

RESOLUTION NO. PC-2018-11

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF PLEASANTON
APPROVING CONDITIONAL USE PERMIT AND DESIGN REVIEW APPLICATIONS FOR
CHABAD OF THE TRI-VALLEY LOCATED AT 3370 HOPYARD ROAD.,
AS FILED UNDER CASE NOS. P16-0288 and P16-1883**

- WHEREAS,** on February 10, 2016 Chabad of the Tri-Valley applied for a Conditional Use Permit to operate a religious institute with a childcare facility/preschool at 3370 Hopyard Road; and
- WHEREAS,** zoning for the property is Multi Family Residential-2,500 (R-M-2,500); and
- WHEREAS,** the proposed project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301, Existing Facilities, Class 1; and
- WHEREAS,** at a duly noticed public hearing on April 25, 2018, the Planning Commission took public testimony, requested additional information on some items to be provided, suggested the applicant conduct additional outreach to neighbors, including a neighborhood meeting, and continued the public hearing; and
- WHEREAS,** at a duly noticed public hearing on June 27, 2018, the Planning Commission considered all public testimony, directed the applicant relevant exhibits, and recommendations of the City staff concerning this application; and

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

Section 1: Findings for Chabad of the Tri-Valley Conditional Use Permit

With respect to the Chabad of the Tri-valley Conditional Use Permit, the Planning Commission makes the following findings as required by Section 18.124.070 of the Pleasanton Municipal Code:

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

Some of the objectives of the zoning ordinance are to: foster a harmonious, convenient, workable relationship among land uses, protect existing land uses from inharmonious influences and harmful intrusions, and ensure that public and private lands ultimately are used for the purposes which are most appropriate and beneficial to the City as a whole. The project site is located within a multi-family residential district which, per PMC Section 18.36.010) is intended to achieve various purposes including: providing spaces for semi-public facilities needed to complement urban residential areas and space for institutions that require a residential environment; to provide necessary space for off-street parking of automobiles; and to protect residential properties from noise, illumination, unsightliness, odors, glare and other objectionable influences. The subject zoning district allows, as conditionally permitted uses, religious institutions, nursery schools and private schools. The project, as conditioned, would provide for semi-public

uses and an institution serving the needs of residential uses; and would not generate off-site parking demands, noise, or other objectionable influences, consistent with the purposes of the district.

In particular, Chabad proposes an annual maximum of up to 15 outdoor activities for which conditions of approval require: 1) relocating the playground area from the north side of the building to the west side of the building, away from residents, 2) allowing amplified outdoor music twice a year before 8 p.m., 3) disallowing use of areas outside of the playground and outdoor terrace for outdoor activities and 4) establishing a time limit of 10 p.m. for all outdoor activities/events. In addition, should future problems arise in association of operation issues, the conditional use permit approval would be brought back to the Planning Commission for subsequent review to mitigate or to revoke the use permit.

- B. That the proposed location of the conditional use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to the properties or improvements in the vicinity.

As conditioned, staff finds the operations of the Chabad and childcare facility/preschool would not have a detrimental impact on the public health, safety, or welfare, or be materially injurious to the properties or improvements in the vicinity. In particular, conditions of approval specify hours of operation, allowable activities within and outside of the building, design measures to include relocation and fencing of the play area, building capacity, conformance to all applicable building and fire codes, and adherence to the shared parking agreement with St. Clare's Church in order to ensure that Chabad would not adversely affect residential properties in the area. If necessary, the Conditional Use Permit could be brought back to the Planning Commission for further modification if the proposed conditions are ineffective in addressing valid concerns raised by neighboring residents. Therefore, staff believes that this finding can be made.

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

The Pleasanton Municipal Code states that because of the unusual or uncharacteristic nature of some proposed land uses, conditional uses require special consideration so that they may be located properly with respect to their effects on surrounding properties. The activities and hours of operations proposed by Chabad as reflected in the conditions of approval in Attachment A would ensure the operation of Chabad to be in compliance with the applicable provisions of the Pleasanton Municipal Code, including those related to noise and parking. Therefore, that the Planning Commission is able to make this finding.

Section 2: Criteria for Design Review Approval

With respect to the Chabad of the Tri-Valley Design Review application, the Planning Commission finds that the project was reviewed and approved based on the nine criteria as required by Section 18.20.030 of the Pleasanton Municipal Code which include the following:

1. Preservation of the natural beauty of the city and the project site's relationship to it;
2. Appropriate relationship of the proposed building to its site, including transition with streetscape, public views of the buildings, and scale of buildings within its site and adjoining buildings;
3. Appropriate relationship of the proposed building and its site to adjoining areas, including compatibility of architectural styles, harmony in adjoining buildings, attractive landscape transitions, and consistency with neighborhood character;
4. Preservation of views enjoyed by residents, workers within the city, and passersby through the community;
5. Landscaping designed to enhance architectural features, strengthen vistas, provide shade, and conform to established streetscape;
6. Relationship of exterior lighting to its surroundings and to the building and adjoining landscape;
7. Architectural style, as a function of its quality of design and relationship to its surroundings; the relationship of building components to one another/the building's colors and materials; and the design attention given to mechanical equipment or other utility hardware on roof, ground or buildings;
8. Integration of signs as part of the architectural concept; and
9. Architectural concept of miscellaneous structures, street furniture, public art in relationship to the site and landscape.

With respect to the above criteria, the Planning Commission finds that the project would preserve and enhance the City's aesthetic values and ensure the preservation of the public health, safety and general welfare since the facility would be located within an existing building that is consistent with the allowable height, setbacks and other pertinent development standards of the RM-2,500 zoning district in which it is located. Minor exterior modifications to the building including the addition of new windows are proposed, specifications for which would be reviewed prior to issuance of a building permit to ensure that they are visually compatible with the building. The project would also upgrade existing landscaping, and install a new enclosed playground and outdoor terrace with solid wood fencing that would be consistent with other fencing on the project site and in the vicinity.

Section 3: The Planning Commission hereby approves Case Numbers P16-0288 and P16-1883, a Conditional Use Permit and Design Review for Chabad of the Tri-Valley to operate a religious facility and childcare facility/preschool at 3370 Hopyard Road subject to the Conditions of Approval in Exhibit A, attached hereto and incorporated into this resolution by reference.

Section 4: This resolution shall become effective 15 days after its passage and adoption unless appealed prior to that time.

PASSED, APPROVED AND ADOPTED by the Planning Commission of the City of Pleasanton at a regular meeting held on June 27, 2018 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

Ellen Clark
Secretary, Planning Commission

David Nagler
Chair

APPROVED AS TO FORM:

Julie Harryman
Assistant City

**Exhibit A
(DRAFT) Conditions of Approval**

**P16-0288 and P16-0883
3370 Hopyard Road, Chabad of the Tri-Valley**

PROJECT SPECIFIC CONDITIONS OF APPROVAL

Planning Division

1. This conditional use permit approval amends and supersedes Conditional Use Permit No. UP-77-13.
2. All activities shall comply with Chapter 9.04 of the Pleasanton Municipal Code (Noise Regulations).
3. A maximum of 15 annual outdoor activities/events are allowed to take place in the outdoor terrace area. For the purposes of this Use Permit approval, an outdoor activity/event shall be defined as any outdoor activity involving 25 or more persons, whether scheduled or unscheduled. Religious events that occur over several consecutive days, such as Sukkot, are considered a single event among the 15 permitted annually.
4. In no instance shall any event/activity held at the facility, whether indoors or outdoors, exceed 120 persons, inclusive of staff and guests.
5. Except for the playground and outdoor terrace areas, no outdoor activities or events of any size shall take place elsewhere on the project site. Maintenance of the site including landscaping is not considered an outdoor activity/event.
6. All outdoor activities, whether a scheduled event/activity or other activity, and regardless of size, shall conclude no later than 10 p.m. Except as otherwise specified in these condition, outdoor events/activities involving 25 or more persons shall not take place before 10 a.m.
7. The outdoor playground for the childcare facility/preschool shall be relocated to the west side of the existing building, immediately to the north of the proposed outdoor terrace area, as shown in the diagram included in the April 25, 2018 agenda report. The northern perimeter of the outdoor playground shall not project beyond the north wall of the existing building. Chabad of the Tri-Valley shall submit a revised site plan depicting the location and dimensions of the outdoor playground area, subject to the review and approval by the Director of Community Development prior to issuance of a building permit for tenant improvements and prior to operation of the childcare/preschool.

In addition, as part of the plans submitted for issuance of building permit, Chabad of the Tri-Valley shall submit a plan showing the design, dimensions, number and locations of the play structures and surface materials of the play area for review and approval by the Director of Community Development.

8. The outdoor playground shall only be used by the childcare/preschool. The playground shall not be used when childcare/preschool is not open for business. The outdoor playground shall be occupied by a maximum of 24 children at any one time and shall only be used from 10:30 a.m.-12 p.m. and from 3-4 p.m.
9. The proposed tubular steel fence around the outdoor playground shall be changed to a six-foot tall solid wood fence, matching the fence proposed for the outdoor terrace area. This revision shall be reflected on the plans submitted for the issuance of a building permit, and is subject to review and approval by the Director of Community Development prior to commencement of operation of the childcare/preschool.
10. Outdoor music taking place in the outdoor terrace area is allowed twice a year for any two of the 15 outdoor activities/events and shall begin no earlier than 10 a.m. and end no later than 8 p.m. If amplified music is used, speakers shall be directed away from adjoining residential uses immediately to the north.
11. All exterior doors and windows on the north side of the existing building remain closed during the daycare's operating hours.
12. The kitchen on the premises may only be used for the Chabad's functions, as stated in the narrative dated "Received January 8, 2018," on file with the Planning Division. The kitchen at the existing building shall not be rented for use by another user such as a catering company.
13. Chabad of the Tri-Valley shall submit a full-sized scalable floor plan, prepared by a licensed professional, to the Building and Safety Division as part of the building permit plan check review and permitting process. Said plan shall provide all information determined necessary by the Building and Safety Division for review of the building permit including, but not limited to the use of each room, dimensions of rooms and hallways, proposed partition details, window sizes and types, etc. Said plans shall be subject to review and approval by the Director of Community Development and Chief Building Official prior to issuance of a building permit.
14. Chabad of the Tri-Valley shall submit a revised site/landscape plan to accurately and consistently identify and show the following. Plans sheets shall be consistent with each other and with other plans required as conditions of approval of this project:
 - a. property lines and dimensions
 - b. existing building dimensions
 - c. location of existing ADA parking stalls

- d. location of the existing storage sheds
 - e. outdoor activity/terrace area dimensions
15. The landscape plan shall be revised to include the plant palette corresponding with the planting shown in the plan. In addition, the final site and/or landscape plan shall indicate the alignment and material of the proposed pathway connecting the existing building to the sidewalk on Hopyard Road. The proposed landscape/irrigation and pathway shall be installed prior to the operation of the childcare/preschool.
 16. Chabad of the Tri-Valley shall submit plans showing the proposed new windows (window style, window trim, operation, dimensions, etc.) on the north elevation, subject to review and approval by the Director of Community Development prior to issuance of a building permit for interior or exterior improvements. The plans shall also accurately show the locations of the existing windows and doors.
 17. The existing storage sheds on the site may be re-used or relocated. Chabad of the Tri-Valley shall, provide information on the proposed location and use of the sheds, which shall be subject to review and approval by the Director of Community Development prior to relocation of the sheds.
 18. Chabad of the Tri-Valley shall share its event calendar(s) with St. Clare's Episcopal Church, and shall avoid, to the extent possible, scheduling an event at the same time as an event at St. Clare's where expected attendance at both events would cause parking demand to exceed the spaces available. Community Development staff shall have the right to audit the calendar when necessary to ensure compliance with this condition. If conflicts are determined to arise, at the discretion of the Community Development Director, Chabad of the Tri-Valley may be required to make necessary scheduling changes.
 19. During the first year of operation, the use of the shared parking lot shall be monitored by Chabad of the Tri-Valley for each of the (up to) 15 annually-permitted events. Monitoring shall also be performed by Chabad of the Tri-Valley during Hebrew classes on Sundays to ensure the existing parking lot is adequate to serve both Chabad of the Tri-Valley and St. Clare's Episcopal Church needs.

Chabad of the Tri-Valley shall take parking counts every hour on the hour for every event during an event for a period of one year from the first event to document the number of parking spaces occupied and the number of parking space available.

Chabad of the Tri-Valley shall take parking counts every hour on the hour between 9:30 a.m. – 1 p.m. when Hebrew classes are in session for a period of three months to document the number of parking spaces occupied and the number of parking space available.

At the end of the monitoring periods, Chabad of the Tri-Valley shall report to the Director of Community Development of their findings in writing including specific data documenting event date and time, number of event attendance, and number of parking spaces occupied and available. If the shared parking is determined to be insufficient by the Director of Community Development, additional conditions and/or restrictions may be imposed by the Director of Community Development, such as requiring Chabad of the Tri-Valley to revise its schedule and/or reduce the number of people attending the events so the demand for parking does not exceed the number of available parking spaces at St. Clare's parking lot.

20. Use of the shared parking lot shall conform to the terms of the shared parking agreement. When the shared parking agreement expires or if it is terminated prior to expiration, Chabad of the Tri-Valley shall obtain City approval to provide the required parking for its own uses.
21. Chabad of the Tri-Valley shall secure additional off-site parking for activities/events where parking demand would exceed the 65 available on-site parking spaces. Said off-site parking shall be secured prior to holding the activities/events. The off-site parking shall be subject to the review and approval by the Director of Community Development. All applicable city permits shall be obtained prior to using the off-site parking.
22. Prior to opening of the childcare/preschool, Chabad of the Tri-Valley shall obtain a license from California Department of Social Services, and a City of Pleasanton Business License to operate such business.
23. The applicant shall place dirty diapers in airtight bags before depositing the diapers in the trash bin.
24. The existing building shall be repainted prior to final inspection of the tenant improvements. Chabad shall provide color sample, if different from the existing building colors, to the Director of Community Development for review and approval.
25. The existing banner on the east side of the building did not receive prior approval by the City and shall be removed when this conditional use permit approval becomes effective.

Any new exterior signage requires sign design review approval by the City prior to installation.
26. The landscape plan shall be revised to incorporate a plant palette that corresponds with the planting shown in the plan.
27. Chabad of the Tri-Valley shall submit details of any proposed exterior lights to the Director of Community Development for review and approval prior to installation. Exterior lights shall be shielded to reduce light spillage/glare onto adjoining properties.

28. Representatives of Chabad of the Tri-Valley shall regularly inform all users of the site/building, including synagogue members, childcare facility/preschool patrons, and the public attending any events/gatherings not to loiter outside of the building, and to be respectful of neighbors and to be quiet when entering or leaving the parking area.
29. The applicant shall contact Building and Safety Division to ensure the Menorah is securely installed. If a building permit is required, it shall be applied for within 30 days of the effective date of any approval(s).
30. Any new or replacement rooftop HVACs need to be screened.
31. Any shade structures at the playground, if proposed in the future, may require design review approval prior to installation.
32. This conditional use permit approval shall lapse and become void if the use is abandoned or discontinued for a period of one year or more as provided in Municipal Code §18.124.100, as amended.

Livermore-Pleasanton Fire Department

33. The plans submitted for issuance of building permit shall be reviewed and approved by the Livermore-Pleasanton Fire Department to ensure conformance to the Fire Code.
34. The existing building shall conform to the Educational Occupancy requirements of the 2010 California Building and Fire Code, NFPA 72 National Fire Alarm Code and the City of Pleasanton Ordinance 2015. The applicant shall install an automatic fire sprinkler system and modify/upgrade the existing fire alarm system to meet these requirements. Plans and specifications for the installation of the automatic fire sprinkler system and the modification/upgrading of the existing fire alarm system, including water flow and valve tamper, shall be submitted to the Livermore-Pleasanton Fire Department for review and approval prior to installation. All required inspections and witnessing of tests shall be completed prior to final inspection and occupancy by the preschool.
35. Portable fire extinguisher(s) shall be provided and installed in accordance with the 2007 California Fire Code and Fire Code Standard #10-1. Minimum approved size for all portable fire extinguishers shall be 2A 10B:C.

Engineering Department

36. Chabad of the Tri-Valley shall submit a completed and signed Stormwater Requirement Checklist to the Director of Engineering/City Engineer for review and acceptance concurrently with the first plan check of improvement plans and construct the improvements in compliance with the accepted checklist. The checklist is available at: <http://www.cityofpleasantonca.gov/pdf/Stormwater-Req-Chklst-3-7-2014.pdf>

37. The plans submitted for issuance of building permit shall indicate all existing easements on the project site.

Operations Services Center

38. Chabad of the Tri-Valley shall upgrade and/or repair the existing sanitary sewer lateral serving the subject site as necessary in accordance with the City standards. The plans submitted for issuance of building permit shall include design details, subject to review and approval by the Director of Operations Services Department. The upgrade to the existing sanitary sewer lateral shall be completed prior to the occupancy of the preschool.

Landscape Architect

39. Detailed landscape and irrigation plans encompassing all planting areas, both on-site and off-site, must be included in the building permit plans. All plans shall be prepared by a licensed landscape architect and shall provide the species, location, size, quantities, and spacing of all plants. Minimum plant sizes are 1-gallon containers for ground cover, 5-gallon for shrubs, and 15 gallon for trees. Plant species shall be of a drought-tolerant nature and the irrigation design shall utilize low-volume drip, bubbler, or other water conserving irrigation systems to the maximum extent possible. The drawings shall be reviewed and approved by the City's Landscape Architect prior to building permit issuance and Chabad of Tri-Valley operation under this conditional use permit approval.
40. The project shall comply with the City of Pleasanton's Water Efficient Landscape Ordinance (WELO) and Bay Friendly Basics Landscape Checklist. The applicant shall submit a Landscape Documentation Package in PDF format to the City's Landscape Architect Division, which shall be reviewed and approved by the City's Landscape Architect prior to issuance of building permits. The Landscape Documentation Package shall include:
- a. Project Information;
 - b. Water Efficient Landscape Worksheet;
 - c. Soil management report;
 - d. Landscape design plan; and
 - e. Irrigation design plan.
41. Upon completion of construction and prior to final inspection by the Building and Safety Division, the applicant's landscape architect shall submit a Certificate of Completion Package in PDF format to the City's Landscape Architect Division for review and approval. The Certificate of Completion Package shall include:
- a. Project information sheet;
 - b. Certificate of installation according to the landscape documentation package;
 - c. Irrigation scheduling;
 - d. Schedule of irrigation landscape and irrigation maintenance;
 - e. Landscape irrigation audit report; and

- f. Soil management report (if not previously submitted).
- 42. Prior to Chabad of the Tri-Valley beginning operation under this conditional use permit approval building permit final, all landscaping shall be installed, reviewed, approved, and inspected by the Landscape Architect Division.

STANDARD CONDITIONS OF APPROVAL

Community Development Department

- 43. To the extent permitted by law, the project applicant shall defend (with counsel reasonably acceptable to the City), indemnify and hold harmless the City, its City Council, its officers, boards, commissions, employees and agents from and against any claim (including claims for attorneys fees), action, or proceeding brought by a third party against the indemnified parties and the applicant to attack, set aside, or void the approval of the project or any permit authorized hereby for the project, including (without limitation) reimbursing the City its attorneys fees and costs incurred in defense of the litigation. The City may, in its sole discretion, elect to defend any such action with attorneys of its choice.

Planning

- 44. The proposed uses and improvements shall be in substantial conformance to Exhibit B, dated "Received January 8, 2018," on file with the Planning Division, except as modified by these conditions. Minor changes to the plans or operation may be allowed subject to the approval of the Director of Community Development if found to be in substantial conformance to the approved exhibits. If the Director of Community Development determines the changes are substantial, they shall be referred to the Planning Commission for review and approval.
- 45. If the operation of this use results in conflicts pertaining to parking, noise, traffic/circulation, or other factors, at the discretion of the Director of Community Development, this Conditional Use Permit may be submitted to the Planning Commission for their subsequent review at a public hearing.
- 46. This Conditional Use Permit and Design Review approvals will lapse and shall become void one year following the date on which the use permit became effective, unless prior to the expiration of one year, the applicant initiates the use, or the applicant or his or her successor has filed a request for extension with the Zoning Administrator pursuant to the provisions of the Pleasanton Municipal Code Section 18.12.030.
- 47. Changes to the exterior of the building shall not be made without prior approval from the Planning Division.

48. All demolition and construction activities, inspections, plan checking, material delivery, staff assignment or coordination, etc., shall be limited to the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday. No construction shall be allowed on State or Federal Holidays or weekends. The Director of Community Development may allow earlier “start-times” or later “stop-times” for specific construction activities (e.g., concrete pouring), if it can be demonstrated to the satisfaction of the Director of Community Development that the construction noise and construction traffic noise will not affect nearby residents or businesses. All construction equipment must meet Department of Motor Vehicles (DMV) noise standards and shall be equipped with muffling devices. Prior to construction, the applicant shall post on the site the allowable hours of construction activity.
49. The following statements shall be printed on the demolition, grading and landscape plans where applicable to the satisfaction of the City Landscape Architect prior to issuance of building permits:
- a. No existing tree may be trimmed or pruned without prior approval by the City Landscape Architect.
 - b. Utilize best efforts to locate any new utility trenches outside of the existing canopy of the trees to be saved. If this is not feasible, the applicant shall submit a report from a certified arborist acceptable to the City indicating trenching will not be detrimental to the health of the tree.
 - c. Nothing may be stored within the dripline of the tree canopies. This includes equipment, oil, gas, chemicals, harmful materials, fill or storage.
 - d. No oil, gasoline, chemicals, or other harmful materials shall be deposited or disposed within the dripline of the trees or in drainage channels, swales, or areas that may lead to the dripline.
 - e. No sign, wires, or ropes shall be attached to the trees.
 - f. No stockpiling/storage of construction materials, fill, etc., shall take place underneath or within five-feet of the dripline of the existing trees.
 - g. No equipment or temporary structures shall be placed within or beneath the dripline of the existing trees.

Failure to comply with these requirements may result in a “stop work order”.

Building and Safety Division

50. Tenant improvement plans shall be submitted to the Building and Safety Division for review and approval prior to operation. Chabad of the Tri-Valley shall obtain a building permit prior to commencement of any work. Chabad of the Tri-Valley shall pay any and all fees to which the proposed application may be subject to prior to issuance of building permits. The type and amount of the fees shall be those in effect at the time the building permit is issued.

51. The building permit plan check materials for the proposed tenant improvements will be accepted for submittal only after completion of the 15-day appeal period, measured from the date of approval, unless Chabad of the Tri-Valley submits a signed statement acknowledging that the plan check fees may be forfeited in the event that the approval is overturned on appeal, or that the design and/or operation is significantly changed as a result of the appeal. In no case will a building permit be issued prior to the expiration of the 15-day time-period.

CODE REQUIREMENTS

Applicants/Developers are responsible for complying with all applicable Federal, State, and City codes and regulations regardless of whether or not the requirements are part of this list. The following items are provided for the purpose of highlighting key requirements.

Planning Division

52. At no time shall balloons, banners, pennants, or other attention-getting devices be utilized on the site except as allowed by Section 18.96.060K of the Pleasanton Municipal Code for a grand opening.

Building Division

53. Prior to occupancy, the applicant shall contact the Building and Safety Division and Fire Marshal to ensure that the proposed use of the subject building/structure meets Building and Safety and Fire Code requirements. If required, the applicant shall obtain all appropriate City permits.
54. All building and/or structural plans must comply with all codes and ordinances in effect before the Building and Safety Division will issue permits.

[end]



**Planning Commission
Agenda Report**

April 25, 2018
Item 6.b.

SUBJECT: P16-0288 and P16-1883

APPLICANT: Chabad of the Tri-Valley

PROPERTY OWNER: Chabad of the Tri-Valley

PURPOSE: Applications for Conditional Use Permit and Design Review approvals to operate a religious institution with a childcare facility/preschool and for site modifications including a playground and outdoor terrace.

LOCATION: 3370 Hopyard Road

GENERAL PLAN: Community Facilities - Other Public and Institutional

ZONING: RM-2,500 (Multi-Family Residential) District

EXHIBITS:

- A. Draft Resolution with Conditions of Approval
- B. Written Narrative and Proposed Plans
- C. Shared Parking Agreement
- D. Health Risk Assessment Report
- E. Outdoor Play Area Noise Report
- F. UP-77-13 September 20, 2016, City Council modified Conditions of Approval
- G. Public Comments
- H. Letter from Daniel Dalton/ Dalton & Tomich PLC
- I. Location and Notification Map

STAFF RECOMMENDATION

Staff recommends that the Planning Commission make the Conditional Use Permit findings and Design Review criteria within Exhibit A and adopt the attached Resolution approving Case Nos. P16-0288 and P16-1883, subject to the Conditions of Approval listed in Attachment 1 of Exhibit A.

EXECUTIVE SUMMARY

Chabad of the Tri-Valley ("Chabad") requests Conditional Use Permit approval to operate a religious institution as well as a childcare/preschool for 48 children aged 18 months to four years old, and for Design Review approval for site modifications including the installation of a playground and a terrace used for outdoor activities. Based on the application materials submitted for review, Chabad's operation includes synagogue services, Hebrew school, and up to 15 annual outdoor activities/events. Chabad will share the existing 65-space parking lot

located on the adjoining St. Clare's Episcopal Church (St. Clare's) site through the terms stipulated in a Shared Parking Agreement.

The project site is located in a residential zoning district, where religious institutions (also considered under the broader umbrella definition of "community assembly" uses) and childcare/preschool facilities, require review and approval of a Conditional Use Permit ("CUP"). Design review is required for exterior changes to the site including construction of a new outdoor play area, a new terrace area for outdoor activities, and new windows in the north elevation. As such, the CUP and Design Review ("DR") applications are before the Planning Commission for consideration. Subject to the draft Conditions of Approval, staff believes the proposed uses will meet the intent of the zoning district, and will be compatible with the surrounding uses, and the proposed architectural changes are consistent with the DR criteria included in the Pleasanton Municipal Code ("PMC").

BACKGROUND

The project site at 3370 Hopyard Road was occupied by Pleasanton Masonic Center from 1980, when the building was constructed, until 2017. The Pleasanton Masonic Center was a private lodge and its operation at the project site was authorized by the City based on the required CUP approval (Case No. UP-77-13). In June 2016, to address issues associated with special events and activities conducted that were outside of those permitted by the 39-year-old CUP, the Masons' applied to modify the CUP. The Planning Commission approved the changes; however; the modified conditions were appealed to the City Council. In September 2016, the City Council further modified the conditions to include more explicit limitations on permitted activities, and to require physical modifications to the building to address noise and other issues. The Conditions of Approval for the Pleasanton Masonic Center include but are not limited to the following:

5. Hours of Operation at the Masonic Lodge shall be the following:
Use of the Masonic Lodge Building: 9:00 a.m. – 11:00 p.m. daily
No outdoor events are allowed.
8. The Masonic Lodge shall continue to share the event scheduling calendar and coordinate events with St. Clare's Episcopal Church to avoid scheduling conflicts that could affect the shared parking lot.
11. The existing double/French door shall be replaced by a solid door. The solid door shall be installed within 30 days from the date this approval becomes effective and shall be used for emergency exiting only.
12. The doors (exterior) of the building shall remain closed when not being used for ingress/egress purposes. The applicant shall install self-closing mechanisms within 30 days from the date when this approval becomes effective. A sign stating that the doors of the establishment shall remain closed during all hours of operation shall be placed on or next to all doors.
14. The total number of persons at the Masonic Lodge (staff and guests combined) for Non-Masonic Lodge activities shall not exceed 150 persons.

