Signs chapter of the code, through approval of a use permit.	No	<p><b>Analysis:</b> PHMC § 18.60.100 exclusively applies to the more restrictive standards in Chapter 18.60. It allows for a major adjustment over the 8-foot height limit in Chapter 18.60. However, the Chapter 18.60 process cannot be used to exceed the 35-foot height limit in Chapter 18.25.</p> <p><b>Conclusion:</b> Use of the major sign adjustment process in PHMC § 18.60.100 to exceed the 35-foot height limit for buildings and accessory structures in Chapter 18.25 is not permitted. Any attempt to use the major sign adjustment process to circumvent the 35-foot height limit constitutes an abuse of discretion.</p>

**The facts described in the above table show that the proposed sign is inconsistent with the City’s sign regulations. Therefore, the Commission erred in granting approval.**

C. Findings Required for Use Permit Approval

The Commission is required to make three findings to approve a use permit, per PHMC Chapter 18.95:

- The proposed use **will not be detrimental to the health, safety and general welfare** of persons residing or working in the neighborhood of the proposed use;
- The proposed use **will not be injurious or detrimental to adjacent properties** or to property in the neighborhood or to the general welfare of the City; and
- The **proposed use is consistent with the policies and goals established by the general plan.**

Public testimony was given regarding the safety concerns and recommendations on page 3 of the County Airport Land Use Commission's August 25, 2015 letter, which reads, in part:

*...Glare or distracting lights which could be mistaken for airport lights could pose a flight hazard and should be avoided at all times. There are no specific Federal Aviation Administration or ALUC standards for this type of hazard as they are evaluated on a case-by-case basis. In any case, outdoor lights should be shielded so they do not aim above the horizon.*

Remarkably, the Commissioners did not discuss this significant safety concern.

PHCRG recommends the City obtain an independent expert opinion to ensure the lit sign will not "aim above the horizon." The City, as the Lead Agency, could be found grossly negligent if the City approved an illuminated, 67-foot sign without addressing the ALUC's specific concerns and recommendations.

Additionally, the massive pylon sign could adversely affect the general welfare of those residing in the neighborhood of the proposed use. A massive, illuminated sign could reduce property values and adversely affect the character of any residential neighborhoods within eyeshot of the 67-foot pylon sign.

Further, the Commissioners did not discuss *any* of the following General Plan Goals, Policies and Programs brought to the Commission's attention during the hearing:

General Plan Goals, Policies and Programs	Proposal Consistent?	Comments
<p><b>Community Development Policy 4B:</b> Maintain the suburban town atmosphere of Pleasant Hill</p>	<p><b>No</b></p>	<p><u>Analysis:</u> The pylon sign will create a town atmosphere substantially different from that stated in City policy. An enormous, illuminated sign located adjacent to residential districts will stand in stark contrast to the small, suburban ambiance of today's Pleasant Hill.</p> <p><b>Conclusion:</b> This sign undermines and conflicts with the community vision for Pleasant Hill articulated in its General Plan, zoning regulations and City-wide sign design guidelines.</p>
<p><b>Community Development Goal 5:</b> Create an attractive, integrated design theme along Contra Costa Boulevard.</p>	<p><b>No</b></p>	<p><u>Analysis:</u> The proposed sign is unlike anything else and is inconsistent with the City's design theme for the area.</p> <p><b>Conclusion:</b> The proposed sign creates an unattractive and disjointed or un-integrated design theme along Contra Costa Boulevard.</p>
<p><b>Community Development Policy 5A:</b> Require commercial uses on Contra Costa Boulevard to relate to and reflect uses adjacent to and behind those uses, with careful attention to design themes common to specific blocks along the boulevard.</p>	<p><b>No</b></p>	<p><u>Analysis:</u> A freestanding 67-foot illuminated pylon sign, far taller than any surrounding structure, does not exhibit careful attention to design themes common to specific blocks along this section of Contra Costa Blvd. In fact, it is in direct contrast to the theme used and planned on Contra Costa Blvd.</p> <p><b>Conclusion:</b> The proposed sign creates an unattractive and disjointed or un-integrated design theme along Contra Costa Boulevard.</p>

General Plan Goals, Policies and Programs	Proposal Consistent?	Comments
<p><b>Community Development Policy 7A:</b> Enhance key intersections and entries to the City with signs, art and streetscape features.</p>	<p><b>No</b></p>	<p><u>Analysis:</u> A massive, 67-foot pylon sign is an unattractive addition to the intersection that will both mar and dominate the area.</p> <p><b>Conclusion: The proposed sign detracts, rather than enhances, the aesthetic quality of this key intersection.</b></p>
<p><b>Community Development Program 7.1:</b> Designate locations appropriate for gateway enhancement, and identify specific enhancements for each location.</p>	<p><b>No</b></p>	<p><u>Analysis:</u> This is not a designated location for gateway enhancement and a massive, 67-foot pylon sign will detract rather than enhance the area. This sign is inconsistent with other gateway signage of the City.</p> <p><b>Conclusion: The proposed sign detracts, rather than enhances, the aesthetic quality of this location.</b></p>
<p><b>Community Development Goal 9:</b> Maintain and enhance scenic routes and corridors in the City.</p> <p><b>Community Development Policy 9A:</b> Protect and enhance the views from and visual qualities of scenic routes and corridors in Pleasant Hill.</p>	<p><b>No</b></p>	<p><u>Analysis:</u> Golf Club Road is a scenic route and is adjacent to the Diablo Valley Plaza Shopping Center. A 67-foot Pylon sign will be unnatural and out-of-place in this setting, which is adjacent to and visible from Golf Club Road.</p> <p><b>Conclusion: The proposed sign intrudes on and detracts from, rather than enhances, the aesthetic quality of the Golf Club Road scenic route.</b></p>