15. All exterior lights shall be shielded to reduce light spillage/glare onto adjoining properties. This modification shall be implemented within 30 days from the date this approval becomes effective.
16. All activities at the Masonic Lodge shall conform with Chapter 9.04 of the Pleasanton Municipal Code (Noise Regulations).
17. No music shall be allowed outside the building.
18. Live or pre-recorded music is allowed inside the building with doors closed.
19. An automatic timer with a motion sensor for safety shall be installed to regulate the hours of exterior light(s). Exterior light(s) on the north side of the building shall be turned off no later than 10 p.m. either manually or with an automatic timer.

The Masonic Center complied with these conditions during its remaining occupancy of the facility.

The City Council modified Use Permit is attached as Exhibit F. In August 2017, the Chabad acquired the property and began operating based on the Council-modified conditions.

Rabbi Raleigh Resnick, on behalf of the Chabad, filed applications for a CUP and DR to operate a community assembly facility with a childcare/preschool, and for site modifications including the installation of a playground and an outdoor activity/ terrace area. These applications are before the Planning Commission for review and action.

SITE DESCRIPTION

The subject site (see Figure 1) is an approximately one-acre parcel located on the west side of Hopyard Road, north of South Valley Trails Drive. The site contains an approximately 8,000-square-foot, one-story building; a landscaped area and a concrete patio area to the north of the building; and vacant land with perimeter landscaping to the west of the building. Three storage sheds are placed against the west side of the building. An existing trash enclosure that Chabad shares with St. Clare's is located on St. Clare's site. Access to and from the project site is from South Valley Trails Drive, via the adjoining St. Clare's site. Chabad would share the existing 65-space parking lot located to the immediate south on St. Clare's property with St. Clare's.

Properties adjacent to the project site include residential uses to the north; St. Clare's Church and residential uses to the west and southwest; Harvest Valley Christian Church and residential uses to the south; and Zone 7 Water Agency offices and the Ken Mercer Sports Park to the east and southeast (across Hopyard Road).

Figure 1: Site Location



PROJECT DESCRIPTION

The proposal includes the following:

Operations

The Chabad Administrative Office - two people

Monday - Friday: 9 a.m.-5 p.m.

Sunday: 9:30 a.m.-1 p.m.

Synagogue Services - 30-60 people:

Friday: 6:30 -8 p.m.

Saturday: 10 a.m.-1 p.m.

Hebrew School - 20 students and six staff per class:

Sunday: 9:30 a.m.-1 p.m.

Three, one-hour classes; 15-minute break between classes

Miscellaneous meetings - 10-20 people per meeting:

- Bible study: Tuesday: 7:30-9:30 p.m.
- Monthly Strategic Planning Meeting: last Thursday of the month: 7:30-9:30 p.m.
- Monthly Youth and Teen Meeting: 2nd Thursday of the month: 7:30-9:30 p.m.
- Marriage & Family Counseling: Weekday evenings: 6-9 p.m.
- One-on-One Bar/Bat Mitzvah lessons: Weekday evenings: 6-8 p.m.

Miscellaneous indoor events – 50-120 people.

Childcare Facility/Preschool (operated by the Chabad): 18 months - four years old;
48 students; 6-8 staff

Monday – Friday: 7:30 a.m.-6 p.m.

Preschool Playground (Outdoor): 24 children at one time:

Monday – Friday: 10:30-11:15 a.m.

11:15 a.m.-noon

3-4 p.m.

Other Outdoor Activities - 50-120 people:

Up to 15 events annually

All activities to occur in the outdoor terrace located to the west of the building.

All activities to conclude by 10 p.m.

No outdoor activities are proposed anywhere on the project site other than in the playground area and in the outdoor terrace area.

Tenant Improvements/Building Modifications

The proposed use of the building includes: lobby area, the Chabad's administrative office, synagogue, an infant room, three classrooms, storage rooms, janitors closet, the existing kitchen, and restrooms.

The main entrance to the building is located on the south elevation. There are two existing doors located on the north elevation: a double door located in the middle on the north elevation providing direct access to the existing patio area, and a single door from the kitchen area is located on the eastern end of the north elevation. There is a single door located on the east elevation facing Hopyard Road. No existing door is located on the west elevation.

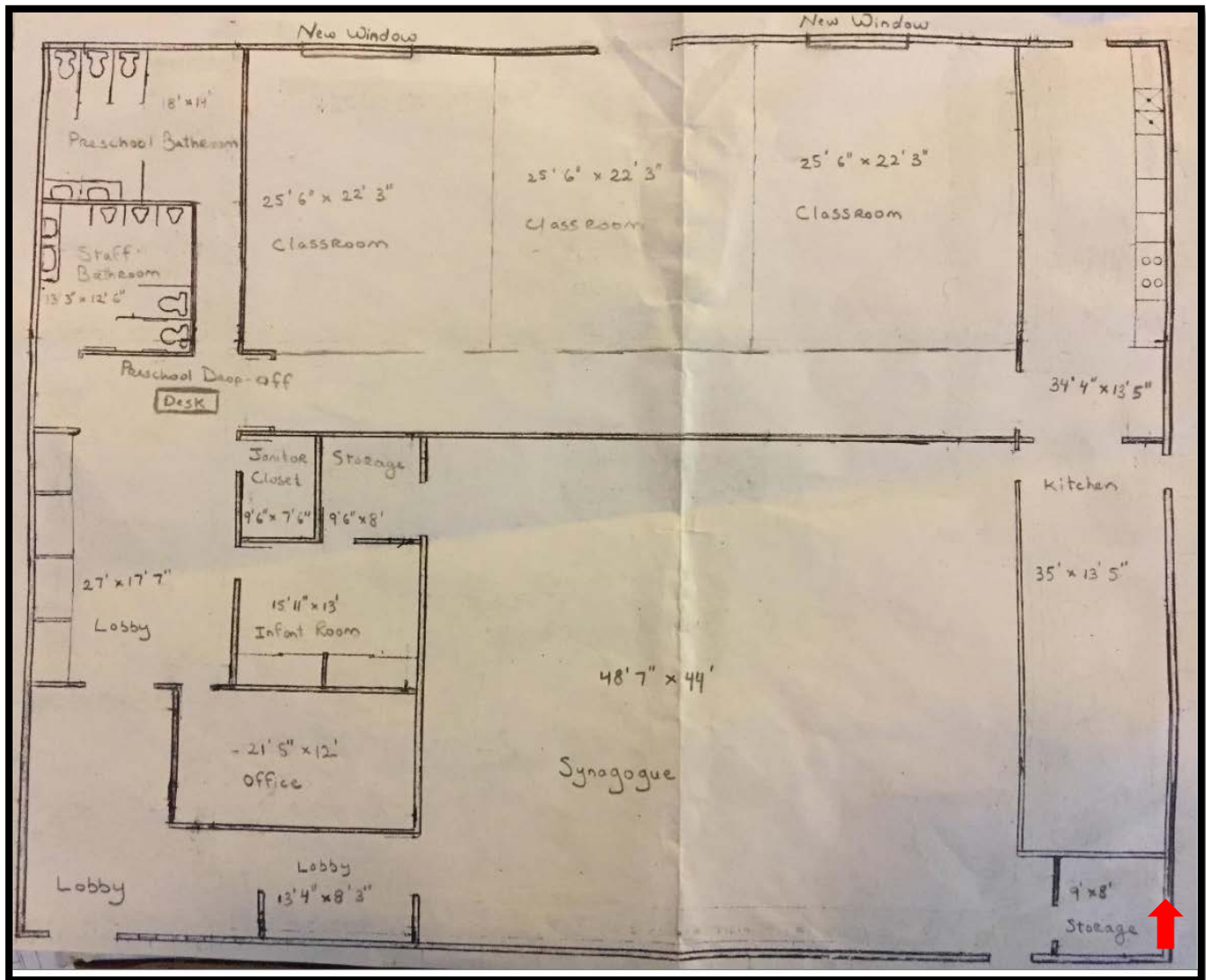
The Chabad proposes the following tenant improvements:

- Install partitions to divide an existing room located on the north side of the building into three smaller-sized rooms for the preschool. These rooms would be used for classrooms where the two-, three-, and four-year-old children would be; and
- Install two new windows on the north side of the building.

The Chabad would also convert one of the two existing restrooms to a preschool restroom. Please see Figure 2 for the proposed floor plan.

The Chabad is not proposing any new doors; however, a double door which currently does not exist is shown on the Site/Landscape Plan.

Figure 2: Proposed Floor Plan



Outdoor Play Area and Outdoor Activity Area

The Chabad is proposing to construct a fenced outdoor play area on the north side of the building for the childcare facility/preschool. The playground would not be used for any other functions/activities.

A playground, surrounded by five-foot tall tubular steel fencing, was initially proposed on the north side of the building. However, to mitigate neighbor concerns, the Chabad agreed to modify the proposal to relocate the proposed playground to the west side of the property, and to use five-foot tall solid wood, rather than open fencing. Play equipment would be installed in the playground. Please see Exhibit B for examples of the playground play equipment.

The proposal does not include shade structures at the playground. The Chabad stated to staff the shade structures will be provided.

The Chabad also proposes to construct an outdoor terrace area on the west side of the existing building. This outdoor terrace area is where proposed outdoor activities would take place. A six-foot tall wood fence would be installed along northern and western perimeters of the activity area.

Landscaping

New landscaping, including trees, shrubs, and groundcovers are proposed. The majority of the proposed planting would take place along the east side of the property, along Hopyard Road. Planting is also proposed within the outdoor activity/terrace area, and along the westerly property line, separating the project site from the adjoining St. Clare's site. The landscaping plan erroneously indicates the relocation of redwood trees.

There is an existing approximately six-foot tall wood fence along the northern property line separating the project site from the residential uses. No changes are proposed to this fence.

Staff notes that a tree in the side yard, closest to Hopyard Road, was removed and a Menorah has been installed, in the same location as a previous monument sign for the Masons. Staff has included a Condition of Approval requiring that any necessary city permits be applied for within 30 days of the effective date of any approval(s).

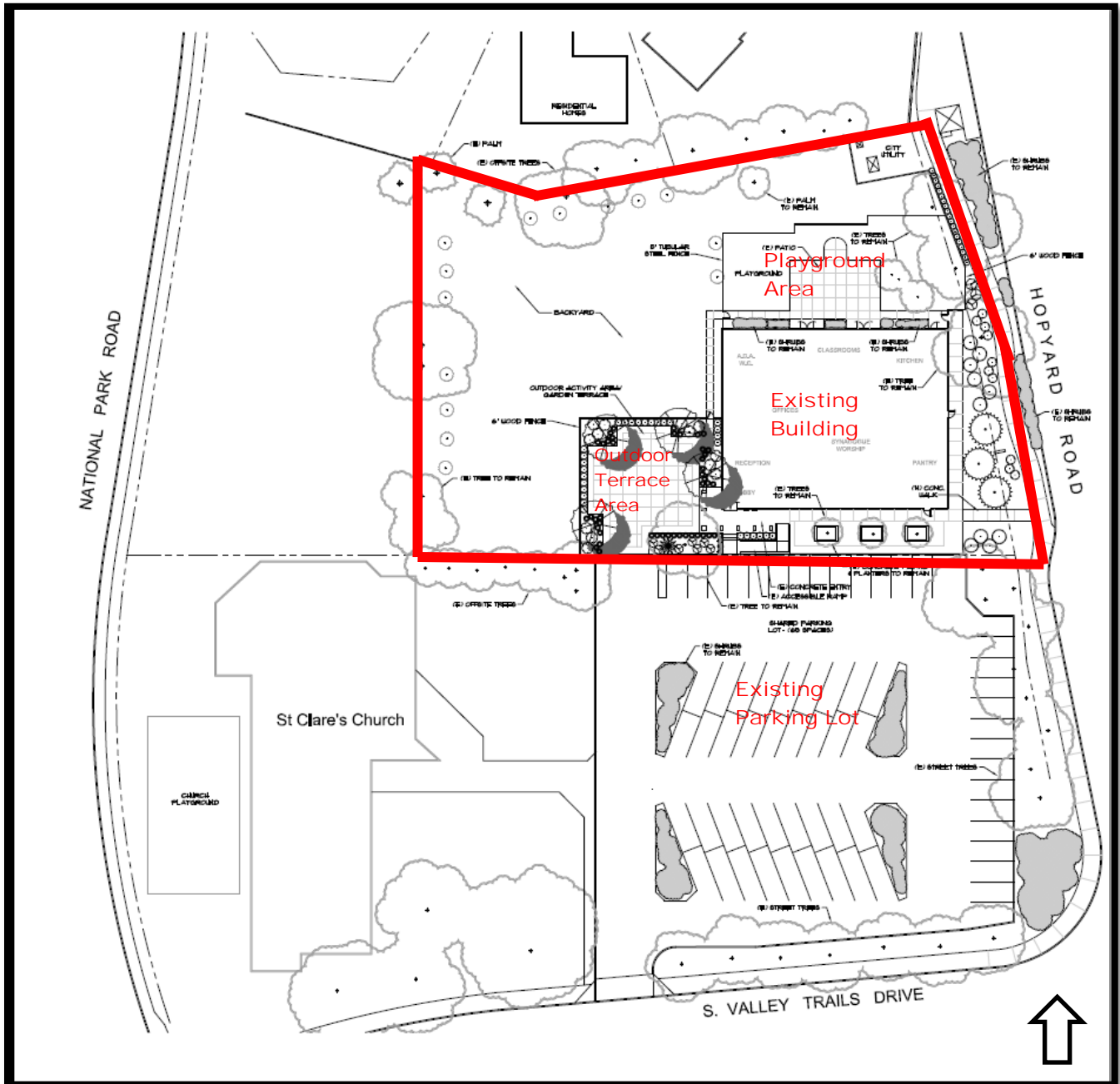
Parking

There is a 65-space parking lot on the adjacent St. Clare's site to the south, which the Chabad would share with the church via an existing Shared Parking Agreement ("Parking Agreement"). The Parking Agreement has been in effect since July 26, 2017, and will be in effect for the following 50 years. The Parking Agreement indicates that both the Chabad and St. Clare's agree that when one party needs to use most or all of the parking lot, both agree to work together to avoid conflict. A copy of the Parking Agreement is part of Exhibit C.

No modifications are proposed regarding vehicular access to and from the project site or the layout of the existing shared parking lot.

Figure 3 shows the proposed Site/Landscaping Plan for the project site.

Figure 3: Site/Landscape Plan



Staff notes, the playground will be relocated to the west side of the existing building. The existing storage sheds placed against the west side of the existing building would relocate sheds somewhere on the project site.

SCOPE OF PLANNING COMMISSION ACTION

Design Review

Pleasanton Municipal Code (“PMC”) Section 18.20.030 outlines the scope of design review, indicating that the reviewing body shall review “site plans, landscape plans, building architecture, and other such plans as may be required to preserve and enhance the city’s aesthetic values and to ensure the preservation of the public health, safety, and general welfare.” Note that, even though a proposed project may comply with applicable zoning standards (e.g. setbacks, height limits) the design review process allows the reviewing body to approve conditions which may be more restrictive than normal Code standards, to ensure that the above objectives are met. As outlined in Section 18.20.030, the reviewing body’s scope of review shall include (but not be limited to) the following design criteria:

1. Preservation of the natural beauty of the city and the project site’s relationship to it.
2. Appropriate relationship of the proposed building to its site, including transition with streetscape, public views of the buildings, and scale of buildings within its site and adjoining buildings.
3. Appropriate relationship of the proposed building and its site to adjoining areas, including compatibility of architectural styles, harmony in adjoining buildings, attractive landscape transitions, and consistency with neighborhood character.
4. Preservation of views enjoyed by residents, workers within the city, and passersby through the community.
5. Landscaping designed to enhance architectural features, strengthen vistas, provide shade, and conform to established streetscape.
6. Relationship of exterior lighting to its surroundings and to the building and adjoining landscape.
7. Architectural style, as a function of its quality of design and relationship to its surroundings; the relationship of building components to one another/the building’s colors and materials.

Conditional Use Permit

PMC Chapter 18.124 describes the purposes, procedures and findings for issuance of a CUP, with the intent of the regulations to allow for special consideration of certain uses due to their unique characteristics “so that they may be located properly with respect to the objectives of [the Zoning Ordinance] and with respect to their effects on surrounding property.” As such, the Planning Commission may grant or deny applications for use permits, and impose “reasonable conditions” upon the granting of the permit.

Specific Findings for granting of a CUP include the following:

1. That the proposed location of the conditional use is in accordance with the objectives of the zoning ordinance and the purpose of the district in which the site is located.
2. That the proposed location of the conditional use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to the properties or improvements in the vicinity.
3. That the proposed conditional use will comply with each of the applicable provisions of the Municipal Code which apply to conditional uses.

ANALYSIS

The following sections outline the key issues and analysis with respect to the project.

Land Use and Zoning

The Land Use Element of the General Plan designates the subject property as “Community Facilities – Public and Institutional.” It allows a broad range of public or institutional uses, including religious facilities, cemeteries, corporation yards, sewage treatment facilities, utility substations, hospitals, post offices, community centers, senior centers, libraries, and City Halls. The community assembly facility and proposed childcare/preschool are consistent with the type of uses permitted within the Community Facilities – Public and Institutional land use designation.

The project site is located in a multi-family residential zoning district. Section 18.36.040(C) of the PMC conditionally allows religious institutions, and childcare facilities/preschools (categorized as nursery schools) to be operated in the zoning district.

One of the primary concerns in reviewing a CUP application is the effect of a proposed use on surrounding uses. Community assembly uses, including religious facilities, have become a common use in and around residential neighborhoods, and many childcare centers, pre-schools or private schools are associated with such facilities. The uses surrounding the project site consist of religious uses (St. Clare’s and Harvest Valley Christian Church) and residential uses. Both St. Clare’s and Harvest Valley Christian Church have preschool programs that have operated, to the City’s knowledge, without issue for a number of years.

However, there was a history of complaints and issues associated with the previous use and activities allowed to occur at the project site, which resulted in enforcement actions by the City, and ultimately with a requirement for modifications to the original approval with a set of additional, more specific and restrictive, Conditions of Approval required to be implemented. These past issues have led to heightened concerns, particularly from some proximate neighbors, about the operation of the Chabad and the future childcare facility/preschool. As a result, staff has carefully considered potential impacts of the proposed project and drafted Conditions of Approval to address them and ensure the project will be compatible with surrounding uses and to minimize potential impacts.

This analysis and the resultant draft Conditions of Approval are outlined in more detail below.

Issues most frequently associated with community assembly, including religious facilities and preschools, are topics like parking and traffic (especially during weekly services/events and, for schools and preschools, at pick-up and drop-off times), and exterior noise associated with outdoor play spaces, and outdoor activities. Staff has found that this limited range of impacts can generally be addressed through project conditions that address operational aspects of the project (such as limitations on the number of students and class scheduling), parking management strategies, and limitations on location, size and/or use of outdoor play areas.

Staff has included a condition of approval that should the Chabad’s operation and activities generate noise, traffic, or parking shortages such that surrounding uses would be adversely affected, the City would have the ability to revisit the application with the Planning Commission for mitigation, or possible permit revocation, if necessary. Therefore, from a land use

perspective, staff finds the Chabad application to be appropriate for the subject property, as conditioned.

Noise

The Pleasanton Municipal Code states that a proposed conditional use must be in accord with the objectives of the Zoning Ordinance. One of those objectives is to “promote the stability of existing land uses that conform with the General Plan and to protect them from inharmonious influences and harmful intrusions.”

The project site is zoned multiple-family residential and it abuts single-family homes to the north. Section 9.04.030.A of the PMC states:

“No person shall produce or allow to be produced by any machine, animal, device, or any combination of the same, on residential property, noise level in excess of 60 dBA at any point outside of the property plane, unless otherwise provided in this chapter.”

Section 9.04.070 of the PMC also states:

“Any noise which does not produce a noise level exceeding 70 dBA at a distance of 25 feet under its most noisy condition of use shall be exempt from the provisions of Sections 9.04.030, 9.04.040 and 9.04.060(A) of this chapter between the hours of 8:00 a.m. and 8:00 p.m. daily, except Sundays and holidays, when the exemption herein shall apply between 10:00 a.m. and 6:00 p.m.”

Noise was the primary concern from nearby neighbors with the previous use at the project site. Potential noise impacts associated with the Chabad’s operation are analyzed in the following areas:

Preschool Playground

As proposed, the playground would be located on the north side of the existing building, facing north. The preschool’s outdoor playtimes are 10:30-11:15 a.m., 11:15 a.m.-noon, and 3-4 p.m., with a maximum of 24 children outside at one time.

Children playing would generate sound from human voices and from the use of equipment and play structures. While the City’s Noise Ordinance does not regulate non-amplified human voices¹, there is a history of the adjoining residents to the north expressing concerns related to noise from the project site associated with prior uses. The proposal shows the playground would be located to the north of the existing building. Staff has discussed and the Chabad has agreed to relocate the playground to the west of the existing building, approximately 70 feet from the northern property line, and to use a six-foot tall wood fence, rather than open fencing. Staff has included conditions (Conditions No. 7 and No. 9) to reflect these changes.

With the proposed outdoor terrace and playground areas, the existing storage sheds would need to be relocated elsewhere on the project site. Staff has added a condition (Condition No. 17) to address this item.

¹ The PMC Noise Ordinance (Chapter 9.04) does not regulate non-amplified human voices.

maximum of 120 persons. This definition would not, for example, include small groups of staff or students taking a break in the outdoor terrace area from Hebrew classes. Staff also wants to clarify, except for the playground and outdoor terrace areas, no outdoor activities of any size are proposed or would be allowed (with the exception of maintenance activities such as landscaping) anywhere else on the project site, beyond the outdoor terrace and playground. Condition No. 5 addresses this item.

Music

The Chabad proposes that music, including both amplified and non-amplified music, may be part of some indoor and outdoor activities. The Chabad indicated to staff that amplified music would be played outdoors twice a year, and when amplification is used, the speakers would be directed away from adjacent neighbors. Knowing the sensitivity of the neighborhood concerning noise, staff included a condition requiring the twice a year amplified music for outdoor activities to end at 8 p.m. (Condition No. 10). Staff recommends all exterior doors and windows remain closed at all times when the building is in use, to avoid noise spilling out of the building. Staff has added a condition to address this item (Condition No.12).

Other Noise Sources

All other proposed activities, such as meetings, classes, counseling, would occur inside the existing building with doors and windows closed but not locked; thus, reducing noise impacts to surrounding neighbors. However, to further minimize potential noise impacts, staff is recommending that the Chabad inform their members and visitors to not loiter outside of the building and to be respectful of neighbors and to be quiet when entering or leaving the parking area (Condition No. 28).

With the inclusion of the draft Conditions of Approval referenced above, staff believes the Noise Ordinance limits would be met. Staff has also included a standard condition of approval that would allow the City to review the project again to add mitigating conditions should any future noise complaints occur. Such conditions could include modifying the hours of operation, reducing the number of people allowed inside or outside of the building, and requiring soundproofing of the subject building.

Parking and Circulation

As noted, the project site and St. Clare's share the existing 65-space parking lot that is located on St. Clare's site. Chabad has entered into a Parking Agreement with St. Clare's. As written, the Parking Agreement will be in effect for the next 50 years.

Parking During Religious Worship/Services

For religious facilities, PMC requires one parking space per six fixed seats or one parking space per 60 square feet of floor area usable for seating if seats are not fixed, in all facilities in which simultaneous use is probable as determined by the City's Zoning Administrator. Since the seats are not fixed, floor area is used to calculate parking demand: Chabad's proposed floor plan shows the synagogue area is approximately 2,112 square feet. Based on this floor area, 35 parking spaces would be required for the synagogue service. As proposed, Chabad's synagogue services on Friday evenings and Saturday mornings would have an attendance of 30 to 60 people (no activities occur at the same time as religious services). St. Clare's worship service occurs on Sunday. Additionally, St. Clare's does not have scheduled meetings (such as bible studies, youth group meetings, etc.) on Friday evenings or Saturday mornings. Based

on this data, there appears to be sufficient parking to meet demand during synagogue services.

On Sundays, there would be some simultaneous parking demand since St. Clare’s has worship services and the Chabad holds Hebrew school classes. St. Clare’s holds two worship services on Sundays with an average of 25 people for the first service at 8 a.m.-9 a.m., and an average of 60 people for the second service at 10:15 -11:15 a.m. The Chabad’s Hebrew school on Sundays has three sessions with 20 students in each session from 9:30-10:30 a.m.; 10:45-11:45 a.m.; and 12 noon -1 p.m., meaning that the first two Hebrew classes overlap with St. Clare’s second worship service.

In discussion with Chabad, staff was informed that Chabad, prior to acquiring the property, had rented rooms from the previous owner, the Pleasanton Masonic Center, to teach Hebrew lessons for the past two years, which staff understands were of a similar size and at similar times to the proposed classes. Staff has not heard from surrounding neighbors or St. Clare’s that there has been a history of parking issues on Sundays, likely because some proportion of attendees of both activities carpool, or students are dropped off for classes rather than occupying parking spaces while on site. Based on this historic data, it does not appear that there would be parking issues associated with Hebrew class times overlapping St. Clare’s worship service. However, should parking problems occur, staff has included a draft Condition of Approval (Condition No. 46) which allows the Director of Community Development to refer the CUP back to the Planning Commission for modification (Exhibit A).

Parking during preschool/childcare drop-off/pick-up

St. Clare’s and Chabad’s preschools operate a similar schedule Monday through Friday. Their drop-off/pickup schedules overlap each other. St. Clare’s has two specified drop-off and pickup times; Chabad has four specified drop-off/pick-up times. Table 1 shows school capacity and drop-off/pick-up schedules.

Table 1: School Capacity and Schedules

	St. Clare’s	Chabad
Capacity	79 students; 17 staff members	48 students; 8 staff members
Hours	7 a.m.-6 p.m.	7:30 a.m.-6 p.m.
Drop-Off	7-9 a.m.	7:30 a.m.; 8 a.m.; 8:30 a.m.; 9 a.m.
Pick-Up	3-6 p.m.	1 p.m.; 2:30 p.m.; 4 p.m.; 6 p.m.

Per section 18.88.030 (E) (*Schedule of off-street parking space requirements*) of the PMC, this type of use would require one parking space for each employee, including teachers and administrators, and one space for each four students in grade 10 or above. The student parking requirement is not applicable since the children in both preschools are below grade 10. With a combined 25 staff members, 25 parking spaces would be required for the proposed use. No other non-school activities are scheduled during weekdays for both Chabad and St. Clare’s. The 65-space parking lot would meet the parking demand per the PMC.