During deliberations at the October 13, 2015 public hearing, the Commissioners focused on economic goals and objectives while ignoring several inconsistencies between the proposed project and other community development goals and objectives. In regard to economic policies, the Commissioners failed to support their findings of consistency. The Commissioners argued that the 67-foot pylon sign is necessary to revitalize the shopping center without offering a basis for their opinions.

The City should review market studies to either corroborate or refute the Planning Commissioners' representations that a pylon sign is necessary. Car dealerships in Concord and Walnut Creek have succeeded in those cities without constructing massive pylon signs along Highway 680 or major arterials.

- **Commissioners failed to complete analysis necessary to make the required findings of fact.**
- **Commissioners ignored conflicts between the proposed project and key community development goals and objectives.**
- **The Commission's findings lacked evidentiary support and consistency.**

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D. Additional Findings Required for Consistency with Sign Regulations

The Commission was required to make the following additional findings:

- The pylon sign will not adversely affect adjacent properties or tenants; and
- The pylon sign is necessary due to practical difficulties involved in the strict application of zoning ordinance standards to the project site or would result in a superior, more creative design.

a. Adverse Effect on Adjacent Properties or Tenants

The proposed sign will adversely affect adjacent properties or tenants – in particular, residents adjacent to it or in other residential districts within view of the sign (particularly at night when the sign would be illuminated).

The sign will draw visitors to DV Plaza and away from competing businesses in Pleasant Hill, providing an incentive for other businesses to erect their own freestanding pylon signs.

In addition, there has been no examination of traffic impacts associated with a sign of this unprecedented size and height in this already congested area. PHCRG does not believe the proposed project is exempt from the California Environmental Quality Act (CEQA) and PHCRG has requested a copy of the CEQA Notice of Exemption. Council should determine which legislative body is responsible for reviewing and approving or denying staff's CEQA determination.

b. Practical Difficulties Involved; or Superior, More Creative Design

The Commissioners have not considered alternatives to the 67-foot pylon sign. Throughout deliberations, Commissioners have accepted -- without question -- the Applicant's premise that DV Plaza must be seen from the freeway, rather than from the nearest arterial or commercial collector street as provided in the zoning ordinance. Consequently, the Applicant has presented no alternatives.

Accordingly, the Commission has no basis to find the "adjustment is necessary due to practical difficulties involved in the strict application of zoning ordinance standards to the project site."

Further, it is impossible to make this finding by viewing the pylon sign in isolation, separate and distinct from the shopping center as a whole and a Master Sign Program that includes all signs proposed for the shopping center. PHCRG urges Council to look at the *entire project* rather than one massive, stand-alone sign on roughly 1/3 acre of land.

A massive, 67-foot pylon sign is definitely not a superior, more creative design than a less-obtrusive, typical monument sign in the right location (such as the monument sign on Contra Costa Blvd. that directs consumers to commercial establishments in the Ellinwood area).

Furthermore, if the City radically departs from its City-wide Sign Design Guidelines and sign regulations for this Applicant, the City will set precedent and be pressured to approve similar pylon signs for other shopping centers or businesses in Pleasant Hill.

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**The Commission failed to consider alternatives to the Applicant's proposed pylon sign or its impact on adjacent properties or tenants.**

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### III. CONCLUSION

During the October 13, 2015 public hearing, Planning Commissioners failed to exercise an appropriate and reasonable measure of due diligence and oversight, as follows:

- Commissioners **did not consider information critical to the specific findings required**, including public testimony offered regarding omissions from and misstatements in the October 13, 2015 staff report;
- Commissioners **failed to articulate an appropriate basis for their findings**. Some Commissioners focused on particular aspects at the exclusion of others, rather than considering the project's potential impacts on all goals, policies and programs in the City's General Plan.
- Commissioners **failed to objectively evaluate** the proposed 67-foot pylon sign in terms of its consistency with the General Plan, the Base District and other Regulations in the zoning ordinance, and each of the Specific Purposes in the City's Sign Ordinance.

Commissioners erred in authorizing a Major Sign Adjustment and approving a Conditional Use Permit for PLN 15-0162.

### IV. REMEDY

PHCRG asks that Council overturn the Commission's October 13, 2015 decision to approve the application for a major sign adjustment for PLN 15-0162. PHCRG also asks that Council ensure accurate and thorough analysis of the proposed signage to ensure consistency with the policies, standards and procedures in the General Plan and zoning ordinance.

We thank you for your careful attention to this matter.

Best regards,



Michael Flake

President

Pleasant Hill Citizens for Responsible Growth