Staff notes that section 18.88.030 of the PMC does not address parking demand during drop-off/pick-up times, which would be the most impacted time from a parking standpoint. Staff believes that there would be adequate parking for drop-off/pick-up given that parents/guardians are only parked in the spaces for a short period of time. Omitting the 25 parking spaces occupied by staff, there would be 40 parking spaces available during the

drop-off and pick-up times which occur at the same time: drop-offs between 7:30-9 a.m. and pick-ups between 4-6 p.m. Staff conducted several site visits during morning and evening times over the last several weeks to observe drop-off/pick-up activities at St. Clare's, and there appeared that the majority of the parking spaces were available during those times. Therefore, staff believes that the parking should be sufficient to accommodate the proposed use. However, should parking problems occur, staff has included a condition of approval (Condition No. 46) which allows the Director of Community Development to refer the use permit back to the Planning Commission for possible mitigation measures (Exhibit A). Possible mitigating conditions could include: reducing the number of children, modifying the arrival/departure times, etc.

Parking during Holidays and Special Events/Celebrations

The Chabad has agreed to share an activity calendar with St. Clare's so as to avoid scheduling two events at the same time. As such, the existing parking lot would provide parking for one event at a time. As proposed in the narrative, there would be up to 120 people attending Jewish holidays, religious events, community BBQs and picnics, and Bar/Bat Mitzvahs. Based on information in the application, approximately 30-40 percent of Chabad members and guests do not drive or use any type of transportation on the Jewish Sabbath, or on Jewish Holidays, or Bar/Bat Mitzvahs, and would instead walk to the synagogue. The remaining 60 to 70 percent of members and guests may drive. People attending religious services often attend as a family or otherwise carpool to the congregation. Assuming 30 percent of the people would walk to the synagogue and assuming 25 percent of the remaining attendees would carpool, the 65-space parking lot would meet the parking demand of 63 vehicles¹. Therefore, staff believes the 65 parking spaces should be adequate during religious events.

Staff has also discussed parking demand during other times such as during non-Jewish holidays and events such as weddings where guests tend to drive to the function instead of walking to the function (Jewish weddings are generally not held on the Sabbath or on a holiday). Chabad indicated that, in the past they have been granted permission from Harvest Valley Christian Church to use their parking lot. While the Chabad's past requests were granted by Harvest Valley Christian Church, there is no guarantee that parking at Harvest Valley Christian Church would always be available to supplement parking needs. Therefore, staff has added a condition (Condition 21) requiring the Chabad to secure additional off-site parking prior to booking events with attendance that may exceed parking available at the project site. Further, as stipulated in the shared parking agreement, the Chabad and St. Clare's share a common scheduling calendar to avoid conflicts in using the shared parking lot. Staff has included a condition (Condition No. 18) to enforce the use of the shared calendar so that scheduling conflicts are avoided and allow staff to audit the shared calendar when needed and necessary.

On occasion, depending on the two religious calendars, the Chabad and St. Clare's may have a religious holiday on the same day. In discussion with the Chabad, the Chabad has indicated that Jewish holidays are celebrated in the evening while most Christian holidays are celebrated during the day. And, the Jewish and Christian calendars are quite different, meaning that coinciding major religious holidays will be rare. A review of the 2018 calendar indicated only

¹ Assuming 30% of 120 people would walk, there would be 84 people arriving by vehicle to attend Jewish holidays ($120 \times 0.3 = 84$). Assuming 25% of the 84 people (21 people) would carpool, there would be 63 vehicles driving to attend Jewish holidays ($84 \times 0.75 = 63$).

one Christian holiday, Pentecost on May 20, and the Jewish holiday of Shavuot, which starts on the evening of May 19, and ends on May 21, that would coincide.

In addition, staff has added a condition (Condition No.19) requiring the Chabad to monitor the shared parking lot to ensure no parking conflicts would occur during operation of St. Clare's and the Chabad. If necessary, the Director of Community Development could refer the use permit back to the Planning Commission for possible mitigation measures such as reducing the number of guests or students, modifying the arrival/departure times, etc.

Tenant Improvements

Proposed tenant improvements include installing partitions to divide a large room into three smaller-sized classrooms and installing two windows for classrooms on the building's north elevation. Although these modifications are indicated on the floor plan (Figure 2 above), the applicant did not provide a scaled floor plan and it was not possible during the course of staff's review to provide comments on whether the proposed improvements would meet required Building and other Codes and it is possible that other interior or exterior improvements may be needed.

The existing building was built for and used as a private lodge for a fraternal organization. Chabad's proposal includes a preschool that would have an infant room and three classrooms for children aged two to four years old, which would have a different Building Occupancy Classification (per PMC 20.04.410.). Therefore, improvements to the existing building would be required in order to meet both Building and Fire Code requirements. One of the improvements required by the Livermore-Pleasanton Fire Department is installation of an automatic fire suppression system (fire sprinklers) prior to the opening of the preschool. Staff has included conditions requiring the building to meet Fire Code (Condition No. 34) and that scalable, full-sized plans, prepared by a professional (Condition No.13), be submitted for review as part of the building permit review process.

Landscape Plan

The proposed landscape plan shows the planting of seven new 15-gallon to 24-inch box sized trees and a variety of shrubs and groundcover. These plants would be planted adjacent to Hopyard Road, in the outdoor terrace area, and near the westerly property line. The plant palette shows four tree species and symbols; however, only two species are proposed on the plan. Staff has included a condition (Condition No. 26) requiring plan consistency.

Staff has also included a condition (Condition No. 43) requiring landscaping be installed prior to the operation under this conditional use permit approval.

Health Risk Assessment

Given that the proposed play area and school is adjacent to Hopyard Road, which has average daily traffic of more than 10,000 vehicles, a health risk assessment was required and prepared by the applicant (Exhibit D). The report estimates the health risks that children would be exposed to from nearby sources of air pollution to determine if the health risks would be below the thresholds established by the Bay Area Air Quality Management District (BAAQMD). The assessment determined that the play area and school would not be exposed to significant health risks from existing sources of air pollution and the health risk would be below BAAQMD's thresholds.

Plan Consistency and Accuracy

The plans submitted are not consistent with each other. For instance, the floor plan shows two openings and two windows on the north elevation while the site/landscape plan shows two double doors and one single door on the north elevation. Additionally, the plans do not show the existing ADA parking stalls in St. Clare’s parking lot or the existing sheds on the west side of the building. Staff has included a condition (Condition No.14) requiring all plans to be accurate and consistent with each other.

Rental Uses

The applicant states that the existing kitchen would only be used to prepare food for Chabad’s functions, including weddings, celebration of life, etc. and not for commercial purposes. Staff’s interpretation of this statement is that Chabad will not rent out its kitchen to a separate party such as a catering company (as had been the case with the previous property owner). Except for the activities in the narrative, the Chabad would not be able to use or rent its site or building for other users and the kitchen could only be used for the Chabad’s functions and not used/rented by others. Staff has included a condition to address this item (Condition No.12).

Signage

The proposal does not include any signage. Currently there are existing signs (a banner sign on the building which do not have prior City approvals. (The freestanding menorah on the project site is exempt from the requirements of the Sign Ordinance, per Section 18.96.030.E) Staff has included a condition (Condition No. 25) requiring separate sign design review approval for exterior signage.

Design Review/Exterior Changes

The Chabad proposes to construct an outdoor, fenced-in playground. The playground area would be furnished with play structures suitable for the ages of the children. The Chabad also proposes to construct a terrace area for the Chabad’s outdoor activities. This area would be enclosed with a wood fence. No parking or existing trees will be removed as part of these proposed outdoor improvements. With the relocation of the playground area to the west side of the building and the change of the playground fence from the proposed tubular steel style to solid wood, staff finds that the proposed outdoor areas would not have significant adverse aesthetic impacts to the adjacent residential uses or surrounding areas.

The Chabad proposes to install two new windows on the north elevation. A Condition (Condition No.16) has been added, requiring the Chabad to submit window details (style, operation, and dimensions), which would ensure their compatibility with the existing building.

PROJECT PROS AND CONS

PROS	CONS
Provides a place for congregation	Increases traffic and parking demand at this project site (however, circulation and parking impacts would not be adverse)
Provides childcare services to support a growing community	Increases noise due to more intense use of the site.
Consistent with zoning regulations	

ALTERNATIVES

As noted, it is staff's recommendation that the Planning Commission approve the CUP and Design Review, subject to the draft Conditions of Approval. However, should the Planning Commission determine that the Findings or Design Criteria cannot be made based on the current version of the project and conditions, the Commission can pursue one of the following alternatives:

1. Direct further modifications to the project, and/or further conditions of approval, such as further limitations on the operation of the facilities or modifications to the site plan to address potential operations issues. If modifications or new conditions are extensive, they may need to be brought back to the Planning Commission for review at a continued public hearing; or
2. Deny the Use Permit and Design Review applications. If the Planning Commission pursues this alternative, the applicant would be required to submit new applications, reflecting a substantially modified project design. Since a resolution for denial has not been prepared, if the Planning Commission selects this alternative, staff would recommend that the item be brought back to the Commission at a future date with a resolution that includes findings for denial.

PUBLIC NOTICE

Notices regarding this item were mailed to the surrounding property owners and tenants within a 1,000-foot radius of the subject site. A map showing the noticing area is attached to this report. The public notice was also published in *The Valley Times*. At time this report was published, staff received emails in support of the applications, and they are attached to the staff report as Exhibit G.

ENVIRONMENTAL ASSESSMENT

This project is categorically exempt from environmental review pursuant to California Environmental Quality Act Guidelines, Section 15301, Existing Facilities, Class 1. Therefore, no environmental document accompanies this report.

CONCLUSION

Staff believes that the required CUP findings and DR criteria for the project can be met if the project is approved as conditioned. Conditions of Approval have been drafted, which will ensure that the safety and general welfare of the surrounding area is maintained. Staff believes that the proposed uses and site modifications would provide a service to the community and that the proposed location is appropriate.

Primary Author:

Jenny Soo, Associate Planner, 925-931-5615 or jsoo@cityofpleasantonca.gov

Reviewed/Approved By:

Steve Otto, Senior Planner

Ellen Clark, Planning Manager

Julie Harryman, Assistant City Attorney

Dan Sodergren, City Attorney

Gerry Beaudin, Director of Community Development Director

Recording requested by and when recorded mail to:

Exhibit B-2



2017173552

00/000/2017 09:55 AM

OFFICIAL RECORDS OF ALAMEDA COUNTY
STEVE MANNING
RECORDING FEE: 24.00



4 PGS

Christopher J. Hayes, Esq.
Borowsky & Hayes LLP
101 Mission St. Ste. 1640
San Francisco, CA 94105

This space for Recorder's use only

MEMORANDUM OF JOINT USE PARKING AGREEMENT

THIS MEMORANDUM OF JOINT USE PARKING AGREEMENT (this "Memorandum") is made and entered into this 26th day of July, 2017, by and between The Episcopal Bishop of California, a Corporation Sole, ~~the~~ Protestant Episcopal Bishop of California, a Corporation Sole, on behalf of St. Clare's Episcopal Church in Pleasanton, California ("St. Clare's"), whose address is 3350 Hopyard Road, Pleasanton, CA 94588, and Chabad of the Tri-Valley, a California Non-Profit Corporation ("Chabad"), whose present address is 3370 Hopyard Road, Pleasanton, CA 94588 (together sometimes referred to as the "Parties"), who agree as follows:

1. St Clare's is the owner of that certain real property located in the City of Pleasanton, County of Alameda, State of California, commonly known as and more particularly described in Exhibit "A" attached hereto (the "St. Clare's Property").
2. Chabad is the owner of that certain real property located in the City of Pleasanton, County of Alameda, State of California, commonly known as and more particularly described in Exhibit "A" attached hereto (the "Chabad Property").
3. The Parties have entered into a Joint Use Parking Agreement dated as of June 20, 2017 (the "Parking Agreement"), regarding the joint use by Chabad and St. Clare's of the Parking Lot area located on a portion of the St. Clare Property.
4. The purpose of this Memorandum is to give notice that the parties have rights and obligations under the Parking Agreement.
5. This Memorandum is intended to be fully consistent with the Parking Agreement. In the event of any conflict between any provision of the Parking Agreement and any provision of this Memorandum, the provisions of the Parking Agreement shall control.
6. Subject to the terms and conditions of the Parking Agreement, the Parking Agreement and this Memorandum shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors and assigns of the parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this Memorandum as of the date first written above.

Chabad of the Tri-Valley

The Episcopal Bishop of California, a Corporation Sole

By:

Raleigh Resnick

By:

Christopher J. Hayes, its attorney-in-fact

[Add notary acknowledgments]

Joint use parking agreement between St. Clare's Episcopal Church and Chabad of the Tri-Valley

This Agreement is made effective the ___ day of June, 2017, by and between The Episcopal Bishop of California, a corporation sole, f/k/a the Protestant Episcopal Bishop of California, a corporation sole, for and on behalf of St. Clare's Episcopal Church in Pleasanton, California ("St. Clare's"), and Chabad of the Tri-Valley, a California non-profit corporation ("Chabad") (together sometimes referred to as the "Parties").

1.0 Duration

This agreement will be in effect for 50 years from the Effective Date (defined in Section 9.0 below), unless earlier terminated in accordance with the terms hereof, or until the Parties decide to terminate the agreement in writing.

2.0 Dispute Resolution

The Parties agree to try to resolve disputes through good faith negotiations. If they are unable to resolve any disputes then the Parties agree to attempt to resolve the dispute first through mediation. Both sides shall agree on a single mediator who will mediate the dispute. The Parties shall each pay one-half of the mediation fees and costs associated with the mediation. If the dispute cannot be resolved through mediation, then the dispute shall be resolved through binding arbitration under the Commercial Arbitration Rules of the American Arbitration Association ("AAA") before a single arbitrator appointed under the AAA rules. In the event of arbitration, the Parties shall each pay one-half (1/2) of the AAA fees and arbitrator's fees.

3.0 Property Sales

If either property owned by the Parties (3350 Hopyard Road, Pleasanton or 3370 Hopyard Road, Pleasanton) is sold, the new owners will be bound by and benefit under this agreement until it expires or is terminated as set out in sections 1.0 or 9.0.

4.0 Joint Use

During the term of this Agreement, Chabad will be granted a non-exclusive license to use the existing Parking Lot owned by St. Clare's and depicted on Exhibit A hereto (the "Parking Lot") solely for the parking of automobiles of the members, guests and employees of Chabad and the successors in title to its property. Any use by Chabad shall be shared in conjunction with the contemporaneous use of the Parking Lot by the Parking Lot owner, St. Clare's, and St. Clare's members, guests, employees, successors, and invitees. The Parties acknowledge that there will be days when one party or the other will need use of most or all of the Parking Lot and the Parties agree to work together to try to avoid conflicts on those days. Any disputes regarding use that cannot be resolved by the Parties shall be resolved in accordance with Section 2.0.

5.0 Maintenance and Landscaping

St. Clare's will have the right to control and contract with third-Parties for the maintenance of the Parking Lot and any capital improvements to the Parking Lot. The Parties agree that expenses for maintaining the Parking Lot will be shared equally. Chabad shall pay its 50% share of the costs of maintenance of the Parking Lot within 15 days after receipt of invoices or statements of costs incurred from St. Clare's. Notwithstanding the above, while this agreement is in effect, St. Clare's will maintain, at its sole cost and expense, the landscaping in the two islands

furthest from Hopyard Road. Chabad, at its sole cost and expense, will maintain the landscaping in the two islands closest to Hopyard Road.

6.0 Long Term Parking

Long term parking is defined as an object which occupies a parking space for more than 84 hours in any 7 consecutive calendar days. Said object will usually be a motor vehicle but could also be any object large enough to prevent use of the parking spot by a motor vehicle.

Long term parking is prohibited. Each party shall notify the other if there is prohibited long term parking.

Exceptions to this section will be allowed only if the Parties agree.

7.0 Liability Insurance

The Parties will maintain comprehensive general liability insurance (with at least \$1,000,000 of policy coverage) that covers accidents in the Parking Lot at all times, and The Episcopal Bishop of California, a corporation sole, and St. Clare's Episcopal Church in Pleasanton, California will both be listed as insureds on both policies. No less than annually, each party shall provide the other party with insurance certificates evidencing its insurance coverage.

8.0 Additional Parking Lot on Chabad Property

If Chabad builds a parking area on its property at 3370 Hopyard Road and St. Clare's agrees in writing at such time to pay one-half of the cost of construction of said parking area then this agreement will automatically cover both the Parking Lot and the new parking area, until this agreement expires as specified in section 1.

9.0 Effective Date of Agreement; Termination; Condemnation

This Agreement shall only take effect in the event that both (i) Chabad takes title to the 3370 Hopyard Road Property, and (ii) St. Clare's is paid the payment due to it from the Pleasanton Masonic Center under a separate written agreement in connection with the closing of the sale of the 3370 Hopyard Road Property on or before July 30, 2017. At the election of St. Clare's, this Agreement shall terminate in the event of a material breach of this agreement by Chabad that is not cured within thirty (30) days after written notice from St. Clare's. In the event that all or any portion of the Parking Lot is taken under the power of eminent domain, or sold under the threat of the exercise of the power (both called "Condemnation") this Agreement shall terminate as to the part taken as of the first date the condemning authority takes either title or possession. If more than fifty (50%) percent of the Parking Lot is taken or rendered unfit for use as a Parking Lot, either party has the option to terminate this Agreement as of the date the condemning authority takes possession. Any award or payment for a Condemnation belongs to St. Clare's or its successor in title, whether the award is made as compensation for diminution in value, for the taking of the fee, or as severance damages.

10.0 Scheduling.

Once each month, the designated representatives from each party will share its master schedule for the next month, so conflicting events can be avoided or, if necessary, plans can be made. As events such as funerals or other changes in schedule happen, each party shall make best efforts to keep the other party apprised of those changing demands, and cooperate to control its use of the Parking Lot if needed.

11.0 Contacts

Initially, the designated representative for each party shall be:

Chabad:

Rabbi Raleigh Resnick

3370 Hopyard Road, Pleasanton, CA 94588 Phone: (925) 846-0700

Email: jewishtrivalley@sbcglobal.net

St. Clare's:

Jim Shiffer

3350 Hopyard Road, Pleasanton, CA 94588

Phone: (925)784-6325

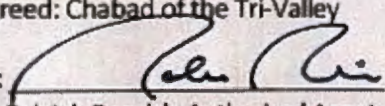
Email: Jim.Shiffer@arm.com

The Parties may designate new or additional designated representatives by written communication, and shall at all times have and maintain a designated representative.

12.0 Recording

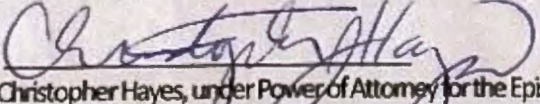
At the request of either Party after the Effective Date, a Memorandum of the **JOINT USE PARKING AGREEMENT** (in the form attached hereto as Exhibit "B") shall be executed St Clair's and Chabad and recorded in the Office of the County Recorder of Alameda County, California. In no event shall this **JOINT USE PARKING AGREEMENT** be recorded.

Agreed: Chabad of the Tri-Valley

By: 
Raleigh Resnick, Authorized Agent

7/4/2017
Date

Agreed: The Episcopal Bishop of California, a corporation sole

By: 
Christopher Hayes, under Power of Attorney for the Episcopal Bishop

6/29/2017
Date



626 Wilshire Boulevard
Suite 1100
Los Angeles, CA 90017
213.599.4300 phone
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memorandum

date December 13, 2017

to Rabbi Raleigh Resnick

cc

from Alan Sako, ESA

subject Screening Health Risk Assessment for 3370 Hopyard Road Project

Purpose

In a letter dated January 17, 2017, the City of Pleasanton requested that the Project Applicant provide additional information for the applications for Conditional Use Permit and Design Review approvals to operate a religious facility with a childcare facility and for site modifications including a playground located at 3370 Hopyard Road (“the Project”). With respect to air quality, the City specifically stated the following:

Given that the proposed play area and school is adjacent to Hopyard Road, which has average daily traffic of more than 10,000 vehicles, a health risk assessment report needs to be prepared. The report needs to estimate the health risks that children would be exposed to from nearby sources of air pollution to determine if the health risks would be below the thresholds established by the Bay Area Air Quality Management District (BAAQMD). A copy of the report is to be submitted as part of the application submittal.

In response to the City’s request, the purpose of this assessment is to evaluate air quality health risk impacts to users of the Project, including children, from nearby sources of air pollution to determine if the health risks would be below the thresholds established by the Bay Area Air Quality Management District (BAAQMD).

Summary Description of Proposed Project

Chabad of the Tri Valley (“Project Applicant”) proposes to operate a religious facility with a childcare facility and for site modifications including a playground located at 3370 Hopyard Road (“the Project Site”). The Project would provide for a playground area on the northwest side of the existing building and an outdoor activity area on the southwest side of the existing building. The Project Site is surrounded primarily by existing residential development. An existing surface parking lot is located on the Project Site to the southeast of the existing building. An office facility is located to the east of the Project Site across Hopyard Road and a church facility is located to the south of the Project Site.

Environmental and Regulatory Setting

Bay Area Air Quality Management District

The BAAQMD has jurisdiction over air quality planning for the San Francisco Bay Area Air Basin (SFBAAB), which consists of Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, southwestern Solano, and southern Sonoma counties.

The BAAQMD adopted updated California Environmental Quality Act (CEQA) Air Quality Guidelines, including new thresholds of significance in June 2010, and revised them in May 2011 (BAAQMD 2012a). The Air Quality Guidelines advise lead agencies on how to evaluate potential air quality impacts, including establishing quantitative and qualitative thresholds of significance. The thresholds BAAQMD adopted were called into question by a minute order issued January 9, 2012 in California Building Industry Association v. BAAQMD, Alameda Superior Court Case No. RGI0548693. The minute order states that “The Court finds [BAAQMD’s adoption of thresholds] is a CEQA Project, the court makes no further findings or rulings.” The claims made in the case concerned the CEQA impacts of adopting the thresholds, particularly, how the thresholds would affect land use development patterns. Petitioners argued that the thresholds for Health Risk Assessments encompassed issues not addressed by CEQA. As a result, the BAAQMD resolutions adopting and revising the significance thresholds in 2011 were set aside by a judicial writ of mandate on March 5, 2012. In May of 2012, BAAQMD updated its CEQA Air Quality Guidelines to continue to provide direction on recommended analysis methodologies, but without recommended quantitative significance thresholds. On August 13, 2013, the First District Court of Appeal ordered the trial court to reverse the judgment and upheld the BAAQMD’s CEQA thresholds. California Building Industry Ass’n v. Bay Area Air Quality Mgmt. Dist., Case No. A135335 & A136212 (Court of Appeal, First District, August 13, 2013). The BAAQMD published a new version of the CEQA Air Quality Guidelines in May 2017, which includes revisions made to address the Supreme Court’s opinion. The May 2017 guidelines retain the same thresholds of significance for air quality and GHG emissions as in the May 2011 version.

The screening health risk assessment provided in this assessment uses the previously-adopted thresholds and methodologies from the 2017 BAAQMD CEQA Air Quality Guidelines to determine the potential health risk impacts to future users of the Project. The significance thresholds in the 2017 BAAQMD CEQA Air Quality Guidelines are based on substantial evidence identified in BAAQMD’s 2009 Justification Report (BAAQMD 2009) as required by CEQA and are therefore used within this assessment.

Sensitive Receptors

Certain population groups, such as children, elderly, and acutely and chronically ill persons (especially those with cardio-respiratory diseases), are considered more sensitive to the potential effects of air pollution than others. Land uses such as schools, hospitals, and convalescent homes are considered to be relatively sensitive to poor air quality because the very young, the old, and the infirm are commonly located at these uses and are more susceptible to respiratory infections and other air quality-related health problems than the general public. Residential areas are considered sensitive to poor air quality because people are often at home for extended periods. Recreational land uses are moderately sensitive to air pollution, because vigorous exercise associated with recreation places a high demand on the human respiratory system. Since the Project would provide playground and outdoor activity areas for children, air quality health risk impacts are assessed in accordance with BAAQMD health risk evaluation methodologies, thresholds, and screening tools.

Screening Health Risk Assessment Overview

Health risk impacts are evaluated based on exposure to toxic air contaminant (TAC) emissions. In addition, the BAAQMD recommends evaluating fine particulate matter (PM_{2.5}) emissions since it is often associated with fossil fuel exhaust TAC emissions. A TAC is defined by California Health and Safety Code Section 39655. As per the definition, all federal hazardous air pollutants (HAPs) are considered as TACs:

“Toxic air contaminant” means an air pollutant which may cause or contribute to an increase in mortality or in serious illness, or which may pose a present or potential hazard to human health. A substance that is listed as a hazardous air pollutant pursuant to subsection (b) of Section 112 of the federal act (42 U.S.C. Sec. 7412(b)) is a toxic air contaminant.

The BAAQMD provides screening analysis tools to evaluate potential health risk impacts from exposure to TACs. The Stationary Source Screening Analysis Tool (BAAQMD 2012b) is a Google Earth-based inventory of stationary source risks and hazards. This source provides addresses and locations of permitted TAC sources in the BAAQMD jurisdiction. According to the BAAQMD, sources within 1,000 feet of the Project Site boundary should be included in a health risk assessment. Based on a survey of stationary sources using the Stationary Source Screening Analysis Tool, there are no stationary sources located within 1,000 feet of the Project Site (based on the listed address for each stationary source).

The Roadway Screening Analysis Calculator (BAAQMD 2015) is a spreadsheet-based risk calculator for mobile source emissions from vehicles traveling on roadway. According to the BAAQMD, roadways within 1,000 feet of the Project Site and with average daily trips (ADT) of 10,000 vehicles or more should be assessed in a health risk assessment. The Project Site is adjacent to and within 1,000 feet of Hopyard Road. Furthermore, as discussed previously, the City identified Hopyard Road as having greater than 10,000 ADT; therefore, the Roadway Screening Analysis Calculator was used to evaluate health risks from this roadway.

Significance Thresholds

Appendix G of the State CEQA Guidelines provides an environmental checklist to determine if a project would result in a significant impact to the environment. The checklist item that most directly relates to air quality health risk impacts is listed as checklist item d. under section III., air quality and is as follows:

III. Air Quality

- d. Expose sensitive receptors to substantial pollutant concentrations.

The State CEQA Guidelines (Section 15064.7) provide that, when available, the significance criteria established by the applicable air quality management district or air pollution control district may be relied upon to make determinations of significance. The potential air quality impacts of the project are, therefore, evaluated according to the significance criteria in the BAAQMD CEQA Air Quality Guidelines. According to these guidelines, the Project would result in a significant air quality impact if it would:

- Expose sensitive receptors to TAC emissions from combined off-site sources of TAC emissions within 1,000 feet that would result in an incremental increase in cancer risk that exceeds 100 in one million, and/or a combined Hazard Index of 10, and/or combined PM_{2.5} concentration of 0.8 µg/m³.

The numerical thresholds above are consistent with the project-level and cumulative health risk threshold included in BAAQMDs CEQA Thresholds Options and Justification Report (BAAQMD 2009).

Toxic Air Contaminants/Health Risk Calculation Results

As discussed previously, the BAAQMD’s set of screening analysis tools was used to identify off-site sources of TACs. The Stationary Source Screening Analysis Tool (BAAQMD 2012b) indicates several permitted TAC sources in the area, but none located are within 1,000 feet of the Project Site boundary. **Figure 1** shows the location of the Project Site and a 1,000-foot radius around the Project Site. As shown, there are no stationary sources within 1,000 feet of the Project Site boundary. Therefore, stationary sources would not contribute substantially to the Project Site’s health risk impact.

The Roadway Screening Analysis Calculator (BAAQMD 2015) was used to evaluate health risks from Hopyard Road. ADT values along the segment of Hopyard Road adjacent to the Project Site were obtained from the City’s Circulation Element of the General Plan (City of Pleasanton 2005). According to Table 3-6 of the Circulation Element, Hopyard Road south of W Las Positas Boulevard has estimated peak hour volumes of 4,470 under existing (i.e., 2005) conditions and 5,400 under 2025 future buildout conditions. According to the Federal Highway Administration (FHWA), daily trips are typically estimated from peak hour volumes general assumption that peak-hour trips represent approximately 10 percent of daily trip volumes (FHWA 2017). Therefore, the ADT would be 44,700 under existing (i.e., 2005) conditions and 54,000 under 2025 future buildout conditions.

The results of this screening health risk assessment are shown in **Table 1**, which summarizes the carcinogenic risk and PM2.5 impacts for the maximally impacted Project Site sensitive receptor from combined sources of TAC emissions within 1,000 feet of the Project Site, including cumulative traffic along Hopyard Road. Health risk impact values are provided as a range to represent 2005 and 2025 ADTs along Hopyard Road. Health risk calculations are provided in **Appendix A** of this memorandum.

**TABLE 1
MAXIMUM UNMITIGATED HEALTH RISK IMPACTS FROM COMBINED OFF-SITE SOURCES OF TACs**

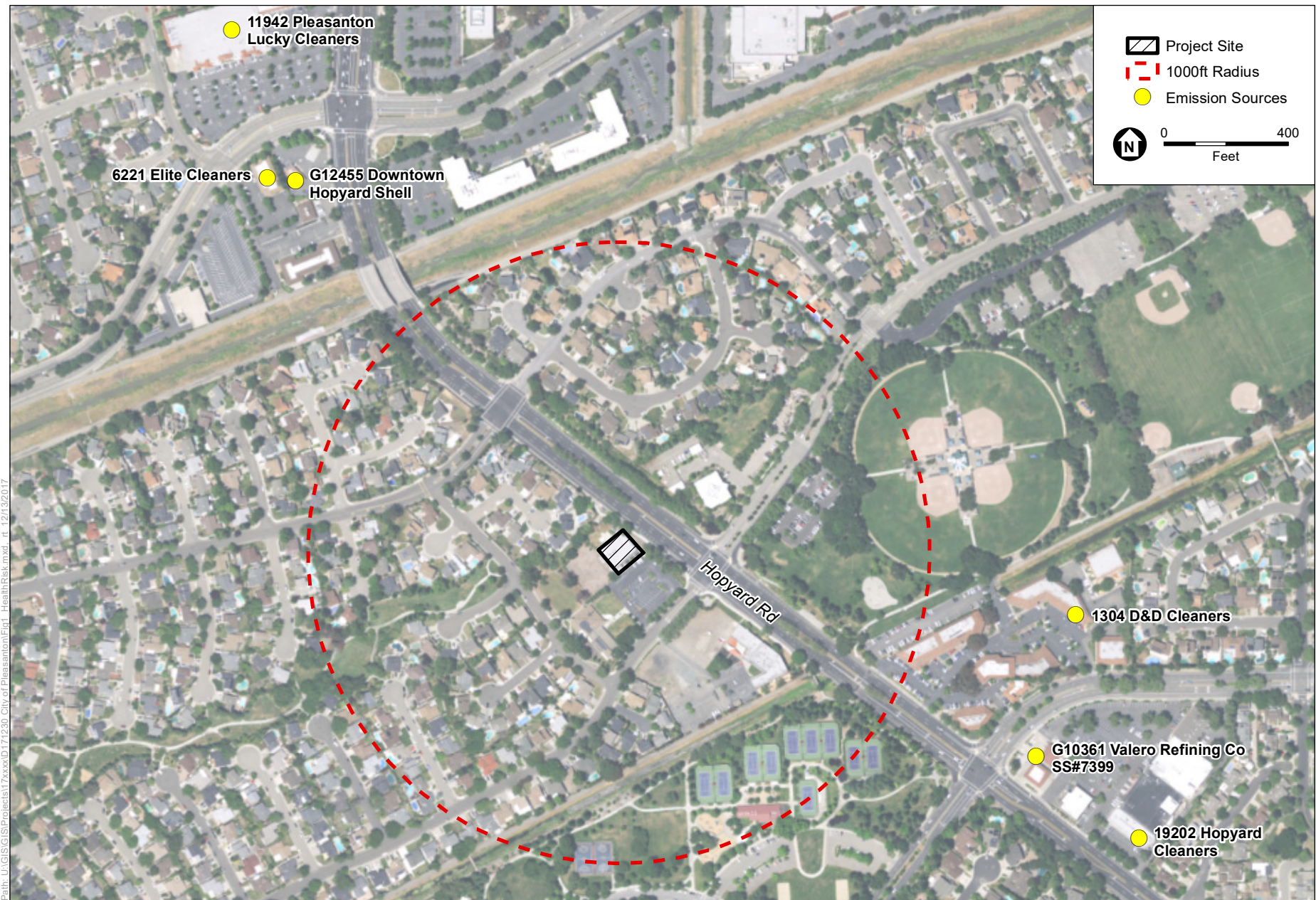
Maximum Impacts	Project Sensitive Receptor	
	Cancer Risk (# in one million)	Max Annual PM2.5 (µg/m³)
Operational Cumulative Impacts		
Combined Sources within 1,000 Feet of Project Site		
Stationary Sources	Neg.	Neg.
Hopyard Road	22.05 to 24.79	0.392 to 0.440
Combined Maximum Total	24.79	0.440
BAAQMD Significance Threshold	100	0.8
Exceeds Threshold?	No	No

SOURCES: BAAQMD 2017; ESA 2017.

As shown, the maximum combined cancer risk and PM_{2.5} impacts from combined off-site sources of TAC emissions is estimated to result in impacts to sensitive receptors less than the thresholds of significance. As a result, impacts would be considered less than significant.

References

- Bay Area Air Quality Management District (BAAQMD), 2009. CEQA Thresholds Options and Justification Report, (2009). Available: <http://www.baaqmd.gov/~media/files/planning-and-research/ceqa/revise-draft-ceqa-thresholds-justification-report-oct-2009.pdf?la=en>. Accessed December 2017.
- _____, 2012a. California Environmental Quality Act Air Quality Guidelines, (2012). Available: <http://www.baaqmd.gov/plans-and-climate/california-environmental-quality-act-ceqa/updated-ceqa-guidelines>. Accessed December 2017.
- _____, 2012b. Stationary Source Screening Analysis Tool, (2012). Available: <http://www.baaqmd.gov/plans-and-climate/california-environmental-quality-act-ceqa/ceqa-tools>. Accessed December 2017.
- _____, 2015. Roadway Screening Analysis Calculator, (2015). Available: <http://www.baaqmd.gov/plans-and-climate/california-environmental-quality-act-ceqa/ceqa-tools>. Accessed December 2017.
- _____, 2017. California Environmental Quality Act Air Quality Guidelines, (2017). Available: http://www.baaqmd.gov/~media/files/planning-and-research/ceqa/ceqa_guidelines_may2017-pdf.pdf?la=en. Accessed December 2017.
- City of Pleasanton, General Plan – 2005 Pleasanton Plan 2025, Circulation Element, (2005).
- Federal Highway Administration (FHWA), 2017. Time-of-Day Modeling Procedures: State-of-the-Practice, State-of-the-Art, (2017). Available at: http://www.fhwa.dot.gov/planning/tmip/publications/other_reports/tod_modeling_procedures/ch02.cfm. Accessed December 2017.



Path: U:\GIS\GIS\Projects\17xxxx\0171230_City of Pleasanton\Fig1_HealthRisk.mxd_r_12/13/2017

SOURCE: ESA, 2017

City of Pleasanton Religious Facility with Childcare

Figure 1
Screening Health Risk Assessment for 3370 Hopyard Road Project



Attachment A

Emissions Calculations

Search Parameters		Results
County	Alameda	<h2>Alameda County</h2> <p>NORTH-SOUTH DIRECTIONAL ROADWAY</p> <p>PM2.5 annual average</p> <p>0.392 ($\mu\text{g}/\text{m}^3$)</p> <p>Cancer Risk</p> <p>22.05 (per million)</p> <p>Data for Alameda County based on meteorological data collected from Pleasanton in 2005</p>
Roadway Direction	North-South	
Side of the Roadway	West	
Distance from Roadway	25 feet	
Annual Average Daily Traffic (ADT)	44,700	

Notes and References:

1. Emissions were developed using EMFAC2011 for fleet mix in 2014 assuming 10,000 AADT and includes impacts from diesel and gasoline vehicle exhaust, brake and tire wear, and resuspended dust.
2. Roadways were modeled using CALINE4 air dispersion model assuming a source length of one kilometer. Meteorological data used to estimate the screening values are noted at the bottom of the "Results" box.
3. Cancer risks were estimated for 70 year lifetime exposure starting in 2014 that includes sensitivity values for early life exposures and OEHHA toxicity values adopted in 2013.

Search Parameters		Results
County	Alameda	<h2>Alameda County</h2> <p>NORTH-SOUTH DIRECTIONAL ROADWAY</p> <p>PM2.5 annual average</p> <p>0.440 ($\mu\text{g}/\text{m}^3$)</p> <p>Cancer Risk</p> <p>24.79 (per million)</p> <p>Data for Alameda County based on meteorological data collected from Pleasanton in 2005</p>
Roadway Direction	North-South	
Side of the Roadway	West	
Distance from Roadway	25 feet	
Annual Average Daily Traffic (ADT)	54,000	

Notes and References:

1. Emissions were developed using EMFAC2011 for fleet mix in 2014 assuming 10,000 AADT and includes impacts from diesel and gasoline vehicle exhaust, brake and tire wear, and resuspended dust.
2. Roadways were modeled using CALINE4 air dispersion model assuming a source length of one kilometer. Meteorological data used to estimate the screening values are noted at the bottom of the "Results" box.
3. Cancer risks were estimated for 70 year lifetime exposure starting in 2014 that includes sensitivity values for early life exposures and OEHHA toxicity values adopted in 2013.

Charles M. **Salter**
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30 January 2017

Rabbi Raleigh Resnick
Chabad of the Tri Valley
5541 Blackbird Drive
Pleasanton, CA 94566
Email: rabbi@jewishtrivalley.com

Subject: **JCC Tri Valley Preschool**
Outdoor Preschool Play Area Noise
Salter Project: 17-0029

Dear Rabbi Raleigh:

As requested, we conducted a study of expected noise from the proposed preschool outdoor play area at the project site that would be transmitted to the neighboring residential properties. Our results are compared related City standards and ambient noise levels measured at the site. This letter summarizes our findings. An outline of environmental noise fundamentals is also provided in the Appendix.

SUMMARY

Though noise from children playing may be noticeable at the nearest neighboring residential property, it is projected to be below the referenced City noise standards.

ACOUSTICAL STANDARDS

City Noise Ordinance

The Pleasanton Noise Ordinance (Chapter 9.04 of the Municipal Code) does not contain specific language limiting the noise from children playing or unamplified voices, which is common for city ordinances. The Ordinance primarily limits noise from machines, animals, and other devices. However, the Noise Ordinance limits may be useful as a benchmark for the evaluation of predicted noise levels at the project site.

For commercial properties, the city's noise ordinance limits noise levels at any point outside the property plane to 70 dB¹ (Section 9.04.040). When a commercial property is adjacent to residential property, it provides a limit of 60 dB at any point outside the property plane between the hours of 10:00pm to 6:00am (Section 9.04.035).

¹ dB (Decibel) – A unit that describes the magnitude of a sound with respect to a reference sound level near the threshold of hearing. Decibels are based on a logarithmic scale and therefore cannot be added arithmetically. All sound levels listed in this report are A-weighted (often denoted as 'dBA').

Charles M. Salter, PE
David R. Schwind, FASA
Eric (Broadhurst) Mori, PE
Philip N. Sanders, LEED AP
Thomas A. Schindler, PE
Durand R. Begault, PhD, FAES
Ken Graven, PE, RCDD, CTS-D
Anthony P. Nash, PE
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Jordan L. Roberts
Sybille M. Roth
Bryce M. Graven
Justin P. Redding
Lauren van Blohn
Heather A. Salter
Dee E. Garcia
Catherine F. Spurlock

City General Plan

The Noise Element of the City's General Plan gives the following noise and land use compatibility guidelines for single-family residential areas:

- DNL² 60 dB or quieter: Normally Acceptable
- DNL 60 dB to DNL 75 dB: Conditionally Acceptable
- Greater than DNL 75 dB: Unacceptable

AMBIENT MEASUREMENTS RESULTS

To quantify the existing noise environment, we conducted one long-term noise measurement between 12 and 17 January 2017 and three short-term measurements on 17 January 2017. The long-term measurement was at a height of 10 feet above grade, and the short-term measurements were at a height to 5 feet above grade. The measurement locations are shown in the marked-up image below.



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² DNL (Day-Night Average Sound Level) – A descriptor for a 24-hour A-weighted average noise level. DNL accounts for the increased acoustical sensitivity of people to noise during the nighttime hours. DNL penalizes sound levels by 10 dB during the hours from 10 PM to 7 AM. For practical purposes, the DNL and CNEL are usually interchangeable.

The ambient noise measurement results are summarized in Table 1.

Table 1. Ambient Noise Level Summary

Measurement Location	Typical DNL (dB)	Typical Daytime Average Noise Level (Leq, dB)
LT1	67	66
ST2	54*	53
ST3	52*	51
ST4	51*	51

*Note: These DNL values are estimated based on the long-term data and the short-data at the offset location.

NOISE FROM CHILDREN PLAYING

We recently measured average noise levels at a related preschool outdoor play area in San Francisco. Based on that measurement, we found that noise from playing children in a similar environment is approximately 68 dB at a distance of 15 feet. There were 18 children in the play area during this measurement.

Based on the landscape drawing (Sheet L-1) we received, the play area would be approximately 70 feet from the nearest neighboring residential property line (near Location ST4). With 25 children playing, we estimate the average noise level would be approximately 56 dB at this area of the property line. At 100 feet away, near Location ST2, the noise from children would be approximately 53 dB. These levels do not include any noise reduction factors for any fencing (including the existing fence).

ANALYSIS & RECOMMENDATIONS

We evaluated the expected noise from children two ways, as follows:

Land-Use Compatibility (City General Plan)

The City Noise Element of the General Plan addresses noise using DNL levels to assess land-use compatibility. Based on the estimated noise level from children playing, we calculate the expected future DNL at the neighboring residential property lines. The City land-use compatibility standard for residences, the measured typical ambient noise on-site, and the calculated "ambient+children" noise are summarized in Table 2 for comparison.

Table 2. Land-Use Compatibility Summary Comparison (DNL, dB)

Residential Property Near Each Measurement Location	City Land-use Compatibility Standard	Typical Measured Ambient	Calculated Level with Children Playing for 3 hours	Calculated Level with Children Playing for 8 hours
ST2	60	54	54	55
ST3		52	52	54
ST4		51	52	54

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The noise at the residential property lines with children playing is expected to be well below the City land-use compatibility standard of DNL 60 dB. In addition, the noise from children playing (for up to 3 hours per day) is only expected to increase the ambient noise levels by 1 dB or less, which is not considered to be a noticeable change in community noise levels.

As a "worst-case" scenario, we also calculated the duration of children playing that would only increase the DNL by 3 dB. A 3 dB increase in DNL is considered "just noticeable." A change between 3 dB to 5 dB is often used as a threshold of significance for noise impact analyses. We determined that children could play outside for 8 hours per day and still only increase the ambient noise level by 3 dB (see data location ST4 in Table 2).

Average Noise During Playtime (City Noise Ordinance)

As stated above, we expect the average noise from children playing to be between 53 dB and 56 dB along the residential property lines. In Table 3 below, these levels are compared to the City Noise Ordinance standard and the measured typical ambient noise level during daytime hours.

Table 2. Playtime Noise (Leq, dB)

Residential Property Near Each Measurement Location	City Noise Ordinance Standard	Typical Measured Ambient	Average Noise Level from Children Playing
ST2	60 (nighttime) 70 (daytime)	53	53
ST3		51	55
ST4		51	56

Again, the noise at the residential property lines with children playing is expected to be below the City standards of 60 dB and 70 dB. At the nearest residential property line, we estimate that noise from children playing could be up to 5 dB above the existing ambient noise level, which could be noticeable.

COMMENTS

No additional mitigation is needed to reduce noise from children playing to be commensurate with the City noise standards at neighboring residential properties.

However, while children are playing, the noise increase could be noticeable at the nearest residential property line. If this is a concern and additional noise reduction is desired, a noise barrier fence could be considered. This would be located between the play yard and the property line. It may be placed around the play yard or along the residential property line. To achieve 5 dB of noise reduction, the fence would need to break line-of-sight between the play yard and the receivers and be constructed of solid materials with a minimum surface weight of 3 psf. Leave no cracks, gaps, or leaks between the materials or between the fence and the ground. This could be achieved with a board-on-board wood fence approximately 6 feet tall. Other options include precast concrete panel or CMU block wall construction.

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This concludes our comments on the JCC Tri Valley Preschool project. Please call with any questions.

Sincerely,

CHARLES M. SALTER ASSOCIATES



Stephen L. Leiby
Consultant



Jeremy L. Decker, PE
Vice President

Enclosure

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APPENDIX A

Fundamental Concepts of Environmental Noise

This section provides background information to aid in understanding the technical aspects of this report.

Three dimensions of environmental noise are important in determining subjective response. These are:

- The intensity or level of the sound
- The frequency spectrum of the sound
- The time-varying character of the sound

Airborne sound is a rapid fluctuation of air pressure above and below atmospheric pressure. Sound levels are usually measured and expressed in decibels (dB), with 0 dB corresponding roughly to the threshold of hearing.

The "frequency" of a sound refers to the number of complete pressure fluctuations per second in the sound. The unit of measurement is the cycle per second (cps) or hertz (Hz). Most of the sounds, which we hear in the environment, do not consist of a single frequency, but of a broad band of frequencies, differing in level. The name of the frequency and level content of a sound is its sound spectrum. A sound spectrum for engineering purposes is typically described in terms of octave bands, which separate the audible frequency range (for human beings, from about 20 to 20,000 Hz) into ten segments.

Many rating methods have been devised to permit comparisons of sounds having quite different spectra. Surprisingly, the simplest method correlates with human response practically as well as the more complex methods. This method consists of evaluating all of the frequencies of a sound in accordance with a weighting that progressively de-emphasizes the importance of frequency components below 1000 Hz and above 5000 Hz. This frequency weighting reflects the fact that human hearing is less sensitive at low frequencies and at extreme high frequencies relative to the mid-range.

The weighting system described above is called "A"-weighting, and the level so measured is called the "A-weighted sound level" or "A-weighted noise level." The unit of A-weighted sound level is sometimes abbreviated "dBA." In practice, the sound level is conveniently measured using a sound level meter that includes an electrical filter corresponding to the A-weighting characteristic. All U.S. and international standard sound level meters include such a filter. Typical sound levels found in the environment and in industry are shown in Figure A-1.

Although a single sound level value may adequately describe environmental noise at any instant in time, community noise levels vary continuously. Most environmental noise is a conglomeration of distant noise sources, which results in a relatively steady background noise having no identifiable source. These distant sources may include traffic, wind in trees, industrial activities, etc. and are relatively constant from moment to moment. As natural forces change or as human activity follows its daily cycle, the sound level may vary slowly from hour to hour. Superimposed on this slowly varying background is a succession of identifiable noisy events of brief duration. These may include nearby

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activities such as single vehicle pass-bys, aircraft flyovers, etc. which cause the environmental noise level to vary from instant to instant.

To describe the time-varying character of environmental noise, statistical noise descriptors were developed. "L10" is the A-weighted sound level equaled or exceeded during 10 percent of a stated time period. The L10 is considered a good measure of the maximum sound levels caused by discrete noise events. "L50" is the A-weighted sound level that is equaled or exceeded 50 percent of a stated time period; it represents the median sound level. The "L90" is the A-weighted sound level equaled or exceeded during 90 percent of a stated time period and is used to describe the background noise.

As it is often cumbersome to quantify the noise environment with a set of statistical descriptors, a single number called the average sound level or " L_{eq} " is now widely used. The term " L_{eq} " originated from the concept of a so-called equivalent sound level which contains the same acoustical energy as a varying sound level during the same time period. In simple but accurate technical language, the L_{eq} is the average A-weighted sound level in a stated time period. The L_{eq} is particularly useful in describing the subjective change in an environment where the source of noise remains the same but there is change in the level of activity. Widening roads and/or increasing traffic are examples of this kind of situation.

In determining the daily measure of environmental noise, it is important to account for the different response of people to daytime and nighttime noise. During the nighttime, exterior background noise levels are generally lower than in the daytime; however, most household noise also decreases at night, thus exterior noise intrusions again become noticeable. Further, most people trying to sleep at night are more sensitive to noise. To account for human sensitivity to nighttime noise levels, a special descriptor was developed. The descriptor is called the DNL or L_{dn} (Day/Night Average Sound Level), which represents the 24-hour average sound level with a penalty for noise occurring at night. The L_{dn} computation divides the 24-hour day into two periods: daytime (7:00 am to 10:00 pm); and nighttime (10:00 pm to 7:00 am). The nighttime sound levels are assigned a 10 dB penalty prior to averaging with daytime hourly sound levels.

For highway noise environments, the average noise level during the peak hour traffic volume is approximately equal to the L_{dn} .

The effects of noise on people can be listed in three general categories:

- Subjective effects of annoyance, nuisance, dissatisfaction
- Interference with activities such as speech, sleep, and learning
- Physiological effects such as startle, hearing loss

The sound levels associated with environmental noise usually produce effects only in the first two categories. Unfortunately, there has never been a completely predictable measure for the subjective effects of noise nor of the corresponding reactions of annoyance and dissatisfaction. This is primarily because of the wide variation in individual thresholds of annoyance and habituation to noise over time.

Thus, an important factor in assessing a person's subjective reaction is to compare the new noise environment to the existing noise environment. In general, the more a new noise exceeds the existing, the less acceptable the new noise will be judged.

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With regard to increases in noise level, knowledge of the following relationships will be helpful in understanding the quantitative sections of this report:

Except in carefully controlled laboratory experiments, a change of only 1 dB in sound level cannot be perceived. Outside of the laboratory, a 3 dB change is considered a just-noticeable difference. A change in level of at least 5 dB is required before any noticeable change in community response would be expected. A 10 dB change is subjectively heard as approximately a doubling in loudness, and would almost certainly cause an adverse community response.

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THE CITY OF



September 22, 2016

Kevin Keen
 Pleasanton Masonic Center
 3370 Hopyard Road
 Pleasanton, CA 94588

SUBJECT: UP-77-13, Conditional Use Permit Modifications

Dear Mr. Keen:

At its meeting of September 20, 2016, the City Council held a public hearing regarding your appeal of the Planning Commission's modifications to UP-77-13 for the operations at the Pleasanton Masonic Center located at 3370 Hopyard Road.

The Council denied the appeal, thereby upholding the Planning Commission's decision to modify the existing Conditional Use Permit (UP-77-13) with further modifications to the conditions of approval, attached as Exhibit A. Specifically, the City Council modified the Planning Commission's Conditions of Approval Nos. 22 and 28. The corresponding conditions are Conditions of Approval Nos. 5 and 11, respectively in Exhibit A. The renumbering of the conditions is the result of deletion of the strikeout conditions.

This action is effective immediately.

If you have any questions concerning this matter, please feel free to call.

Sincerely,

Gerry Beaudin, AICP
 Director of Community Development

c: Darlene and Michael Miller, 5903 Bryce Canyon Court, Pleasanton, CA 94588
 Karen Diaz, City Clerk

COMMUNITY DEVELOPMENT

P. O. BOX 520, Pleasanton, CA 94566-0802

Planning	Building & Safety	Engineering	Traffic	Inspection
200 Old Bernal Ave	200 Old Bernal Ave	200 Old Bernal Ave	200 Old Bernal Ave	177 Main Street
925 931 5600	925 931 5300	925 931 5650	925 931 5650	925 931 5680
Fax: 931 5881	Fax: 931 5478	Fax: 931 5479	Fax: 931 5479	Fax: 931 5881

**EXHIBIT A
MODIFIED CONDITIONS OF APPROVAL BY CITY COUNCIL**

**UP-77-13
3370 Hopyard Road, Pleasanton Masonic Lodge
September 20, 2016**

The conditions of approval for UP-77-13 are modified as follows:

1. Operation of the Pleasanton Masonic Lodge shall be in substantial conformance to Exhibit B, the modified operation, dated "May 23, 2013", on file with the Planning Division, except as modified by the following conditions. Minor changes to the plans or operations may be allowed subject to the approval of the Director of Community Development.
2. This conditional use permit shall lapse and become void one year following the date on which the use permit became effective, unless prior to the expiration of one year a building permit is issued and construction is commenced and diligently pursued toward completion on the site which was the subject of the use permit application, or a certificate of occupancy is issued for the structure which was the subject of the use permit application, or the site is occupied if no building permit or certificate of occupancy is required, or the applicant or his or her successor has filed a request for extension with the zoning administrator pursuant to the provisions of Section 18.12.030.
3. The Masonic Lodge shall maintain the existing landscaping. No additional structures shall be constructed in the area between the Lodge building and the northern property line without prior City approval.
4. The permitted uses/activities that are directly associated with the Mason Lodge, a fraternal organization, shall include but are not limited to the following:

Primary Uses (Masonic Activities):

- a. Masonic Lodge member meetings
- b. Demolay meetings
- c. York Rite meetings
- d. Quilts of Valor
- e. Job's Daughter's meetings

Ancillary Uses (Non-Masonic Activities):

- a. Celebrations, including but not limited to weddings, bar mitzvahs, similar events, and associated receptions (celebrations open to the general public and/or celebrations with paid admission would be explicitly prohibited);
- b. Private events/functions, such as graduations, birthdays, retirements, and religious celebrations, that do not charge admission;

- c. Indoor training, seminars, workshops, and enrichment classes, no more than three consecutive days and no more than one class at a time;
- d. Up to one catering business at any given time with no more than five staff members;
- e. Public uses, such as a voting center/poll station, health fairs and screenings;
- f. Other similar uses determined by the Director of Community Development to be consistent with the approval.

5. Hours of Operation at the Masonic Lodge shall be the following:

Use of the Masonic Lodge Building: 9:00 a.m. – 11:00 p.m. daily

No outdoor events are allowed.

6. If additional hours of operation or activities beyond that stated in the Miller Starr and Regalia' written narrative, dated "May 23, 2013," on file in the Planning Division, are desired, prior City review and approval is required. The Director of Community Development may approve the modification or refer the matter to the Planning Commission if judged to be substantial.
7. A minimum of two Masonic Lodge members shall be on-site to monitor all rental uses that use the outdoor areas, take hourly sound decibel readings at the property lines, and enforce noise standards.
8. The Masonic Lodge shall continue to share the event scheduling calendar and coordinate events with St. Clare's Episcopal Church to avoid scheduling conflicts that could affect the shared parking lot.
9. Rental agreements for the Masonic Lodge shall be undertaken directly with the representatives of the Masonic Lodge.
10. The kitchen door on the north side of the building shall remain closed but not locked during business hours and shall be used as an emergency exit.
11. The existing double/French door shall be replaced by a solid door. The solid door shall be installed within 30 days from the date this approval becomes effective and shall be used for emergency exiting only.
12. The doors (exterior) of the building shall remain closed when not being used for ingress/egress purposes. The applicant shall install self-closing mechanisms within 30 days from the date when this approval becomes effective. A sign stating that the doors of the establishment shall remain closed during all hours of operation shall be placed on or next to all doors.

13. Building occupancy shall be posted in each room within 30 days from the date this approval becomes effective.
14. The total number of persons at the Masonic Lodge (staff and guests combined) for Non-Masonic Lodge activities shall not exceed 150 persons.
15. All exterior lights shall be shielded to reduce light spillage/glare onto adjoining properties. This modification shall be implemented within 30 days from the date this approval becomes effective.
16. All activities at the Masonic Lodge shall conform with Chapter 9.04 of the Pleasanton Municipal Code (Noise Regulations).
17. No music shall be allowed outside the building.
18. Live or pre-recorded music is allowed inside the building with doors closed.
19. An automatic timer with a motion sensor for safety shall be installed to regulate the hours of exterior light(s). Exterior light(s) on the north side of the building shall be turned off no later than 10 p.m. either manually or with an automatic timer.
20. The exterior doors of the facility shall remain closed when not being used for ingress/egress purposes. The Masonic Lodge shall install and maintain self-closing mechanisms on all exterior doors within 30 days from the date this approval becomes effective.
21. If the operation and activities at the Pleasanton Masonic Lodge site result in conflicts pertaining to parking, interior or exterior noise, traffic/circulation, public disturbances, or violations of these conditions, at the discretion of the Director of Community Development, this conditional use permit may be submitted to the Planning Commission to consider modifications to the conditions or revocation.
22. Changes to the exterior of the building shall not be made without prior approval from the Planning Division.
23. The applicant shall maintain the site in a clean and orderly manner at all times. No more than three accessory structures, for storage purposes only, are allowed on the site. Additional storage structures require City approval prior to placement/installation.
24. To the extent permitted by law, the project applicant shall defend (with counsel reasonably acceptable to the City), indemnify and hold harmless the City, its City Council, its officers, boards, commissions, employees and agents from and against any claim (including claims for attorneys fees), action, or proceeding brought by a third party against the indemnified parties and the applicant to

attack, set aside, or void the approval of the project or any permit authorized hereby for the project, including (without limitation) reimbursing the City its attorneys fees and costs incurred in defense of the litigation. The City may, in its sole discretion, elect to defend any such action with attorneys of its choice.

25. Any tenant improvement plans shall be submitted to the Building and Safety Division for review and approval prior to operation. The applicant shall obtain a building permit prior to commencement of any work. The applicant shall pay any and all fees to which the proposed application may be subject to prior to issuance of building permits. The type and amount of the fees shall be those in effect at the time the building permit is issued.
26. Pleasanton Masonic Lodge shall comply with the Chapter 9.24 of the Pleasanton Municipal Code (Smoking in Public and Work Places).

[end]

From: Karina Abreckov
To: [Jenny Soo](#)
Subject: Chabad & Gan Chabad Preschool
Date: Tuesday, March 20, 2018 9:11:55 AM

Dear Planning Commission,

Chabad arrived in our little town in the form of a young couple, over a decade ago. And who knew that this young couple would bring a huge community together, and help create bonds that often don't exist even in families. They were the missing piece of puzzle to our life here in Pleasanton and in the Tri-Valley. And they were able to fill in a void we didn't even realize was so big.

I'd like to tell you a little about the kind of organization this is.

My name is Karina and my husband is Luis. We have two children, one at Amador Valley High School and one at Harvest Park. Chabad arrived here in Pleasanton when our kids were still elementary and preschool ages. We were thrilled with the sudden opportunity to surround and involve our kids with our family's religion and traditions outside of home, and to give them the kind of educational head start and care we could only get in a religious setting. We were really missing it.

And though the opportunity was exciting, we didn't really know what to expect. We didn't know what kind of a formal or informal environment Mr. and Mrs. Resnick envisioned. We didn't know what kind of relationships they wanted to build and their approach to their personal/professional mission. Well, turned out these two people have huge hearts that know no boundaries when it comes to helping, growing, and loving their community. This is their lives' mission.

This is the kind of organization that puts people and human connections above all. This is the kind of organization that allowed me to keep my kids in childcare for a fraction of the cost because we couldn't afford it. But what was most spectacular and unconventional about it is that not even once did they ask to verify our income or see any kind of paperwork. It was not easy for us as a young, immigrant couple, raising two kids, going to school, but they gave us amazing support and spared us the embarrassing part of it. Their relationships are based on trust, respect, and love. I really wish all young families had access and opportunity for such support.

This is the kind of preschool that will feed your kid a meal, not pretzels, when you forget to bring your kid's lunch. My son remembers to this day that his first tuna sandwich was made especially for him by Morah (teacher) Fruma the day he forgot his lunch bag at home.

This is the kind of organization that's there for the community to guide us through our most joyous moments, such as my son's bar-mitzvah, as well as our saddest moments, such as when my grandpa left this world. Their availability and support is invaluable to help us both, cope

and celebrate, in life.

This is the kind of Chabad house that to this day has zero membership fees and is inclusive of everyone. They welcome people regardless of their financial, religious, social, political, or other statuses. This Chabad house has a special place in my and my family's hearts. They really are special.

And I am puzzled, who would not want to support such an organization that does so much for so many. In fact, wouldn't we want more of these special places?

Hopefully, you will agree that there is no price to the value brought by Chabad to all of us in the community. And I believe that no inconvenience is big enough to outweigh the contributions of Chabad and Gan Chabad Preschool to so many families in the Tri-Valley and the surrounding towns.

I can go on sharing my thoughts and feeling about this wonderful organization, but I think I should stop, and I just want to ask for your support for Chabad and the preschool. And please know that by supporting it, you will be a part of a greater effort of brining an incredible support system to a ton of families in P-town and the surrounding sister towns. And I really hope that this system will continue to exist and grow for our children, and their children, and future generations to enjoy.

Thank you for your time and for listening.

Karina Abreckov

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From: sipora allouche
To: [Jenny Soo](#)
Subject: to members of the Planning Commission,
Date: Tuesday, March 20, 2018 9:12:05 AM

March 19, 2018

Dear members of the Planning Commission,

Please let me introduce myself: My name is Sipora Aguia and I arrived in California in June 2015, with my husband and my two children. We moved from Paris, France

My husband works in a Japanese company and is responsible for customer service worldwide. I am a jewelry designer and I have my own company.

We arrived in California, eager to work, to build a life here with our children, after living in France where we felt the latent anti-Semitism that unfortunately was growing every day in Europe.

Upon our arrival, we looked for a Jewish community in which our children and ourselves could find our traditions, friends ; a place where children grow up and share with other children of similar ages.

The community in Pleasanton welcomed us with great kindness and we quickly identified and accepted by all.

This community is not only a meeting place where we celebrate Jewish traditions, but also a great support for many families who, like us, are far from our family.

I am going to tell you something that, although it is personal, shows the importance of this community.

In October 2017, my husband - who has always been a sportsman, done several marathons, and trained regularly - felt very tired.

He felt that something was not right. Immediately, he had a test to know what was happening.

Our family doctor, upon receiving the results of the exams, called us and told my husband, you can not travel and I need to see you today.

After this visit, he was transferred to the center of recherche against cancer and two days later hospitalized with a diagnosis of acute leukemia.

For me and my children, this news was like an earthquake destroying all our lives in a minute.

Being in a country that we are just beginning to know, with a health system that we had never used, and having to do all the administrative burdens was not easy. My children and I, we felt lost.

The community and especially the rabbi and his wife came immediately to the hospital, and to the house to help us.

In the first days, my son over 16 years old, began to feel lonely, depressed and sometimes, in anger at the injustice that he felt was happening to him.

He did not want to talk to anyone about the school, or a psychologist. I did not know what to do.

The rabbi approached him, to allow him to talk, discuss and express his feelings. My son found a refuge and a place to find answers to his questions.

My daughter also received much help from the wife of the rabbi and her Hebrew teacher. I found in them a very big support and the possibility of speaking and expressing their feelings.

In these difficult cases of life, many families can break apart and many children break down ; ending up in drug addiction.

A community with moral values, with people who are able to help them in these moments can really change a difficult situation in a teaching of life.

Today 6 months later, we are well, my husband continues his treatment, I continue working, helping him in what I can and my children are calm, continue studying and projecting in the future.

My daughter received the congratulations of the school principal because from the beginning of the year she only had A.

My son came back to be part of the San Ramon Valley High School tennis team and his plan is to continue the tennis and at the same time study to be able to aspire to a scholarship.

It is very important for our children to have a place, a community where they feel good, especially during the difficult tests that life puts on us.

Please permit the rabbi and his team to continue to help this community.

Sipora Aguia
[REDACTED] Alicante Place
Danville CA 94526
Tel [REDACTED]

[REDACTED]

Click [here](#) to report this email as spam.

From: Arnaud Allouche
To: [Jenny Soo](#)
Subject: Chabad needed in Pleasanton
Date: Wednesday, March 21, 2018 10:21:30 AM

Dear Council,

With that email, I would like to take the opportunity to let you know our appreciation to Chabad and why we need them with all the facilities in Pleasanton.

We are a family of 4 (one son of 17 and one daughter turning 12 in May) and we decided to relocate in Danville in March 2016. My children go in Danville's schools as well as the Hebrew school at Chabad Pleasanton.

As a Jewish family, when we arrived in Danville we started to meet different congregations in order to keep living our religion as well as building relationships with our community. The Judaism, its values and being part of that community are very important to us and for the education of our children.

There are a lot of Jewish congregations closed to Danville, but Chabad Pleasanton is the only providing the level of services and education needed for our children and the family in general. To name few of them:

- the Pleasanton Chabad Hebrew school is the only one providing that level of quality in education for our children.
- all the Shabbat services are provided to the all community which is hard to find here (they do once a month)
- bat mitzvah preparation: Chabad Pleasanton the most elaborated program in the region providing several meetings per week.
- teenager community: after the bat / bar mitzvah it is crucial that our children can keep living the Judaism. Again Chabad Pleasanton is the only community center in our valley to provide a dedicated program so our children keep enjoying Judaism and its values.

I can keep going on and on and I hope the short presentation of the outstanding work and benefits to our community, will give you an idea why it is so important for you to vote positively the program.

Thank you for your support, we need this Chabad in Pleasanton!

Best regards

Arnaud Allouche

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From: Linda Androws
To: [Jenny Soo](#)
Cc: [rabbi@](#) [REDACTED]
Date: Monday, March 19, 2018 10:09:31 AM

To the Pleasanton Planning Commission;

My name is Linda Androws. I am a Livermore resident with now 6 generations of our family born in Livermore. I am writing regarding the application coming before you on Wednesday, March 28 for Gan Chabad Preschool, playground, and outdoor area. My granddaughter attended Gan Chabad preschool in its first location in Pleasanton. She loved attending Gan Chabad for two years before going on to public school. The Chabad preschool is a friendly, respectful, nurturing environment, and educational space. From that early experience, children go on to become good students, thoughtful and kind people, active in the local community, and devoted to their faith. Rabbi Raleigh, his family, and congregation are involved citizens, respectful of all people and faiths. They have brought a beautiful and strong place for those of Jewish faith and heritage to learn and grow. The Chabad presence in the community is a shining example of devotion, hard work, goodness, and humanity. I strongly urge the Planning Commission to approve the application.

Respectfully,
Linda K Androws

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From: Tali Ashurov
To: [Jenny Soo](#)
Subject: Supporting the Gan Chabad Preschool permits
Date: Tuesday, March 20, 2018 2:06:18 PM

Hello,

I am writing on behalf of my family in support of the Gan Chabad Preschool, playground, and outdoor open space area to hold Jewish community events in Pleasanton. My family and I have lived in Pleasanton for 20 years, and we were there when Chabad first started the Jewish Tri Valley community based in Pleasanton. I was a Hebrew school teachers assistant throughout my years in middle/high school, held at Harvest Park middle school at the time, and was thrilled to find out that Chabad is finally able to host events and have a preschool in our own community Synagogue. Chabad has greatly influenced my family and provided us with the opportunity to attend Jewish events, celebrate holidays, and connect with other Jewish people in our community. It would be a tremendous benefit to Pleasanton and the Jewish community to allow the Gan Chabad Preschool to be in operation, to allow children the ability to thrive in this community and spread Jewish values to their families, in the future. Chabad has made a wonderful positive influence on mine and my family's lives and I know Chabad will only continue to do that in the future, with your support in allowing the necessary permits to open the preschool.

Thank you for your consideration,

Tali, Inna, Arthur, Benny, and Yuliya Ashurov

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From: Arkady Avrukin
To: [Jenny Soo](#)
Subject: Support Chabad House in Pleasanton
Date: Tuesday, March 20, 2018 9:27:20 PM

Dear member of Pleasanton Planning Commission,

I, Arkadi Avrukin, Pleasanton resident since 1998 am sending you this letter on behalf of my family of four to express our strong support for Chabad House in our city.

Rabbi Raleigh and Fruma Resnik have revitalized Jewish life in Pleasanton. They are very talented people and were able to organize many wonderful things for Pleasanton Jewish community. With this facility, they can do even more – for children as well as adults.

Jews have been an integral part of American society and culture from the very beginning, and places which embraced them were blessed by G-d with peace and prosperity. Please, support Chabad request.

Thank you in advance,
Arkadi Avrukin
██████████ Carducci Drive,
Pleasanton, Ca 94588
██████████

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<https://www.mailcontrol.com/sr/Th0SW9dEBwLGX2POPOmvUyvmlidA89nuw1l4Zlkv9z5OVVV5jbVMa40HFT+W9uoR3!QqsuBjy6hr4eW8epCICcw==>
to report this email as spam.

From: Svetlana Banks
To: [Jenny Soo](#)
Subject: Please help with the Chabad Permits
Date: Tuesday, March 20, 2018 11:30:35 PM

Hello Planning Commission folks,

My family recently heard about the Chabad permits dilemma and the vote coming up on March 28, where there may be opposition. Please vote to allow Chabad to obtain their permits. I am an engineer and mom of four kids. We live in Deer Oaks community of Pleasanton, right off of Foothill road. In the thirteen some years that Chabad has been in Pleasanton, they have had an amazing impact on the Pleasanton community. Actively teaching and guiding to reach out to the elderly, support our fellow neighbors, assist weary moms and do Mitzvah's (good deeds), whenever possible. Please allow them to expand their efforts in being a guiding light to our community.

Thank you so much.
Svetlana Banks

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From: Rebecca banks
To: [Jenny Soo](#)
Subject: Chabad impact on me
Date: Wednesday, March 21, 2018 12:03:49 AM

Hello,

My name is Rebecca Banks and I am a sophomore student at Foothill High School. Please vote for Chabad permit approval in the coming meeting. They have impacted my teen life in so many positive ways and I know other teens that are just as grateful and appreciative of all the work they do to guide the teens of the community.

Aside from inspiring me to stay strong in my conservative values, they also encouraged me to start a community volunteer web site called IDoMitzvah.com. Rabbi Raleigh and Fruma actively promoted and helped design this volunteer web site, which allows me to connect volunteers to people who need help in the community. We have a growing team of volunteers and have successfully impacted families with loved ones in the hospital or rehab facilities. As well as sending volunteers to support an elderly person who lost a child in a tragedy.

Gathering teen volunteers to help setup for Purim and other events. Gathering volunteers to help new moms (after having a baby).

Please help Chabad continue their efforts.
Rebecca

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From: Vadim Bendebury
To: [Jenny Soo](#)
Subject: Re: Chabad community center in Pleasanton
Date: Monday, March 19, 2018 9:04:08 PM

Dear Ms. Soo:

I am emailing you hoping that you can convey my opinion to City Commissioners

Greg O'conner
Herb Ritter
Nancy Allen
Justin Brown
David Nagler

who on March 28th are going to be hearing the case of Chabad Of The Tri Valley community center permit.

Dear Sirs/Madams:

My name is Vadim Bendebury, I have been a Pleasanton homeowner since 1998, have been living all these years at [REDACTED] Fair Oaks Ct.

I am sending you this email to vouch for Chabad Of The Tri Valley as an organization and for Rabbi Resnick as a person.

My three children were too old to benefit from their presence in our town, but children of many of my friends received truly invaluable education there, which not only enlightened them, but also made them better human beings.

This is something so hard to come by in this day and age, when both parents have to work and need to trust someone with their children. Having this available in Pleasanton has been a true blessing for these families.

Please consider granting the permit to the Chabad of Tri Valley so that many more Pleasanton families may continue to benefit from services of this excellent institution.

Thank you for your attention to this very important matter,

Sincerely,

Vadim Bendebury

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From: Maya Bronsky
To: [Jenny Soo](#)
Subject: Re: Jewish preschool
Date: Tuesday, March 20, 2018 3:56:13 PM

Dear Planning Committee,

I am writing in support of Rabbi Pesnick and his proposal to establish a preschool, children's educational center at Pleasanton .

My experience with Rabbi Resnick is totally positive . I know him to be a kind, generous, warm hearted and highly educated man whose effect on children their growth and development will greatly benefit them and by extension the entire community It will be a misfortune for all the people of this community if the influence of this generous and profoundly decent man would be curtail. . We are living through difficult time and the comfort of this rabbi's presents helps in the preservation of decency , decorum, and respect for human rights .

P.S Because of my personal experience , coming from Soviet Russia and being deprived of Jewish education there I support every opportunity to educate children in their Jewish heritage.

Thank you very much for receiving my message.

Respectfully: Maya Bronsky

██████████ Overlook Dr
Walnut Creek CA 94597

r

On Tuesday, March 20, 2018, 12:01:12 PM PDT, Maya Bronsky <maya_bronsky@yahoo.com> wrote:

Dear Planning Committee,

I am writing in support or Rabby Resnick and his proposal to establish preschool children's education center at San Ramon . My experiences with Rabby Pesnick is totally positive.I know him to be kind, generous, warm hearted and highly educated man whose effect on children, their growth and development, will greatly benefit them and by extension the entire community. It would be a misfortune for all the people of this community if the influence if this generous and profoundly decent man was curtailed . We are living through difficult times and the comfort of this rabbi's presence helps in the preservation of decency, decorum, and respect for human rights..

Because of my personal experience coming from Russia and being deprived of Jewish education there I support every opportunity to educate children in their Jewish heritage.

Thank you for receiving my message of support for opening education center for children of San Ramon.

Respectfully: Maya Bronsky

██████████ Overlook Dr , Walnut Creek Ca 94597

From: Andrew Burstein
To: [Jenny Soo](#)
Subject: Support for Chabad Permit
Date: Tuesday, March 20, 2018 10:01:32 PM

Dear Pleasanton Planning Commission,

My name is Andy Burstein and my wife, Doree, two daughters and I have lived in Pleasanton since 2006. My older daughter, Immie, attended Hearst and PMS, and is now a sophomore at Foothill. My younger daughter, Ariel, attended Hearst and is now a 6th grader at PMS. We have all been active in the community, with both girls playing soccer with the Rage, lacrosse with the Pride, and basketball with CCOP. Doree and I have volunteered for the girls' sports clubs, for Temple Beth Emek, and the Chabad. Doree has been an officer in the PTA and regularly volunteered at Hearst and now for PMS. Doree and Immie (and next year Ariel) are in National Charity League and regularly volunteer for various local organizations as a part of NCL.

I met Raleigh and Fruma Resnick shortly after we moved to Pleasanton, while we were looking for a preschool for Ariel. Raleigh and Fruma were so open, warm, and welcoming that once I met them I felt like I had truly been welcomed into the Pleasanton community. We enrolled Ariel in their preschool, and it was a great experience for her, preparing her for Elementary School, and for life. Since then we have stayed involved with the Chabad, attending various religious services, educational activities, and social events.

I urge you to approve the permits for the Chabad's preschool and their plans for their new facilities. Rabbi Raleigh and Fruma have been great assets to the Pleasanton community, and with their new plans they can continue to make Pleasanton a better place for generations to come.

Sincerely,
Andy Burstein
█ Dakin Ct
Pleasanton, CA 94566

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From: Ariel Burstein
To: [Jenny Soo](#)
Subject: Chabad Permit
Date: Tuesday, March 20, 2018 9:42:11 PM

Dear Pleasanton Planning Commission,

My name is Ariel Burstein, and I have lived in Pleasanton for my whole life. In preschool, I attended the Chabad, and I now attend Pleasanton Middle School. The Chabad has influenced me in many ways, and has helped me grow as a person. From the time I was in preschool there, they taught me good manners, religion, and the basic things needed to be taught in preschool. It may seem simple, yet to me, it is much more than that. The Chabad has also taught me strength in family, community and most importantly, in oneself. This organization has influenced me to always have faith in the light, this positively affected my view of the world. I still today remember the influence the Chabad preschool has had on me, and I wish for many generations to come to have the same positive influences I had. To this day, I still participate in services and visit Rabbi Raleigh and his wife Fruma Resnick. They both have had an effect on me, but I remember Fruma always being kind, supportive, and understanding to me and fellow students. Many memorable experiences have stuck in my mind and has always made me thankful for being a part of the Chabad community. I hope to have your support and vote to approve their permit to have many generations to come have the same unforgettable experience that is the Chabad preschool.

Sincerely,
Ariel Burstein

Click

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From: Lynn Byram
To: [Jenny Soo](#)
Subject: Chabad Center for Jewish Life
Date: Thursday, March 22, 2018 5:27:12 PM

Dear Pleasanton Planning Commission,

First allow me to introduce myself, my name is Lynn Byram. My family and I have been living in Livermore for 33 years. All of our children have attended school and community college in the Tri-Valley.

In 2005 my daughter, Hillary, decided she wanted to explore her Jewish identity. An introduction to Rabbi and Fruma Resnick was made by her father, as they say "some things are just meant to be".

She learned about more things than I can list, such as volunteering for Jewish leadership roles, developing who she wanted to be in her adulthood through classes in Judaism and Torah ideals.

This was followed by a trip to Israel, then 9 months of studying in Israel. Upon her return, her determination to embrace the Torah values and be consistent were at times challenged. The strength she gained from Chabad being a large part of her life was evident. Rabbi and Fruma taught her how important a commitment to her religion is and the importance of the impact it provides.

Rabbi Raleigh performed the first completely Kosher wedding for our family, friends and community in the Tri-Valley. Today Hillary and her husband Blake are raising their family with the same core values and ideals that the Resnicks brought into my daughters life 13 years ago.

We believe there are many people young, older and in between at all stages of life who will benefit from the Chabad Center. Your support and vote would be appreciated to approve this application.

Sincerely,
Lynn Byram

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From: Toni Coplan
To: [Jenny Soo](#)
Subject: Fw: Chabad of the TriValley Permit application
Date: Wednesday, March 21, 2018 6:17:39 PM

----- Forwarded Message -----

From: Toni Coplan [REDACTED]
To: "isoo@cityofpleasantonca.gov" <isoo@cityofpleasantonca.gov>
Sent: Monday, March 19, 2018 10:09 PM
Subject: Chabad of the TriValley Permit application

Dear Members of the Pleasanton Planning Commission,

I am a retired teacher of the blind and visually-impaired, in addition to having served as a case manager for Senior Support Program of the Tri-Valley for seven years. I have lived in Sunol for the last 32 years.

I am writing to express my strong support for Chabad of the Tri-Valley's application for a permit to develop a preschool, playground, and outdoor event area at the former Masonic building on Hopyard Road. As a member of this congregation, I value this community's commitment to being a force for good. I have been impressed by the deep caring for the larger community actively demonstrated by Rabbi Raleigh and Fruma Resnick as they have dedicated 13 years of effort to providing an inclusive center for Jewish worship, celebration, and education. Chabad strives to be a good neighbor and community asset, with a focus on education and service to social good.

Pleasanton highlights itself as a community of character, and in doing so provides a needed model of positive citizen conduct and civic engagement. Chabad of the Tri-Valley embodies the community of character values promoted by the City of Pleasanton. Integrity, generosity, public service and expanded education programs build a stronger community for all of us. Please approve this permit to enhance Chabad of the Tri-Valley's ability to serve and enrich the larger community.

Sincerely, Toni Coplan

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From: Robert Curry
To: [Jenny Soo](#)
Subject: Chabad School
Date: Thursday, March 22, 2018 8:10:13 AM

Dear Sir:

It has come to my attention that there has been complaint regarding the building of a Jewish School By Rabbi Resnick in Pleasanton California. I am shocked that a religious school, teaching ethics and kindness, could be objected to. Modesty, ethics are values everyone wants children exposed to.

I regret I could not send either of my two sons to such a school. There was not one available when they were growing up. It was important enough for me to apply to a Catholic school, but it was filled. And Public school, it had to be for us.

I hope the person complaining about the construction of such a school is given a chance to learn that it is a very good thing for any community. Rabbi's compound is next to a Christian Church and on a busy corner. Across the street is a mall and busy... so it cannot be an objection to traffic. It is there and was when Rabbi bought the Mason Lodge. I wonder what the objection is.

Please consider this school as the positive and needed asset to your community, which I have no doubt, it will prove to be.

Yours cordially,
Sunnie Curry

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From: Dan Dalton
To: [Jenny Soo](#); [Kendall Granucci](#)
Cc: [jim@](#); [Raleigh Resnick](#)
Subject: Chabad of the Tri-Valley
Date: Tuesday, April 17, 2018 9:44:20 AM
Attachments: [Chabad of the Tri Valley v 04 17 18.pdf](#)

Dear Planning Staff,

Attached is a legal opinion to be provided to the City Staff and City Council Members, or other appointed and elected officials reviewing this proposal, with respect to the application for conditional land use approval of the Chabad of the Tri-Valley. Please distribute and do not hesitate to contact me should you have any questions.

All the best,

Dan

Daniel P. Dalton
Dalton & Tomich PLC
The Chrysler House
719 Griswold Street, Suite 270
Detroit, Michigan 48226
T: 313.859.6000 Ext. 114
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www.daltontomich.com

www.attorneysforlanduse.com

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April 17, 2018

City of Pleasanton Planning Commission
City Administration Building
P.O. Box 520
Pleasanton, CA. 94566

Via email, only.

RE: Chabad of Tri-Valley California
CUP Project No. P-16-0288

Dear City Council Members:

In conjunction with the Law Office of James G. Schwartz our law firm represents the Chabad of Tri-Valley, a California Religious Non for Profit Corporation, regarding the development of its property for outdoor use. The purpose of this letter is to recount facts that you may not be aware of as well as the current state of the law should the Planning Commission decide to decline to approve the Conditional Use Permit at its hearing on March 28, 2018. I will be attending the hearing that evening with my client.

What is Chabad?

By way of background, my client, been serving the Orthodox Jewish communities of Pleasanton, Dublin and Livermore, California since 2005. We are a Chabad. Chabad is an acronym for chochmah-binah-da'at (wisdom, understanding, knowledge). The term signifies the philosophical-theological approach of a world-wide Jewish Hassidic movement founded over 200 years ago, synthesizing the standard and mystical trends in Judaism, seeking a spiritual regeneration of all Jews to strengthen Jewish religious identification and life-style.

Followers of this movement, known as "Chabad Hassidim," or "Lubavitch Hassidim," cover the total spectrum of population, i.e., rabbis, teachers, academics, medical practitioners, lawyers, businessmen, artists, and every other kind of profession or livelihood. Contemporary followers are guided and inspired by the teachings of the last head of this movement, the late Grand-Rabbi Menachem M. Schneerson, known as the Lubavitcher Rebbe and universally recognized as the foremost Jewish spiritual leader of the 20th century. Rabbi Schneerson taught that it is incumbent upon every Jew, layman no less than clergy, to seek the spiritual and material welfare of all their co-religionists as well as mankind at large, and especially to impress Jewish tradition upon every Jew.

A *Chabad House* is a homonymous term. It may be the official center sponsored by the Chabad-movement in whatever community that serves as a place of worship, lectures and public education, daycare centers for children or the elderly, parochial schools, and social welfare programs for the Jewish community – any one of these or any combination of some of these. There are presently over 2000 such centers throughout the world wherever Jewish communities exist. The Lubavitcher Rebbe instructed all of his followers to designate Chabad Houses in the symbolic sense of identifying with values and goals of the Chabad Movement in terms of personal religious lifestyle alongside devotion to other people (inspiring all who dwell or visit there); and as an educational tool for the resident children to realize their responsibilities toward everyone else.

The mandates of our faith are found in a long library of texts discussing the use of our Chabad House for religious purposes. One text known as the *Shulchan Aruch* is the Definitive Code of Jewish Law, i.e., ecclesiastical laws, binding upon all religious Jews. This legal code, first collated in 16th century, was subsequently complemented by much supplementary commentaries, glosses and other additions, taking into consideration later developments and newly arising conditions ruled upon by the Jewish legal authorities of every generation. In the 20th century, numerous works were published as compendia or digests of specific sections of the Shulchan Aruch to summarize all relevant materials in their specific contexts (thus separate synopses of, e.g., all the laws relating to the practical observance of the Sabbath, the various Holy days, prayer, dietary laws, and so forth.

In a Chabad House, even the non-consecrated activities such as eating, sleeping, playing, must also be infused with holiness, even beyond the normative religious rituals that are mandated (such as grace before and after consumption of food and beverages, Torah-study in both day and night-time, the observance of the Sabbath and Holy Days with their specific rituals, family-celebrations that relate to religion, acts of charity and kindness, affixing of mezuzot – scrolls of Biblical passages affixed to all doors as reminders of Divine presence, requirement of some library of religious texts even if it be minimal etc.), to become in effect miniature sanctuaries – though not of permanent status nor of the same kind as a synagogue. Where and when it is possible to partake in communal prayer, as when there is a regular quorum-service in a synagogue, or where it is possible to assemble a quorum, one is duty-bound to do so.

With respect to the entitlement process, my client applied for a CUP in September 2017 as it has a prior approved use that it has been working under since occupying the space May 2016. My client purchased the property on August 31, 2017. The requested approval is minor in light of the uses sought in this matter.

The Religious needs of the Chabad.

In this application for a Conditional Use Permit (CUP), we are seeking the use of the outdoor ground for religious purposes for an estimated ten to fifteen events per year. One such use is a

temporary use that occurs during the week-long celebration of Sukkot, one of the three pilgrimage festivals of the Jewish year. According to rabbinic tradition, we build tent-like structures represent the huts in which the Israelites dwelt during their 40 years of wandering in the desert after escaping from slavery in Egypt. The rabbis of the Talmud stipulated that a sukkah should have at least three walls and a covering. The walls can be of any material, but should be sturdy enough to withstand an ordinary wind. The roof should be made out of thatch or branches, which provides some shade and protection from the sun, but also allows the stars to be seen at night. It is traditional to decorate the sukkah and hang fruit and fragrant plants inside.

During the holiday, Jews traditionally spend as much time in the sukkah as possible. Weather permitting, meals are eaten in the sukkah, and some people even to choose to sleep in the Sukkah. No amplification or instrumentation of any kind at any service will be used – not only to accommodate the neighbors but also it is forbidden by Jewish law.

We also intend to use the outdoor area, north of the building, for a preschool playground. The small playground has a capacity for 25 children. As noted above, everything we do at the Chabad has a religious purpose, including children playing outdoors. We believe that responsible play, as an educational tool, helps our children realize their responsibilities toward everyone else. We are aware that one neighbor objects to the outdoor use as a play area based on noise. In light of this objection, we have retained a sound specialist to perform a sound study to test the level of noise that would come from the little children playing outside. The study confirmed what we believed to be true: normal sound would come from the play area, the same sound that, who, performed a study that has been provided to you.

Application of the Religious Land Use and Institutionalized Persons Act (RLUIPA)

The reason for this letter, and my appearance at the Planning Commission meeting, is my concern is the lack of recognition of the implication of the Religious Land Use and Institutionalized Persons Act (RLUIPA) by the members of this honorable commission as this law is relatively new and unknown. In September 2000, Congress passed RLUIPA after it recognized the unique threat to religious liberty posed by certain categories of state action to address them. RLUIPA. RLUIPA's protections must be "construed in favor of a broad protection of religious exercise, the maximum extent," permitted by RLUIPA and the Constitution.

RLUIPA is a federal statute enacted, among other reasons, to protect religious organizations against the effects of improper land use decisions. "RLUIPA is Congress's latest effort to protect the free exercise of religion guaranteed by the First Amendment from governmental regulation." *Guru Nanak Sikh Soc'y v. Cnty. of Sutter*, 456 F.3d 978, 985 (9th Cir. 2006). RLUIPA was designed to provide heightened protection for the free exercise of religion, especially in the area of land use and zoning regulation. *Cutter v. Wilkinson*, 544 U.S. 709, 714-15 (2005).

In their joint statement to the Senate about RLUIPA, co-sponsors Senators Orrin Hatch and Edward Kennedy observed:

The right to assemble for worship is at the very core of the free exercise of religion. Churches and synagogues cannot function without a physical space adequate to their needs and consistent with their theological requirements. The right to build, buy, or rent such a space is an indispensable adjunct of the core First Amendment right to assemble for religious purposes.

146 Cong. Rec. S7774 (July 27, 2000). Concerned that “[c]hurches in general and new, small, or unfamiliar churches in particular, are frequently discriminated against ...in the highly individualized and discretionary processes of land use regulation,” the Senators described how some “[zoning] codes permit churches only with individualized permission from the zoning board, and zoning boards use that authority in discriminatory ways.” *Id.* The Senators further noted “discrimination lurks behind such vague and universally applicable reasons as traffic, aesthetics, or ‘not consistent with the city’s land use plan.’” *Id.*

Under RLUIPA’s Substantial Burden clause,

No government shall impose or implement a land use regulation in a manner that imposes a substantial burden on the religious exercise of a person, including a religious assembly or institution, unless the government demonstrates that imposition of the burden on that person, assembly, or institution—

(A) is in furtherance of a compelling governmental interest; and

(B) is the least restrictive means of furthering that compelling governmental interest.

42 U.S.C. § 2000cc(a)(1).

Congress broadly defined “religious exercise” to include “any exercise of religion, whether or not compelled by, or central to, a system of religious belief,” and specified the “use, building, or conversion of real property for the purpose of religious exercise shall be considered to be religious exercise of the person or entity that uses or intends to use the property for that purpose.” 42 U.S.C. § 2000cc-5(7). Congress further clarified RLUIPA is to be “construed in favor of a broad protection of religious exercise, to the maximum extent permitted by the terms of this chapter and the Constitution.” 42 U.S.C. § 2000cc-3(g). The religious use must first show the City has implemented a land use regulation that imposes a substantial burden its religious exercise; the burden then shifts to the City to show the burden furthers a compelling government interest and is the least restrictive means of furthering that interest. 42 U.S.C. § 2000cc-2(b).

It is clear that a denial of the CUP will result in a substantial burden on the Chabad's religious exercise. While RLUIPA does not define the term "substantial burden," case law is instructive. In the Ninth Circuit, "for a land use regulation to impose a substantial burden, it must be oppressive to a significantly great extent. That is, a substantial burden on religious exercise must impose a significantly great restriction or onus upon such exercise." *San Jose Chr. College v. City of Morgan Hill*, 360 F.3d 1024, 1034 (9th Cir. 2004) (internal quotations omitted). Under this interpretation, "[a] substantial burden exists where the governmental authority puts substantial pressure on an adherent to modify his behavior and to violate his beliefs." *Int'l Church of Foursquare Gospel v. City of San Leandro*, 673 F.3d 1059, 1067 (9th Cir. 2011) (internal quotations omitted). Thus, a substantial burden "must place more than an inconvenience on religious exercise." *Guru Nanak*, 456 F.3d at 988 (citing *Midrash Sephardi, Inc. v. Town of Surfside*, 366 F.3d 1214, 1227 (11th Cir. 2004)).

Here, the Chabad has made clear that an essential tenet of its religious mission is to worship outdoors. Should the Planning Commission deny the CUP, the Chabad will be barred from using a large segment of its property for essential religious assembly purposes. This action will impose "a significantly great restriction or onus upon" the Chabad's religious exercise. *San Jose Chr. College*, 360 F.3d at 1034. By barring the Chabad from worshiping outside, the actions are undoubtedly "more than an inconvenience" on its religious exercise. *Guru Nanak*, 456 F.3d at 988. It would be a "substantial burden" on the Free Exercise of Religion.

Once a Court finds a municipality's actions impose a substantial burden on religious exercise, the burden shifts to the municipal defendant to prove that imposing a substantial burden on religious exercise is in furtherance of a compelling governmental interest and the least restrictive means of furthering that compelling interest. See 42 U.S.C. § 2000cc(a)(1); 42 U.S.C. § 2000cc-2(b). Compelling state interests are "interests of the highest order." *Church of Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 546 (1993).

Such interests include protecting public health, safety or welfare. *Wisconsin v. Yoder*, 406 U.S. 205, 215 (1972) ("Only those interests of the highest order and those not otherwise served can overbalance legitimate claims to the free exercise of religion."); *Sherbert v. Verner*, 374 U.S. 398, 406 (1963) ("[O]nly the gravest abuses, endangering paramount interests, give occasion for permissible limitation."). "Demonstrating a compelling interest and showing that it has adopted the least restrictive means of achieving that interest is the most demanding test known to constitutional law." *City of Boerne v. Flores*, 521 U.S. 507, 534 (1997). The standard "is not watered...down but really means what it says." *Lukumi*, 508 U.S. at 546 (internal citations omitted). Thus, the government must "show a compelling interest...in the particular case at hand, not a compelling interest in general." *Westchester Day Sch. v. Vill. of Mamaroneck*, 504 F.3d 338, 353 (2d Cir. 2007).

According to the Department of Justice, a municipality cannot simply point to an interest in noise in the abstract as a compelling interest justifying a substantial burden on religious exercise. Rather,

City Planning Commission Members
City of Pleasanton, CA.
April 16, 2018
Page 6

the government must show that it has a compelling interest in achieving that interest through the particular restriction at issue.¹ Thus, based on the record, the testimony at the Planning Commission's public hearing, and the sound studies, it is plain the City has no compelling interest to justify outright denying the Church's ability to use the Property for religious purposes.

Finally, even if the City could show its purported interest is compelling, it must also show it employed the least restrictive means of furthering that interest. 42 U.S.C. § 2000cc(a)(1)(B). In other words, the City must show its interests could not have been achieved by narrower action that burdens the Chabad to a lesser degree. *Elsinore Chr. Ctr. v. City of Lake Elsinore*, 291 F. Supp. 2d 1083, 1095 (C.D. Cal. 2003). In denying Chabad's CUP request, the Planning Commission would be employing the *most restrictive means* possible to further its interests. There is simply no way the City can show the outright ban on using the Property for religious purposes constitutes the least restrictive means of the City furthering its interests. In sum, there is no genuine issue of material fact that a denial of the Conditional Use Permit would result in a violation of RLUIPA's Substantial Burden Clause.

If you would like to learn more about the land use portion of RLUIPA, please feel free to order *Litigating Religious Land Use Matters, Second Edition* through [Amazon](#) or the [American Bar Association](#) websites. This book is the only treatise on the subject and the sole authority on the issue. I took great care evaluating every single case that courts have issued opinions on with respect to the land use portion of RLUIPA when writing it.

I write this letter not as a threat but simply as concerns raised by my client in this matter. A denial would result in costly and lengthy litigation, which, I am certain both of us would like to avoid. I have been working in this area of the law for over a decade and have taken similar cases to trial successfully. Just last summer, we prevailed in favor of a Chabad in Northwest Connecticut in a similar case. We would like to avoid conflict and look forward to an amicable resolution of this case.

Naturally, should you have any questions concerning this matter, please do not hesitate to contact me. I remain,

Very truly yours,

DALTON & TOMICH PLC

/s/ Daniel P. Dalton

DPD/omo
cc: Client

¹ U.S.D.O.J Policy Statement on the Land-Use Provisions of RLUIPA at 6-7, accessible at https://www.justice.gov/sites/default/files/crt/legacy/2010/12/15/rluipa_q_a_9-22-10_0.pdf.

From: Tali Dar
To: [Jenny Soo](#)
Subject: Chabad of the tri valley
Date: Thursday, March 22, 2018 1:32:06 AM

Att :Pleasanton planning commission

I would like to introduce myself and my family. My name is Tali Dar Pollack and my husband Roni Pollack, we have been living in San Ramon for the past 20 years raising our girls Naya (13) and Romy (10). We have moved to the area from israel and have been looking to raise our girls in a Jewish environment with the Jewish traditions and values we hold.

When we arrived in the area there was only one Jewish organization where we needed to drive for 30 min if we wanted our kids to have Jewish education and participate in their activities.

Since the Chabad of the tri valley opened up in pleasanton we finally found a place to call home away from home. We have been participating in all the wonderful events and

We have sent our girls to their wonderful pre school which was everything we wanted it to be in terms of the program and the Jewish education they have received. We were so happy when they opened up a Sunday school where we can continue the girls education and Hebrew studies. I have been involved with the Hebrew school for the past 5 years as a teacher and as an organizer of the holiday events. I have seen this Hebrew school grow and create a place for many parents like us that wish for their kids to learn about Jewish traditions and learning Hebrew. The Chabad of the tri valley runs an amazing program that supports all the Jewish community around the tri valley. We have decided to stay in this area mainly because we found a place where we feel a big part of the community and have the resources needed to raise our kids within this community thanks to Rabbi Raleigh and Fruma Resnick who are a great asset to this whole Jewish community .

We thank you for your conditioned support in this great organization that has such a big influence in our community and we will appreciate your vote in issuing their permit.

Thank you !!
Tali and Roni Dar Pollack
[REDACTED] old ranch court
San Ramon CA

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From: Irina Eizner
To: [Jenny Soo](#)
Subject: Attention: Letter of Support for Chabad
Date: Sunday, March 18, 2018 10:09:27 PM

Dear Pleasanton Planning Committee members,

We are writing to you to express our support of Chabad Of the Tri-Valley, the Jewish community organization that we call our home and have been members of for the last 10 years.

When we moved to the San Ramon ten years ago to work and raise our kids, Chabad was the first community organization that reached out to us and offered us support.

We met many friends through Chabad who we still to this day celebrate our Jewish holidays with. Our kids went to the Chabad Hebrew school on Sundays and "graduated" by celebrating their Bat-Mitzvah - an important milestone in the life of Jewish adolescents. The Chabad of the Tri-Valley became a natural base for the growing Jewish community.

We all wish the best for our kids, including a better education, great opportunities, and a safe environment.

We are asking for your support today to help establish a permanent space to allow our children and our community to connect with their Judaism and grow in their Jewish education.

We are asking for you to help create a safe place to allow the Jewish community to gather and celebrate our traditions.

America is the land of the free and the home of the brave. We are the land of religious freedom and every citizen should have that basic right that is promised by our constitution.

We are asking you to please allow Chabad to expand its existing facility.

Please help play a role in allowing the local Jewish community to thrive.

Thank you for your consideration,

Irina and Constantin Eizner

█ Lake Mead Ct.,
San Ramon, CA, 94582

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From: Michael Fluss
To: [Jenny Soo](#)
Cc: [Michael Fluss](#); [rabbi@](#); [Nina Fluss](#)
Subject: Permit Hearing for Chabad Property
Date: Wednesday, March 21, 2018 2:44:16 PM
Importance: High

Dear Sirs and Madams:

I am Dr. Michael Fluss. I and my spouse Nina Fluss, have been residents of Pleasanton for thirty-two (32) years. We are active in many aspects of community life; religious, and secular. We reside at [REDACTED] Ridgewood Rd. and have five grown children, all of whom were raised and educated in Pleasanton.

Based on our past experiences as parents and citizens of Pleasanton, and our current concerns for the growth and wellbeing of the Pleasanton community, we are writing to you to communicate our strong support for the approval of the application by the Chabad Congregation of Pleasanton for the necessary permits to open the Gan Chabad Preschool, build a state of the art playground, and create a beautiful outdoor area for community events and social gatherings.

It is our understanding that one neighbor is vehemently against the approval of this permit. This is understandable given the poor and inconsiderate behavior of the previous property owners; specifically, the raucous and late-night outdoor events of the Mason's organization. This said, however, is not reason either in law, or in fact, to deny the requested permit to the Chabad congregation.

It is difficult to imagine that the use of the land adjacent to the building, both owned by Chabad, would result in inconvenience or become a nuisance to any nearby neighbor to the property. While such an assurance may not be adequate in itself, may I suggest that restricting usage for outdoor gatherings on the property in question could be limited to reasonable hours of the day—say 8:00 AM to 10:00 PM as an example.

The Jewish population of Pleasanton and the surrounding communities is a minority, but they are also part of the diversity of this community that makes Pleasanton a fine place to live, raise a family, and enjoy the freedoms and rights of living in America. It would be contrary to our community held beliefs in fair-play and in inclusion, to deny Chabad of Pleasanton a permit that enhances education, celebrates family and marriage, and life's events. Chabad is a religious congregation, resident in our community, and that in

being here, enhances and benefits us all.

I would be pleased to testify as to my support and the reasons there-in at the permit hearing on March 28 at 7:00pm in the City Council Chambers.

Respectfully,

Michael J. Fluss, PhD

Nina J. Fluss, MS

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From: Allison Gervis
To: [Jenny Soo](#)
Subject: Re: Chabad of the Tri Valley preschool, playground, gathering area
Date: Monday, March 19, 2018 8:10:23 PM

To: Pleasanton Planning Commission

My name is Allison Gervis, and I am writing on behalf of myself and my children, Isabel (age 20) and Rosalie Gervis (age 17), two Jewish students in the Tri Valley. I have lived in the Tri Valley for 30 years and work as a nurse. As a family, we have been very grateful for the community presence of Chabad of the Tri Valley. I am an immigrant from the former Soviet Union, brought here at a young age by my parents who were not able to practice Judaism in a secular and non tolerant society. Being a part of the Chabad community has been a very important part of our lives as it has given us an opportunity to learn and practice our religion in a way we would have been prosecuted for in the Soviet Union. Passing to our children the values we learn at Chabad keeps our culture, religion, and heritage alive. Community diversity and tolerance is a vital part of a just and vibrant society.

We are kindly asking for your support and vote to approve the Gan Chabad Preschool, playground, and outdoor area for community gatherings. Your approval would make it possible to continue educating our children and providing a strong community link to Jewish values and heritage.

Warm regards

Allison Gervis



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From: MARINA GIVERTS
To: [Jenny Soo](#)
Subject: Letter in support of Chabad in Pleasanton
Date: Tuesday, March 20, 2018 10:00:44 PM

Dear Planning Commissioners,

My name is Marina Giverts, I have been a resident of Contra Costa County for almost 30 years. Both of my children grew up here, and my youngest son is now in Monte Vista high school. I work in Pleasanton, at Workday.

Chabad has been extremely important to me and my family. It's a place where teens can get together, can hang out with friends in a safe environment. My son is always excited to see the Rabbi and spend time at Chabad. We value the community and hope that our kids can continue to thrive in this community.

I am asking you to support our community, our Chabad and preschool and vote in favor of our children.

Sincerely,
Marina Giverts

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From: stephen giverts
To: [Jenny Soo](#)
Subject: Chabad center
Date: Wednesday, March 21, 2018 9:39:29 PM

Hello,

My name is Stephen Giverts, I am and junior at Monte Vista High school. I am writing to you today to ask for your vote in helping Rabbi Raleigh and Fruma Resnik open up a Jewish community center were all kids and teenagers can and learn and flourish. I have been going to the Chabad of Tri valley since I was in sixth grade and they have thought me many important lessons and what it means to be a good and productive member within a community. There teachings are very import and I believe that having a Jewish community center in pleasanton will be a great stepping stone into making, pleasanton more inclusive place

thanks,

Stephen Giverts

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From: Alla Goldman
To: [Jenny Soo](#)
Cc: [rabbi@](#)
Subject: Chabad of the tri valley
Date: Sunday, March 18, 2018 10:43:59 PM

Dear Pleasanton Planning Committee members,

I am writing to you to express our support of Chabad Of the Tri-Valley, the Jewish community organization that we call our home and have been members of for the last 10 years.

When i came to USA from Israel. It was really challenging to find e jewish community where I will be feel comfortable to rase a kids. Chabad was very welcoming and supporting to me.

We met many friends through Chabad who we still to this day celebrate our Jewish holidays with. My kids went to the Chabad Hebrew school and learn jewish custom and traditions and when they was ready we all celebrate their Bat/bar Mitzvah - an important milestone in the life of Jewish adolescents. I really wish that the new young family in tri valley will have the same opportunity to connect with their Judaism and grow in their Jewish education.

I asking for your support today to help establish a permanent space to allow our children and our community to connect with their Judaism and grow in their Jewish education.

Please help us to create a safe place to allow the Jewish community to gather and celebrate our traditions.

We are asking you to please allow Chabad to expand its existing facility.

Please help play a role in allowing the local Jewish community to thrive.

Regards, Alla

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From: Marc Greendorfer
To: [Jenny Soo](#)
Subject: P16-1883/P16-0288
Date: Monday, March 19, 2018 9:52:17 AM

Dear Members of the City of Pleasanton Planning Commission:

I am writing in support of Chabad of the Tri Valley's application for a permit to make certain improvements to its property at 3370 Hopyard Road, as specified in P16-1883/P16-0288.

Three generations of my family live in the Tri Valley area, including my parents, who live in Pleasanton. Chabad of the Tri Valley has been a part of our lives since we moved to this area and they have made an incredible, positive improvement to everyone they've touched.

My sister, who lived in Pleasanton at the time (and currently lives in Dublin), first met Rabbi Resnick when her son was very young. The Rabbi and Mrs. Resnick reached out to my sister to encourage her and her son to become involved with Chabad. Over the years, my sister, my nephew, my parents, my wife and I have all become deeply involved with Chabad.

One of the most important things that Chabad provides to the community is strong moral and spiritual guidance for youth. My nephew has participated in Chabad's youth programs since he was a child. Chabad taught him how to be a compassionate, ethical and caring person, something that religious education is particularly well suited to provide. Thanks to the work of Rabbi Resnick, my nephew had his Bar Mitzvah at the Chabad center in Pleasanton and continues to be involved with Chabad as he earns the highest grades in high school and develops into a young man with integrity. The importance of Chabad in providing the mental discipline and spiritual guidance to young people such as my nephew simply can't be overstated. With the proposed improvements to its facility, Chabad will be able to expand its reach and good deeds to more children in the local community, which will certainly improve the community (both Jewish and non-Jewish) as a whole. I think we can all agree that anything that provides youth with the guidance to do good deeds and treat others with respect and compassion is an important element of any community, and Chabad is incredibly effective in helping young people on this path.

On a personal note, Chabad, and Rabbi Resnick, have been one of the most positive influences in my family's life. For example, when my father, currently 90 years old, went through a series of medical problems, including two hip surgeries at Valley Care hospital in Pleasanton, Rabbi Resnick was there for him throughout his extensive hospitalization and rehabilitation. The support of Chabad helped all of us get through a difficult period, including my mother, an 85 year old Holocaust survivor, who needed the support that only a religious leader can provide. Knowing that Chabad was here to provide support in good times and bad has been a priceless addition to our family.

As a member of Chabad and a lawyer in the Tri Valley who has a strong interest in improving the quality of life for all residents of this area, I urge you to approve P16-1883/P16-0288.

Best regards,

Marc A. Greendorfer

Tri Valley Law, A Professional Corporation

Bishop Ranch 6

2410 Camino Ramon, Suite 190

San Ramon, California 94583

www.TriValleyLaw.com

(925) 328-0128

Marc@TriValleyLaw.com

View my research on my SSRN Author page:

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From: Deborah C. Grossman
To: [Jenny Soo](#)
Subject: Re: Support for Chabad of the Tri-Valley permits, 3370 Hopyard Rd.
Date: Tuesday, March 20, 2018 10:42:45 PM

Dear Planning Commission Members,

Please support the efforts of Rabbi Raleigh Resnick of Chabad of the Tri-Valley at 3370 Hopyard in their worthy efforts to upgrade our Jewish community center.

I have lived on Lin Gate St. in Pleasanton for 30 years. Since the Resnicks opened their Chabad Center 12 years ago, I have participated in their activities on a regular basis. I attend educational seminars, history programs, language sessions, family dinners, and community holiday events. Everyone treats each other with respect and caring at all activities, and the tone of all activities is reverent and peaceful.

Chabad is like a family in the Tri-Valley for anyone who comes through the doors. Since moving to Hopyard Rd., the number of participants has grown and expansion is clearly needed to continue the strong programming the Resnicks present.

Moreover, Rabbi Resnick gives back to the City. He strongly supported one of my community programs when I was Poet Laureate of Pleasanton from 2009-2011. He gave a presentation with other clergy on my program, "Poetry in Four Religions" at the Firehouse Arts Center. His presentation was widely liked and appreciated by the many attendees.

My life and that of my husband Michael have been greatly enriched by Chabad. Over the years I have brought friends to Chabad and some are now regular participants. Rabbi Raleigh and his wife Fruma support the local community by holding educational events open to the public about our religion and food tastings at local retail stores. For example, Rabbi Raleigh has held honey tastings in stores when our special autumn High Holidays when honey is a major ingredient. The more we learn about each other's religions in Pleasanton, we will elevate cultural awareness, respect, and neighborhood bonding in our community.

We plan on supporting Chabad at the Preschool with additional resources, but we need the City's support to enable Chabad to grow and influence Pleasanton life in a positive way.

Members of the Planning Commission, we need your help to upgrade the building and hold more events at the center. Please vote 'yes' on the changes presented to the City to enable our Jewish lives to continue to thrive with the Resnicks at Chabad.

Yours truly,
Deborah Grossman
[REDACTED] Lin Gate St.
Pleasanton, CA 94566

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From: Michael Grossman
To: [Jenny Soo](#)
Subject: Support for Chabad of the Tri-Valley permits, 3370 Hopyard Rd.
Date: Wednesday, March 21, 2018 12:02:15 AM

Dear Planning Commission Members,

The Chabad of the Tri-Valley at 3370 Hopyard is an integral part of the Pleasanton community.

They perform community services and assistance in many ways. Many of their members are community leaders. Chabad is an asset to Pleasanton, as are its members. Pleasanton should cherish its assets.

Chabad is a good neighbor in the neighborhood, is peaceful, caring, considerate, and just like any other good neighbor they are community minded.

In the whole City of Pleasanton, there is only one family who is against having a preschool for children to learn not only their religion, but how to become good community members and good neighbors as they grow to adulthood, and become the next generation of the City of Pleasanton.

To have one family out of the entire City act as a bully, with unfounded fear of people who are different from them - only in their choice of religion - attempt to stop a perfectly legal and in compliance with all of the City of Pleasanton's laws, regulations, permits, etc, is disgraceful.

If Chabad is in compliance with the City of Pleasanton, why would the City allow one family out of the entire population of Pleasanton stop them from having a preschool?

What has the City done to mitigate the situation and offer the one family a satisfactory resolution? Or will nothing satisfy the one bullying family?

Dear members of the Planing Commission, how can you in good faith, with a good heart and good community spirit allow one family to stop Chabad from having a preschool to form small children into good community members.

Sincerely,
30 year resident of Pleasanton
Michael Grossman [REDACTED] Lin Gate St. 94566

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From: Debbie Heimowitz
To: [Jenny Soe](#)
Cc: [talljas@](#)
Subject: Letter of Support for Chabad
Date: Wednesday, March 21, 2018 10:42:17 PM

Dear City of Pleasanton,

As a 1999 Graduate of Foothill High in Pleasanton as well as UC Berkeley and Stanford Grad school, my roots are tied closely to Pleasanton, the Tri-Valley and Bay Area. My family lives here too, my parents, my 5-year-old son and 13month old baby boy. Chabad is a wonderful and sorely needed addition to our beautiful and cherished community. In high school, I was one of the few Jewish students and feared I would not be able to return and raise my own family in Pleasanton due to the very small Jewish population. When Chabad came in, it not only created a community that didn't exist, it gave those of us with roots in both Pleasanton and Judaism the perfect extended home and sense of inclusion. We all know Pleasanton is changing and this is one of the best changes I could have dreamed of. To give you an idea of how they have impacted our lives in a positive way, Fruma (the Rabbis wife and founder of the preschool,) heard about my struggles with infertility and took me under her wing to help me get pregnant with my second baby after I was given no hope by the doctors. Just weeks after learning from her spiritual and cultural guidance I became miraculously pregnant and I believe my experience was greatly impacted by Fruma. After the support from Fruma and Raleigh, there is nothing we wouldn't do to support Chabad. It broke my heart to hear there was any opposition to their expansion program. The goodness and greatness that Chabad has created knows no bounds and will only encourage other young Jewish families to join the community in Pleasanton as we have. Please don't hesitate if you have any questions or need further endorsements or documentation.

Sincerely,

Debbie, Jason, Blake & Dax Azicri

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From: Viveca Hubbard
To: [Jenny Soo](#)
Subject: Chabad Center permit
Date: Monday, March 19, 2018 9:31:01 AM

Dear Pleasanton Planning Commission,

My name is Vicki Hubbard. I've lived in the Parkside neighborhood in Pleasanton since February of 1997-over 20 years. I have 3 grown children who were educated in the Pleasanton Public Schools and I currently have an 8th grader at Hart Middle school. I am an active volunteer in the community. I've volunteered in the schools to help with PTA, Math, GATE, Literacy, chess club, etc. I am a volunteer Booklegger with the Pleasanton Public Library. I've been a leader in Girl Scouts and Boy Scouts. I've coached little league. I'm a member of the Pleasanton Chamber of Commerce Toastmaster club. I volunteer for the Valley Humane Society. My husband, myself and my 4 children all learned to be soccer referees so that BUSC and RAGE have ref coverage. I know a good deed and help to the community when I see one.

While I also am a member of Congregation beth emek and I volunteer there as Events and Adult Education Chair, I appreciate having the Chabad center in town. Chabad puts on many events that enhance our community and encourage well-being. Having purchased the old Masonic center they have brought new life to the area. Pleasanton is lucky to have a diverse population and I believe this makes us a stronger community.

My youngest son was one of the first preschooler at Chabad about 10 years ago. It was a lovely program and nice to have that niche available to us.

I ask the Pleasanton Planning commission to support and vote in favor of the necessary permits to open the Gan Chabad Preschool in the current location of Chabad of the Tri-Valley. I believe the Chabad Preschool will enhance Pleasanton's preschool offerings as well as being very respectful of the neighbors surrounding the property. We are, indeed, lucky to have them here in Pleasanton!
Sincerely, Vicki Hubbard

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From: aaron jakubowicz
To: [Jenny Soo](#)
Subject: Please Support Chabad
Date: Monday, March 19, 2018 3:16:54 PM

Dear members of the Pleasanton Planning Commission,

My name is Aaron Jakubowicz and I reside in San Ramon.

My family and I have been enjoying the services provided by Chabad in Pleasanton since its inception 10 years ago. We have watched in awe as it has developed and grown into a wonderful spiritual community center - meeting many wholesome needs for people in Pleasanton and the surrounding neighborhoods.

My family and Our friends in the community who benefit from and enjoy Chabad would be very grateful if you would support the continued success story of the Chabad community in Pleasanton. Please approve Chabad's request. Thank you.

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From: Kapulkin Family
To: [Jenny Soo](#)
Subject: Permits for 3370 Hopyard rd
Date: Tuesday, March 20, 2018 9:31:00 PM

To whom it may concern,

My name is Bella Kapulkin. My family and I are Dublin residents but we spend much of our time in Pleasanton. We are part of the Chabad of the Tri Valley community. To us, and many others in the community, this is far more than a religious affiliation. Our son is part of the Chabad preschool, so it's our cultural, spiritual, social, and even educational community.

Rabbi Raleigh Resnick and his wife Fruma are warm, kind and dedicated. When we first moved to the area 2 years ago and met them, they immediately made us feel welcome. It is in part to the wonderful community they created that we felt more at home in the Tri valley than we have anywhere else, and we have lived all over the Bay Area. It's vital for everyone to have a sense of belonging. The Rabbi and Fruma work tirelessly to provide that to the diverse local Jewish population.

Ever since the Resnicks purchased the building on Hopyard, we have been waiting with anticipation for them to start on the needed updates so that they can move the preschool into the building, and continue bringing together the growing Jewish population of the Tri valley.

I understand that on the 28th of March the Pleasanton Planning Commission will review Chabad of The Tri Valley's applications for permits for the building and I am writing to ask you to support me and my family, Chabad, and the entire jewish community of the Tri valley by voting to approve the permits.

Thank you for your time.

Sincerely,

The Kapulkin Family.

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From: Orlee R. Karpel
To: [Jenny Soo](#)
Subject: Support Chabad in Pleasanton
Date: Sunday, March 18, 2018 10:59:16 PM

To the City of Pleasanton,

Hi my name is Orlee Karpel. I live in Oakland CA, my parents have lived near Pleasanton for 18 years. I am a Marriage and Family Therapist in the area and work with various individuals, adults and teen.

Chabad has come into Pleasanton and has created a community that was missing before. It has educated people and brought people together. It's amazing how it has touched all ages, I have seen seniors, adults, teens and kids all rave about Chabad and how Rabbi Resnick and Fruma have positively impacted their lives. From dealing with grief, depression, infertility, abuse, loss of faith and so many other issues, Chabad in Pleasanton has helped support so many people.

People outside of Pleasanton travel to see the wonderful Community they have heard about. I travel from Oakland as much as possible to be part of it. Every time I come to a Chabad event, I meet at least a few new Pleasanton locals that tell me how they were disconnected to their Jewish identity and to any sense of community, until Chabad came.

Rabbi Resnick and Fruma have welcomed people, have educated people, have created a warm and loving community. I'm in awe of what they have created and am happy to be part of it. We look up to these wonderful people who have opened up their homes and hearts to so many.

Please support Chabad in getting their permit so they can continue impacting people's lives in positive ways. Pleasanton is so lucky to have such a wonderful Chabad house to create the community that it has. Please help support all these people who have found a home in Chabad in Pleasanton.

Thank you!!!! Please be in touch if you have questions at all.
Orlee Karpel

--

Orlee R. Karpel
[Orleer@](#) 

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From: Megan Levitt
To: [Jenny Soo](#)
Subject: What Chabad has given our family
Date: Sunday, March 18, 2018 9:29:26 PM

Dear Pleasanton Planning Commission:

My name is Megan Levitt and I have been a resident of Pleasanton since purchasing a home here with my husband and son in 2013. I am licensed to practice law and my son Aaditya is in the first grade at Vintage Hills Elementary and first grade Hebrew School at Chabad which he absolutely loves.

Chabad is the only accessible synagogue which has accepted both my son and I into their synagogue. My husband is not Jewish and the only alternative, Beth Emek synagogue, would have required my husband to be a member which he did not want. Chabad has been very understanding of my family situation and never forced anything on my family. My son will be having his Bar Mitzvah through Chabad when he becomes of age. My son is half Indian and has full acceptance with Chabad.

It really saddens to me to learn that anyone would be in opposition to Chabad gaining a permit for their school other than for discriminatory reasons. That is not for the greater good and diversity of the community. Chabad has done a great service to Pleasanton and the East Bay by providing accessible Jewish studies and education to parents and families who want their children to learn an authentic Jewish background.

Please allow Chabad to have permission to proceed with their preschool and playground which is an asset to the Jewish community and allows for equal diversity in Pleasanton, a city which has brought my family great acceptance and happiness. My son Aadi is absolutely delighted with the beautiful education he is receiving from Chabad, and without them we would have to leave Pleasanton at some point. They deserve fair and equal treatment and your vote which everyone connected to Chabad appreciates. We will be present at the hearing on March 28th to show our support for this wonderful organization that only brings unity to the community and where all people are accepted unconditionally whether you have money or not.

Best regards,

Megan D. Levitt, Esq.
Vintage Hills resident



From: Elina Manevich
To: [Jenny Soo](#)
Subject: In support of Chabad
Date: Sunday, March 18, 2018 9:35:22 PM

Hello,

My name is Elina Manevich and I wanted to write to you today in support of a wonderful Jewish community and one which my family and I have been a member of for 10 years.

I am a Russian immigrant, I came here at 10 years old, 26 years ago. My family was persecuted in Russia because of our religion. We weren't allowed admission to certain universities, couldn't attend synagogue or even have a Passover dinner at home. When we immigrated- America was our safe haven. We finally gained freedom to practice our religion. There was only one problem - we had no Jewish education and no knowledge of our own traditions.

When we came to America, my parents were busy working and acclimating to their new life, and it wasn't until I got married and moved to the East Bay, where I met Rabbi Raleigh and Fruma that I finally got a chance to be part of a Jewish community.

My kids attend Hebrew School every Sunday at Pleasanton Chabad. All our high Holidays are spent here. The sense of community and warmth that Fruma and Rabbi provide is impossible to describe or replicate. My oldest son is 2 years away from his Bar Mitzvah with Rabbi Raleigh and he cannot wait.

Chabad means a lot of things to me:

-It means freedom and a chance for my kids to learn their history - something I couldn't do as a kid.

-It means long standing friendships we have formed over the last decade there.

-And finally it means the chance to show my kids the importance of being part of a community.

I want to ensure Chabad is here for future generations of Jewish kids.

I kindly ask for your support and vote in favor of Chabad of Pleasanton.

Many thanks,

Elina Manevich

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From: [Marchand, John](#)
To: [Jenny Soo](#); [Kendall Granucci](#)
Subject: Gan Chabad Preschool Application
Date: Tuesday, March 20, 2018 8:00:15 PM

Chairman Nagler and members of the Pleasanton Planning Commission,

Thank you for your service on the Planning Commission and to the residents of Pleasanton. Your efforts ensure the sustainability of the remarkable quality of life that the residents of Pleasanton enjoy.

It has recently come to my attention that Chabad of the Tri-Valley has an application before your Commission for the Gan Chabad preschool. I have known Rabbi Raleigh Resnick for ten years and have been greatly impressed at the passion and concern that he has for the well-being our Tri-Valley communities.

I have attended thought-provoking and insightful programming that Chabad has brought to the Amador Theater, the Bankhead Theater and to the Livermore downtown. It has been my experience that participating in these events with Chabad continues to enrich our community.

I encourage you to approve their application.

Best regards,

Mayor John Marchand

City of Livermore

From: jonathan miller
To: [Jenny Soo](#)
Subject: Re: Chabad of the Tri Valley
Date: Monday, March 19, 2018 1:08:13 PM

To Whom It May Concern:

My name is Jonathan Miller and I have lived in Livermore as a homeowner for the past 12 years. I met Rabbi Raleigh Resnick at the Bankhead Theatre when Chabad sponsored a speaker there and I was moved by his sense of purpose. As a member of Chabad of Tri Valley for the past several years, I have witnessed the explosive growth of his congregation primarily because of the Rabbi's efforts to build a unique sense of Jewish Community that has not previously existed in this area in all of the time I have resided here.

His spiritual essence is a gift to everyone in the Tri Valley and his dream of beautifying the area around the Temple to create an outdoor location for community events, social gathering and as a playground for the children attending pre school there is something that the City of Pleasanton should embrace and be proud of for the benefit of all its citizenry.

I beseech you, the Planning Commission, to envision the long term benefits of such a leader as Rabbi Raleigh as part of your fine city. and not allow yourselves to be sidetracked by the shortsightedness of those few who oppose these ideas. Rabbi's plans for beautification of the area around the Temple will only add to the City Leaders' growing reputation as insightful and forward thinking in their views.

Thank you for allowing me to speak to this issue and for your consideration.

Click [here](#) to report this email as spam.

From: Darlene Miller
To: ncallen@comcast.net; greg.oconnor@comcast.net; jack.balch@sbcglobal.net; herb@ritterclan.com; dnagler@dnagler.com; justin.grant.brown@gmail.com
Cc: [Gerry Beaudin](mailto:Gerry.Beaudin@cityofpleasantonca.gov); aweinstein@cityofpleasantonca.gov; [Jenny Soo](mailto:Jenny.Soo)
Subject: Information for Chabad's March 28 Hearing based on prior Chabad petitions and City documents
Date: Tuesday, March 20, 2018 12:52:03 PM
Attachments: [Signed Petition.pdf](#)

Hello Commissioners,

We last saw you in the 2015 Planning Commission hearing regarding the Mason's violations of their conditional use permit (CUP) in which you voted to restrict outdoor activity to four events per year. The Masons appealed this decision to the City Council, who in 2016 unanimously voted for even stricter restrictions of zero events anywhere outside the building, stating,

"No outdoor events are allowed."

Since then, a Jewish organization, Chabad, bought the property from the Masons and is requesting a new CUP in a hearing before you on March 28. Please note that Chabad was fully aware of the City Council's decision of "no outdoor events" for a full year while in escrow before buying the property.

Chabad petitioned the City (On Feb. 9, 2016 and Dec. 1, 2016) asking for fifteen outdoor parties, an all-day outdoor meeting area, a playground, and a new parking lot. Furthermore, staff responded to Chabad's petition on March 10, 2016. All of these documents concern us, and furthermore, in anticipation of staff's report for the March 28 hearing, we would like to provide you with two important documents (Letter to the Editor of Pleasanton Weekly, and a petition signed by over twenty neighbors) regarding this issue as well as other items for your consideration:

1. Several Valley Trails neighbors wrote the following *Pleasanton Weekly* "Letter to the Editor," which was published in November:

"On Sept. 22nd, Mr. Bing wrote an editorial regarding the buying of the Masons' lodge and property, in the Valley Trails development, by a Jewish organization, Chabad. The Valley Trails neighbors in close proximity to the property welcome all religious groups, including Chabad. Additionally, these groups have an obligation to be good neighbors and not create a noise nuisance. Concerned about Chabad's request to the City to use the outside area for noisy activities—including fifteen outdoor parties, an all-day outdoor meeting area, a playground, and a new parking lot—over twenty residents living immediately around the building signed a petition asking the City to regulate Chabad's activities. These residents previously endured years of noisy outside activities conducted by the Masons. Last year, the City Council voted 5 to 0 to prohibit ALL outdoor activity. The residents who live near this site do not want a noise nuisance resumed or a parking lot creating fumes/noise placed next to their homes and children. Residents reasonably expect to have the quiet and safe enjoyment of their home. The Masons were allowed the rare exception of building a lodge in a residential area—usually lodges are built in commercial areas—provided the Masons kept "any noise" inside the building. For over a year while in escrow, Chabad was aware of the council's decision prohibiting any outside activity when they bought the property last month. We hope that Chabad will respect the neighbors' needs and council's decision to keep all activity inside the building."

Signed: Michael and Darlene Miller, Shyamal and Usha Gurazada, and Karthikeyan and Puja Radhakrisnan

2. A Petition was signed by over 20 neighbors (see *attached*). Please note, while

not every resident of the immediate area could be contacted, every resident who could be contacted signed the petition. The petition states:

"We, the undersigned Pleasanton residents, live in close proximity to the Pleasanton Masonic Center property at 3370 Hopyard Road, which property also adjoins properties on Valley Trails Drive, National Park Drive, and Bryce Canyon Court. The entire area, including the Masonic Center property, is zoned for residential use. We are concerned about the proposed sale of that property to Chabad of the Tri-Valley for use as a synagogue, school, and community center. We are particularly concerned with several proposed uses of the site by Chabad, which would violate the City Council's 2016 decision on the Masonic Center use permit, which required "No activities outside the building." We believe, based on our past personal experience with the Masonic Center, that the proposed outside uses will be detrimental to the public health, safety or welfare and will be materially injurious to our properties and improvements.

The City is currently reviewing a new use permit for Chabad. Chabad's proposed uses for the property include seventeen (17) outdoor parties a year, an outdoor children's playground, a new parking lot right next to residents' homes, and an outdoor "contemplation garden," whose associated uses have not yet been defined.

We believe that these uses, all of which would be located outside of the building in this residential area, will be detrimental to the public health, safety or welfare, particularly for us as neighbors to the property, and will be materially injurious to our properties and improvements. In particular, these new uses will destroy the peace and tranquility of our homes and cause us physical and emotional harm. By the City's own laws, the City cannot allow this to happen. Specifically, Municipal Code Section 18.124.070 (b) states that the City cannot approve a conditional use permit if the use would injure public health, safety, or welfare or the property or improvements in the vicinity.

On September 21, 2016, the City Council ordered the Masons to have "No activities outside the building." We applaud that decision, which protected the neighborhood from the damage it had endured. We hope and expect that any new uses on this site, and any conditional use permit for those uses, will conform to the City Council decision and its requirement that there be no activities outside the building. This would include the proposed outdoor parties, playground, "contemplation garden," and new parking area adjacent to residences, with its attendant noise, pollution, and light and glare impacts."

3. Furthermore, there are now three prior precedents prohibiting all outside activity at this site, and one prior precedent allowing very limited activity:

a.) NO OUTSIDE ACTIVITY: The 1977 Planning Commission

The 1977 Commission knew that the property was only designed for one building—St. Clair's Church. Squeezing a second building on the property would place it closer to neighbors than preferred. Therefore, to protect the neighbors, the commission specified that the building to be designed with no openings on the North and West sides of the structure and, therefore, "activity [in and out of the building] would be focused away from the northern residences." Furthermore, the building was to be designed "so as to minimize any noise which is generated from within." They stated this explicitly by requiring a buffer [the land] between the building and the residences. This created a **win-win** for everyone—the Masons could rent the inside of their building for events to the public yet not create a noise nuisance to the neighbors.

b.) VERY LIMITED OUTSIDE ACTIVITY: The 2015 Planning Commission Hearing

The 2015 Planning Commission Hearing allowed the Masons a maximum of four outdoor events and no other outdoor activities.

c.) NO OUTSIDE ACTIVITY: The 2016 City Council Hearing

The 2016 City Council went even further and prohibited all outside events by the Masons.

d.) NO OUTSIDE ACTIVITY: The 2014 Planning Department's decision in Young Ivy

Young Ivy is a children's school that wanted to build a playground in the Raley's parking lot. Of course, the planning department's staff had concerns regarding traffic and fumes; however, traffic and fumes were NOT the reasons staff denied the playground in staff's written report. In the report, staff said that they denied the playground due to the concern of ambient noise for the neighbors. Specifically, staff stated,

"The introduction of the outdoor playground area with up to 16 children at any given time, and no significant sound attenuation, could result in increased ambient noise levels during the hours of 2 PM to 6 PM. Consequently, the staff is recommending denial of this portion of the proposal."

Please note that the closest neighbors were 60 feet away on one side (and protected by a brick sound wall), and 80 feet away on another side and separated by a road. Compare this to Chabad where the closest neighbor is "zero" feet away. And, please also note that in the case of Young Ivy only one neighbor complained, but in the case of Chabad, over 20 neighbors have said they do not want this type of outdoor noise.

4. Do you want a playground and parties on the other side of your backyard fence?

We all want schools for our children, but they must be built in a planned community and follow current laws so that they are not detrimental to the public health, safety or welfare of current residents. The Chabad property is a small parcel of the larger St. Clare's property. This small parcel was simply not planned for a playground and outdoor activities.

At the end of the day, we ask, "Would you want a playground, parties, parking lot, and all-day outdoor meeting area on the other side of your backyard fence?" If your answer is, "No," then we ask you to vote consistently with the prior precedents and vote against outside activity for Chabad.

5. We stood up for those who were too scared to speak.

Over the ten years that we fought for our rights, there are two moments that stand out, which told us that we were fighting the good fight.

The first moment is due to a neighbor born in China who spoke at the City Council hearing. She stated, and we are paraphrasing, "The noise always bothered me, but I was afraid to call the police. In China, it is dangerous to call the police, but now because of this, I will call the police in the future."

The second moment is due to a neighbor born in India, who when asked to sign the petition, put his hand over his heart, as a sign of gratitude, and said, "Thank you for doing this and helping us to protect our homes."

6. Although the Millers, Gurazadas, and Radhakrisnans take the brunt of the abuse, the noise creates detrimental welfare impacts to the entire immediate area.

In the 2015 and 2016 hearings, many of our neighbors testified. For example, our neighbor who lives at the opposite end of Bryce Canyon Court, Nancy Hecht, stated, "I live on the farthest end of Bryce Canyon Ct, and I can hear when the parties go on at the Lodge. ... [It is to] Darlene and Mike's credit because they've kept after it. So I'd like the commission to enforce the current CUP and keep the activity inside." And please note, the Chinese neighbor mentioned in the section above lives at the end of Sequoia, which is over a block away, and she is impacted by the noise.

7. What does the law say?

Municipal Code Section 18.124.070 (b) states that the City cannot approve a conditional use permit if the use would injure public health, safety, or welfare or the property or improvements in the vicinity. However, we are here to tell you that the Mason, and now Chabad, outdoor activities absolutely are detrimental to our health, welfare and property value.

In March, 2016, Chabad had a party in the backyard. Approximately 100 people were outside with an additional 100 people inside. The noise from this party was a loud roar. These outdoor activities are detrimental to our health, welfare and property value. The noise permeates inside our homes so that we are unable to think, read, sleep, and work. We are also unable to enjoy our own backyard due to the noise from these parties.

Furthermore, an appraiser estimated our property value was impacted by 5 to 10%-- if we could sell it at all. Our sound engineer, Mr. Watry, is CEO of an acoustical company and has many credentials as an expert in this field. At the planning commission hearing, he testified that unwanted sound is disruptive, whether or not it is particularly loud, or even exceeds a noise level dba. He gave an example of disruptive noise of people in the back of the room having a separate conversation while we are all trying to speak at the hearing. Mr. Watry testified that disruptive noise can make people feel angry, irritated and upset. And that is the reason you cannot put activities outside the building—because you cannot determine that they will not be detrimental to our health, safety, welfare and property value.

8. We have no protection under the noise codes.

When we started this over ten years ago, we thought that the noise codes included voices. However, we found out that City Planning Dept. interprets the noise codes as not including voices. Therefore, we have no protection from the noise codes.

9. Pleasanton is a "Community of Character"—we are asking you to support this with your vote.

Pleasanton is a Community of Character, defined as: Compassion, Honesty, Respect, Integrity, Self-Discipline, and Responsibility. Imagine you bought a home in Pleasanton only to find out twenty-five years later that the land on the other side of your backyard fence was going to be turned into a noise nuisance—including a playground and party area. Creating new and detrimental conditions to an existing home is not consistent with any of these traits of good character.

Residents have a right to expect that the conditions under which they bought their homes will remain intact.

Furthermore, when people purchase or rent a house in a residential area of Pleasanton, they reasonably expect to be able to have the quiet enjoyment of their home.

10. In Summary:

We are asking you to protect Pleasanton's neighborhoods. The 1977 Planning Commission, the 2016

City Council, and the 2014 Young Ivy staff report all protected neighbors from noise nuisances, including playgrounds, by requiring no outside activity. We are asking you to do the same.

Thank you for your time and consideration. This matter is very important to the residents who live around the Chabad property.

Michael and Darlene Miller

PS. We have heard concerns that Chabad's proposed activities may be protected under RLUIPA (Religious Land Use and Institutionalized Persons Act). Our attorney will be writing a letter to the City regarding this, but he has already advised us that this act only protects activities specifically related to an organization's religious practices. Outside activities such as playgrounds, non-religious parties, and outdoor meeting areas are not covered under this act. Our understanding is that Chabad's only religious event that needs to be held outdoors, due to the construction of an outdoor tent, is the religious festival call Sukkot in October. Please keep in mind that a Masonic lodge in Los Angeles attempted this same argument to protect their outdoor activities, but they were unsuccessful.

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Petition to Protect Residents

We, the undersigned Pleasanton residents, live in close proximity to the Pleasanton Masonic Center property at 3370 Hopyard Road, which property also adjoins properties on South Valley Trails Drive, National Park Drive, and Bryce Canyon Court. The entire area, including the Masonic Center property, is zoned for residential use. We are concerned about the proposed sale of that property to Chabad of the Tri-Valley for use as a synagogue, school, and community center. We are particularly concerned with several proposed uses of the site by Chabad which would violate the City Council's 2016 decision on the Masonic Center use permit which required "No activities outside the building." We believe, based on our past personal experience with the Masonic Center, that the proposed outside uses will be detrimental to the public health, safety or welfare and will be materially injurious to our properties and improvements.


The City is currently reviewing a new use permit for Chabad. Chabad's proposed uses for the property include seventeen (17) outdoor parties a year, an outdoor children's playground, a new parking lot right next to residents' homes, and an outdoor "contemplation garden" whose associated uses have not yet been defined.

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On September 21, 2016, the City Council ordered the Masons to have "No activities outside the building." We applaud that decision which protected the neighborhood from the damage it had endured. We hope and expect that any new uses on this site and any conditional use permit for those uses will conform to the City Council decision and its requirement that there be no activities outside the building. This would include the proposed outdoor parties, playground, "contemplation garden," and new parking area adjacent to residences, with its attendant noise, pollution, and light and glare impacts.

Name: <u>Michael D. Miller</u>	Address: [REDACTED] Bryce Canyon Ct. Pleasanton
Signature: <u>[Signature]</u>	Date: 7/25/17
Name: <u>Darlene Miller</u>	Address: [REDACTED] BRYCE CANYON CT PLEASANTON
Signature: <u>[Signature]</u>	Date: 3/25/17
Name: <u>KARTHIKEYAN RADHAKRISHNAN</u>	Address: [REDACTED] BRYCE CANYON CT, PLEASANTON CA
Signature: <u>[Signature]</u>	Date: 3/25/17
Name: <u>PUJA YADAV</u>	Address: [REDACTED] BRYCE CANYON CT, PLEASANTON CA
Signature: <u>[Signature]</u>	Date: 3/25/17
Name: <u>NANCY HECHT</u>	Address: [REDACTED] BRYCE CANYON CT, PLEASANTON, CA
Signature: <u>[Signature]</u>	Date: 3/25/2017
Name: <u>SHYAMAL GURAZADA</u>	Address: [REDACTED] BRYCE CANYON CT, PLEASANTON, CA
Signature: <u>[Signature]</u>	Date: 3/25/2017
Name: <u>BHASKAR MADDI</u>	Address: [REDACTED] Bryce Canyon Ct, Pleasanton, CA
Signature: <u>[Signature]</u>	Date: 3/25/2017


Petition to Protect Residents (continued)

Name: SAMIR PARIKH
Signature: 


Address: [REDACTED] SEQUOIA CT. PLEASANTON, CA 94588
Date: May 07 2017

Name: SHAHROKH MEHIZAD
Signature: 

Address: [REDACTED] Sequoia Ct. Pleasanton, CA 94588
Date: 05/06/2017

Name: YINGMAI LU
Signature: 

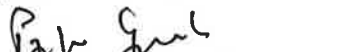
Address: [REDACTED] Sequoia Ct. Pleasanton, CA 94588
Date: 05/06/2017

Name: Jaebum Yu
Signature: 

Address: [REDACTED] Acadia Ct. Pleasanton, CA 94588
Date: 05/06/2017

Name: KEVIN CRAWFORD
Signature: 

Address: [REDACTED] Acadia Ct Pleasanton CA
Date: 5-6-17 94588

Name: PYESH GURHA
Signature: 

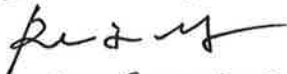
Address: [REDACTED] ACADIA CT Pleasanton CA
Date: 05/06/2017

Name: Erik Edgerton
Signature: 


Address: [REDACTED] Acadia Ct Pleasanton CA
Date: 5/6/17

Name: Shaqui
Signature: 


Address: [REDACTED] Valley trail drive
Date: Pleasanton CA 05/06/2017

Name: REN JIE Y
Signature: 


Address: [REDACTED] Valley Trails Dr
Date: Pleasanton CA 94588 5/6/2017

Name: HARRY KEO SPRINGER
Signature: 

Address: [REDACTED] Valley Trails Drive.
Date: Pleasanton, CA. 94588

Name: Young Hoe Jin
Signature: 

Address: [REDACTED] Valley Trails Dr.
Date: Pleasanton. CA 94588 5/6/2017

Name: Steve DeBums
Signature: 

Address: [REDACTED] Valley Trails Dr.
Date: 6/24/2017

Name:
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From: Ari Ochs
To: [Jenny Soo](#)
Subject: Please Allow Gan Chabad Preschool To Open
Date: Tuesday, March 20, 2018 1:42:45 AM

Dear Pleasanton Planning Commission,

I have enjoyed living in the Pleasanton area for the last 7 years. I appreciate the different cultures, religions and the family atmosphere that is missing in other communities in the Bay Area.

Chabad is a very special and dear to me. The Resnick family is very loving and caring that makes them special and unique. As any American that has dreams of growing in our beautiful country, Chabad has been working hard to open the Gan Chabad Preschool. This would be a safe/caring environment that would be wonderful for children & parents on the new land Chabad recently purchased. This would also be used as a safe place for community events and social gatherings. I use the word safe because unfortunately there have been too many tragic stories in the news recently of places that we took for granted as safe but are no longer.

Please don't allow one neighbor with a strong opposition in granting the necessary permits be the final decision maker. Please look at the value Chabad brings to the table and to the community. Please look at the neighborhood supporting their vision and have welcomed Chabad warmly to the community. I believe if the Pleasanton Planning Commission granted the necessary permits to open the Gan Chabad Preschool, they would be proud on the beauty it will bring to the city of Pleasanton.

May our Heavenly Father bless you, bless Pleasanton, bless the men & women who protect us and bless our United States of America.

Thank you!

Ari J Ochs
[aochs1@](#) 

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From: Olga Rais
To: [Jenny Soo](#)
Subject: Permit for Chabad
Date: Tuesday, March 20, 2018 9:34:18 AM

Dear City Council,

I am writing to you in regards to the hearing for Chabad organization trying to get permit for outdoor structure/activities, etc.

As a former resident of Pleasanton, having lived/owned a house at [REDACTED] Angelico Court from 2001 to 2005, and at [REDACTED] Via Quito from 2005 to 2008, whose sister graduated from the Foothill High School on 2003, with our parents having lived in Archstone Hacienda apartments in 2002-2004, I wanted to share my experience and express my opinion/ask regarding the plans of Chabad.

Back in 2000, I came to the USA from the former Soviet Union as a refugee - a Jew who was prosecuted and discriminated by local communities. I was looking for a place where my Judaism would be allowed, and where I could let my future children learn their roots, traditions and values. My first son was born in 2001, and a few years later I met Fruma and Raleigh Resnick who opened the doors of their organization to my family. My son started learning what it meant to be Jewish, what it meant to be a part of a caring community, where children felt safe. I brought him to Chabad of Tri Valley every Sunday for 8 years. During beautiful spring, summer and fall days the kids would play outside. Lessons took place in the class rooms, but ability to have outdoor activities is essential for children's health and development. When my son turned 14, Rabbi Ralleigh and Fruma organized the most wonderful Bar Mitzvah for him - the first Bar Mitzvah for my family since 1939... We had 40 guests, some of which came from Lithuania. The main ceremony took place inside of Rabbi's house. But we were able to go outside and enjoy the wonderful sunny weather taking photos and rejoicing the spirit of the celebration.

Right now, I live in Walnut Creek, and I have 2 more daughters, a 5 year old Emma, and a 7 year old Leah (who inherited the name of my grandmother, the holocaust survivor). I could take them to some Jewish community close to my home, but I do not imagine leaving Chabad of Tri Valley! Rabbi and Fruma are our family. I keep bringing my daughters to the new Chabad location every Sunday. Leah has attended for 3 years. It is the first year for Emma. We just brought a new girl from Walnut Creek to the Pleasanton location, and she is loving it.

Chabad does nothing more than it is needed to help children grow and develop into healthy, happy, joyous individuals who have freedom of learning their traditions. Kids need to be able to be outside for normal development. And they are not loud. Jewish holidays do not last overnight. Celebrations take place during light hours, or a little after, but they are all for the children, therefore there is no threat of late time loud noises for the surrounding communities. Judaism observes boundaries and has very well defined ethical morals. There are no fire works, no drugs or heavy alcohol use. The community is very clean and respectful. We work hard and pay taxes. We donate to charitable organizations. All we ask for is freedom to learn about our roots, and traditions during normal active hours of the day with possibility to enjoy time outdoor.

My family is hopeful that, even though we respectfully understand worries of the neighbors, the City Council will assess our position and conclude that we are asking for nothing beyond permission for reasonable active day time activities without any threat to peaceful resting evenings and nights for the neighbors.

Best regards,

Olga Rais
[REDACTED] Jerome Court
Walnut Creek, CA 94596
[REDACTED]

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<https://www.mailcontrol.com/sr/51mlsW3bVxDGX2PQPOmvUml+xXZX6lqb46C4URJS8joGc5mDqwQldxENbqMwmE76f1RngAlhwIDMGoTTosXlw==>
to report this email as spam.

From: Mike Regal (mregal)
To: [Jenny Soo](#)
Cc: [Mike Regal \(mregal\)](#)
Subject: Planning Commission March 28 Meeting : Please support Chabad of the Tri-Valley
Date: Monday, March 19, 2018 8:55:28 AM

Dear Commissioners,

My name is Michael Regal. I live with my family in the Carriage Hills Estates neighborhood within Pleasanton. We built our home in 1999 and raised our two children here. Our children attended Hearst Elementary, Pleasanton Middle School, and Foothill High School. My wife worked at Workday in Pleasanton, and I've been working at Cisco Systems in San Jose for 21 years.

My children were involved in cub scouts, girl scouts, little league, Ballistic soccer and school sports right here in Pleasanton. Being Jewish, we attended Congregation Beth Emek before the Chabad of the Tri-Valley arrived. Since Rabbi Raleigh and Fruma Resnick moved here, our family has been engaged at the Chabad of the Tri-Valley throughout the year.

Our family regularly attends Chabad of the Tri-Valley for religious services, educational classes, and community events. Both Rabbi Raleigh and Fruma have personally helped our family throughout various life events, both happy and sad. Raleigh and Fruma talk the talk and they walk the walk of Jewish life, providing inspiration to those of us who want to increase our connection to Judaism.

The Pleasanton community greatly benefits from the presence of the Chabad of the Tri-Valley. We support the Chabad of the Tri-Valley with our time and our pocketbook. Any opportunity for Raleigh and Fruma to increase their ability to provide services to our community should be welcomed and embraced.

Please support the issuance of the permits requested by the Chabad of the Tri-Valley, enabling us to best utilize our new property by creating a beautiful environment for holding community and social events, by creating a fun playground for children, and by opening a new Gan Chabad Preschool.

Without question, our children would attend the preschool if they were still of age. Our Jewish community is thriving and securing the permits to enhance the property will allow even more families to benefit from all the great life changing experiences that the Chabad of the Tri-Valley offers and enables.

Please support us in our efforts to grow our community.

With thanks!

Michael Regal

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From: Eric Reyzelman
To: [Jenny Soo](#)
Subject: Chabad Building Permits
Date: Tuesday, March 20, 2018 9:35:43 PM

To Whom It May Concern,

Hello,

My name is Eric Reyzelman. My family and I are proud members of the Chabad Of the Tri-Valley, and have been for 7 years. We began to attend this Chabad after we were referred by our close friends, who would not stop raving about the close, tight-knit community that they have come to be a part of. After attending a few services and meeting many of the people, we came to see that despite the small numbers and limited space for dinners and events, everyone who attended and became part of Chabad loved it because of the kindness, love, and new friendship that came with it. As the word spread, more and more people wanted to become a part of it, which in turn increased the demand for more events, space, and activities for the influx in children that were attending with their families. The kids in this Chabad are the future of what will become of it, and a preschool for them to attend with all their friends from Chabad as well as a playground for them to enjoy both during school and during services and events is just what they need. The outdoor area for events and services is nothing less than what this community deserves for the hard work and effort they have put in to make it what it is today, not to mention, it is really hard for a large group of children ages ranging from 2-6 to stay inside for the amount of time these services last. I think that when taking time to understand the effects on the children and community that this could have, it shouldn't be an if, but rather a when.

I would like to thank you for the consideration you put into this decision.

Eric Reyzelman

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From: Vera Rogova
To: [Jenny Soo](#)
Subject: Chabad in Pleasanton is important to us!
Date: Monday, March 19, 2018 4:31:06 PM

Dear Sir/Madam,

I would like to support Rabbi Raleigh Resnick and Chabad of Tri-Valley in Pleasanton, CA. I moved to Dublin last year from Belmont, CA where I belonged to another Chabad. Rabbi and his wife Fruma welcomed my family to their center with open arms and do so for every Jewish person that comes through their doorsteps. My kids also attend their Sunday school and couldn't be more happier. My family and I often come to the synagogue to celebrate all major Jewish holidays and therefore I ask for your support and vote to support Chabad's vision. There are hundreds, if not thousands Jewish people who live in this area and feel the same way!

Sincerely,

Vera Rogova-Shamilov
[REDACTED]



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From: Alex Roshal
To: [Jenny Soo](#)
Cc: [Rabbi Raleigh & Fruma Resnick](#)
Subject: Chabad of the TriValley application
Date: Wednesday, March 21, 2018 9:18:59 AM

Dear council members,

We are writing to voice our support for the Chabad of the Tri-Valley efforts to open the Gan Chabad Preschool, build a playground, and create an outdoor area for community events and social gatherings. City of Pleasanton prides itself on being a diverse, open and inclusive community. The City has shown a commitment to engaging and improving civil rights and liberties. There are many stakeholders in this community working every day towards building a better Pleasanton.

We have three grandkids attending Chabad of the Tri-Valley Hebrew school and Chabad of the Tri-Valley provides a safe place for kids free of bullying. We and our neighbors participate in the Chabad of the Tri-Valley events and social gatherings. Chabad of the Tri-Valley plays a huge role in the live of this community.

Bigotry, racism, and other forms of intolerance have no place in our society. Left unchecked, they can take root and grow very quickly. Approving Chabad of the Tri-Valley application will enhance existing City's policies against bias and discrimination.

Thank you for your consideration.

Alex and Alina Roshal

■ Ranger Ct.,
Alamo, CA 94507
■

Sent from my iPhone

From: anna chanie istakhorova
To: [Jenny Soo](#)
Subject: regarding Chabad and your upcoming vote
Date: Wednesday, March 21, 2018 9:39:42 AM

Dearest commissioners,

My name is Anna Roshal and I live in Danville, CA. I am 33 years old, am happily married, have three children (6 years old, 5 years old, and 6 weeks old), and teach middle school math for the San Ramon Valley Unified School District. I have lived in Danville for almost 8 years and it has truly become my hometown. My children go to school, play sports, and meet with their friends here. I work, shop and play here as well. As much as I love staying close to home, my family does travel out of our little bubble to Pleasanton regularly.

In Pleasanton there is a Chabad Hebrew school where my children go to learn Hebrew, about the holidays, and to have an overall understanding of what being Jewish means. My older daughters have been attending Hebrew school for the third year, and the interesting things they learn from just a couple of hours with their well educated teachers astonishes me regularly. Just recently my daughters and I were in the car driving home from Hebrew school and they told me the story of Exodus, where the Jewish people left Egypt and how they walked in the desert for 40 years before they entered the land of Israel. They knew why the Jews had to leave, because they were slaves and slavery is a bad thing. They knew that Moses was able to talk to God, just like we talk to God everyday. And lastly, they knew that all Jews are connected through that story because all Jews have that same history.

Chabad gave my children this knowledge. This information of their Jewish identity is essential. Children who have a religious identity tend to be more successful in middle school. I know this because I see many of my students from the San Ramon Valley Unified School District attend the same Chabad Hebrew school that my daughters attend. These students tend to be more socially adjusted in and out of class, as well as have a desire to perform better in their classes.

Chabad is not simply a Hebrew school. Chabad is a safe place for children and adults alike to learn about their Jewish identity. Chabad is a community of people who support each other even when they come from different backgrounds and different places of residence. Chabad is so much more than a preschool. Chabad is the first time a Jewish child learns about the high holy holidays, kosher, modesty, and of course God.

I did not always consider Danville home. I come from New York City where the notion of Chabad originated. I come from twelve years of Jewish education from Hebrew school and yeshiva. While Chabad outshines the Hebrew school I went to, it does so much more than simply teach children. Chabad also provides a place of inclusion for me and my husband.

Chabad provides us with the ability to openly talk with a spiritual leader regardless of our dress, background, or religious beliefs. Essentially, Chabad is the perfect place for my family. And for a family who doesn't get out of Danville much, we travel to Pleasanton to be with our Jewish family weekly.

I ask you to please vote in favor of supporting our Chabad. I ask you to vote in favor of supporting our identity. I ask you to vote in favor of giving my children and hundreds of other children a safe place to be Jewish.

Thank you for your time,
Anna Roshal

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From: itshakr@
To: [Jenny So](#)
Subject: The Chabad of the Tri Valley
Date: Sunday, March 18, 2018 9:24:41 PM

My name is Itshak Rosner and although we live in Danville, we are committed members of the Chabad Pleasanton center. The Chabad center has provided us the opportunity to practice our religion for the last 12 years. It's importance to the Pleasanton community and adjacent cities is quite amazing.

The Chabad center services every single member of a family from young to old. It instills fundamental values to every member regardless of age and provides examples of good citizenship. The Chabad center benefits to the community is priceless!

Your support of the Chabad center will pay dividends for many many years and strengthen the community immensely!

Thank you for your support.
Itshak Rosner

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From: Roberto Sadkowski
To: [Jenny Soo](#)
Subject: Chabad of the Tri-Valley: Please vote in favor of their needed permits.
Date: Tuesday, March 20, 2018 10:43:07 AM

Dear Planning Commission: City of Pleasanton,

This is Roberto Sadkowski and together with my wife Esther and my two children: David and Ethan moved to Livermore in 2012. After settling in our new home we started looking for a place nearby that will teach our kids Jewish values, traditions, moral and good ethical behavior. We were fortunate to stumble upon Chabad of the Tri-Valley in Pleasanton. Our kids have been going to Hebrew School since then and we make the trip to Pleasanton every weekend. Rabbi Raleigh and his wife Fruma are the most dedicated, hardworking and loving people I know in Pleasanton. We supported the Congregation since 2012 and saw it grow in scope and in size with more members coming in. This has allowed us to grow our own network of friends. People are coming to Chabad of the Tri-Valley in Pleasanton from far away as: Danville, Castro Valley, Tracy, Livermore to seek the spiritual fulfillment in themselves and their kids.

I strongly support Chabad in all their contributions to our Community and ask you dearly to vote for their needed permits so my kids and the hundreds of kids that pass through Chabad for Pre-School/Hebrew School/religious learning as well as adults who further their spiritual needs can continue to find it in their new facility.

Sincerely,

Roberto Sadkowski

■ Travis Circle

Livermore, California 94550 ■

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From: Yelena Shapiro
To: [Jenny Soo](#)
Subject: Letter in support of granting permits to Chabad
Date: Monday, March 19, 2018 1:15:55 PM

Dear Planning Commission,

This letter is in full support of securing the necessary permits to open the Gan Chabad Preschool, build a state of the art playground, and create a beautiful outdoor area for community events and social gatherings and we encourage you to grant the Chabad center those permits.

I'm Yelena Shapiro and I'm writing this letter on behalf of my husband, Leon and myself. I work at Bank of the West in anti money laundering investigations and sanctions compliance while Leon works at Chevron in IT. We recently relocated from Belmont, CA to Castro Valley, CA and were greeted with open arms by the Chabad of TriValley community.

Both my husband and I have had previous involvement with Chabad starting at University- he at San Francisco State University and I at University of California, San Diego where we attended the occasional holiday and Shabbat dinner and learned about our religion and heritage.

Since we have relocated to the East Bay, we have started becoming more involved in our community - meeting our neighbors, reading the local news, and attending periodic hearings. Chabad has helped us navigate and get acquainted with the different cities around us and assisted us with our familial needs.

My husband and I are starting a family with our first baby on the way and having a warm and welcoming community around us is critical. We have already discussed and agreed to send our little girl to the Gan Chabad Preschool so obtaining permits for the new preschool facility is imperative. There is no other preschool like the Gan Chabad Preschool, one where we would feel comfortable leaving our child and we know that the state of the art facility will be a crucial place in raising our strong, intelligent, and community-focused daughter.

We strongly urge you to support this community staple. Thank you for your time and support.

Best regards,

Yelena and Leon Shapiro

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From: David S.
To: [Jenny Soo](#)
Subject: on the behalf of the Chabad of the Tri Valley
Date: Wednesday, March 21, 2018 6:03:55 PM

Dear Jenny Soo,

My name is David Sheyman, and I am writing on the behalf of the Chabad of the Tri Valley. I am currently an economics major at Santa Clara University, but I originally come from the East Bay. Allow me to provide some much needed background about myself. I have been going to Chabad since the age of eight. It has shaped me into the person that I am today, and this is not an exaggeration by any stretch of the imagination. Chabad taught me how to be a proper human being who leads his life every step of the way in a moral and ethical manner. In addition, Chabad nurtured in me the ability to think critically, rather than follow the herd blindly. Most importantly, Chabad has given me, and so many others, purpose and meaning in life.

However, all these important attributes must be instilled from childhood. I am a relatively grown man whose life outlooks have largely been shaped. Children, on the other hand, must be nurtured from the beginning, and I may argue, this is important now more than ever. Unfortunately, many of this generation's children and teens having no real sense of direction. They are eating tide pods, taking guns into their hands and shooting innocent people at schools, etc. To put it simply, a large part of the millennial population lacks a moral compass. They go wherever the herd goes. However, doing what is right, is not always popular. And what is popular, is not always right. This sounds pretty cliché, but it rings true to this day. A moral compass, a basis for right and wrong, is extremely important.

When children are given a well-rounded education, and a basis for approaching their life, they learn to think and ask questions. And the more they think and ask, the more they try to understand the world; the more they want to understand what is right and wrong. When one is taught kindness, caring for one another, thinking before acting, and other important values from an early stage in life, then our children grow up to be citizens who occupy themselves in

making the world a better place. However, before we attempt to nurture our children in order to make the world a better place, we have to start from ourselves. Leading by example is of utmost importance, and that is exactly what Chabad has been doing. If anyone deserves to open up a preschool, it is Chabad.

Regards,

David Sheyman

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From: Shira Shore
To: [Jenny Soo](#)
Subject: Chabad in Pleasanton
Date: Thursday, March 22, 2018 7:25:46 PM

March.22.2018

Hello, my name is Shira Shore and I am in 4th grade at Greenbrook Elementary School in Danville. I graduated from Gan Chabad Preschool in 2013. My mother brought me to Gan Chabad because it not only taught me letters and numbers, it taught me about Jewish values, history, Hebrew, and holidays. I got to watch the class size grow over the years.

I still get to see my friends from preschool at Hebrew school every Sunday. We get to learn Hebrew and the history of our people. There aren't too many kids at my Elementary school that are Jewish, so it's nice to have Jewish friends at Hebrew School.

I was so excited when the community raised enough money to buy the Masonic building and really look forward to having enough space for the community center, hebrew school classes, and of course for the preschool, which is where Jewish learning begins.

Sincerely,
Shira Shore

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From: Laura Silverstein
To: [Jenny Soo](#)
Subject: Planning Commission
Date: Monday, March 19, 2018 9:07:44 PM

To Whom it may Concern in the Planning Commission:

Our names are Laura Silverstein and Daniel Jontof-Hutter. We live here in Pleasanton. Our family previously lived here from 2012-2014. We then had to move away for two years. When my Daniel got a permanent job offer as a professor at the University of the Pacific in Stockton, we were elated to move back to the area. Rather than live in Stockton or closer to Daniel's job, we decided to settle here in Pleasanton. We hope to make this our permanent home. One of the major drivers for living in Pleasanton is the Jewish community created by Rabbi Raleigh and Fruma Resnick through Chabad of the TriValley. We wanted our children to have a warm, loving, and strong Jewish education starting from an early age. Our children have both had wonderful experiences at the preschool. We are looking forward to the preschool being able to grow as our daughter enters the Pre-K class next year. Our son is now in kindergarten, he spends his afternoons learning with Chabad. It is amazing to have him benefit from the great public education system here and then be able to learn about his religion, the Hebrew language, and the Jewish culture every afternoon. Chabad has given us the flexibility for him to have this opportunity. Each afternoon he learns at the Chabad center.

On holidays the Chabad Center is overflowing with people coming to celebrate. The building, the schools, the catering, each holiday celebration, every adult education opportunity are all funded locally by members of the community here. There are no dues required. They rely solely on donations and people are eager to help build the community further. Many of the participants are young families who live here in Pleasanton and

nearby. We have been one of the lucky few families that could send our children to the Chabad Preschool which is currently limited in the number of children because it is in the living room of the Rabbi's residence. I know there are many, many families who have been waiting for two years for the Preschool to open in the new Chabad Center where there will be more classroom space for the young children to learn and play. This will give more families the education opportunity our children have had.

We live on Tanglewood Way close to Walnut Grove Elementary school. We love being able to walk to Main Street and enjoy the restaurants, shops, and festivals. We also love that we can walk to the Chabad Center for holidays and Saturday morning services.

Chabad and Rabbi Raleigh and Fruma have created a warm and welcoming Jewish community. For people like us, who have family far away, having a place to go on holidays and celebrations that feels like home is so important.

I am an obstetrician and gynecologist with my office in Dublin, and delivering patients and doing surgery at ValleyCare here in Pleasanton. I love my job and the opportunity to treat and serve the people of Pleasanton. Pleasanton is a wonderful, family friendly community. But the reason we live here is because of the Jewish community. This planning commission should be supportive of the institutions in the community that are welcoming, supportive, and comfortable for the diverse, active, and growing population.

Thank you for your consideration for the approval of the permits requested. Please feel free to contact us.

Sincerely,

Laura Silverstein, MD and Daniel Jontof-Hutter, PhD

██████ Tanglewood Way

Pleasanton, CA 94566



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From: Greg Sokol
To: [Jenny Soo](#)
Subject: Gan Chabad Preschool and Community Center
Date: Sunday, March 18, 2018 8:59:17 PM

Hello,

My name is Greg Sokol. Me, my wife and two our daughters are residents of Castro Valley and members of Chabad of Tri-Valley.

We have moved to the area in 2007. Since then Chabad of Tri-Valley is the center of Jewish live for us. Our kids attend Hebrew school, we participate in holiday celebrations at Chabad and enjoy educational courses.

Chabad of Tri-Valley allowed us to acquire new friends and set roots in Bay Area.

We will appreciate if City of Pleasanton will continue supporting Chabad of Tri-Valley and issue permit for the new facility.

Sincerely,

--

Greg Sokol

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From: Susan Thomas
To: [Jenny Soo](#)
Cc: [Ellen Clark](#)
Subject: P16-1883/P16-0288, Chabad of the Tri-Valley
Date: Saturday, March 24, 2018 8:12:36 AM

Ms. Soo:

As a supporter of the very long, detailed and expensive fight that the City of Pleasanton put Mr. & Mrs. Miller through with the former business on this property, I'd like to be informed on this item prior to (possibly) sending my concerns. However, I don't have all of the information that I feel I need in order to do so. Therefore, I am asking that you please forward me a copy of the CUP, and any other information that you have on this item.

Thank you, in advance, for your cooperation.

Susan Thomas

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From: Kim & Ed Wies
To: [Jenny Soo](#)
Subject: Letter of Support for Chabad of the Tri Valley
Date: Tuesday, March 20, 2018 8:52:26 AM

Hi, my name is Adam. I live in San Ramon and go to Iron Horse Middle School. I am in 7th grade. Chabad is really important to me. It provides a great Jewish environment for me and my friends to do Jewish things. I have many happy times at Chabad and I want these events to continue for all the young, middle aged, and old members of this organization. So please, support Chabad to build these premises for all the people in the Chabad community.

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From: Kim & Ed Wies
To: [Jenny Soo](#)
Subject: Letter of Support for Chabad of the Tri Valley
Date: Tuesday, March 20, 2018 8:41:55 AM

My name is Kim Wies and my family and I live in San Ramon. We have two children, Adam, 12, and Sarah, 9. We have been going to Chabad of the Tri Valley events for six years.

Chabad is a family and a home for us. When we celebrate our traditions, it gives our children strength to be successful in their daily lives. Sometimes adults and children don't know what to do or the right path to take in life and practicing our religion tells us how to go the right way.

Life is full of pain. But it is our faith that keeps us up and puts us on the right path to be the positive change we hope to see in the world.

Life is also full of joy. And it is our traditions that tell us it is good to be joyful and that joy can make the world better.

It is not how often you go to the synagogue, but how much you feel when you leave. For adults it helps us get through our everyday lives. For our kids its self respect and awe they pull from synagogue. They will use this during life's tough moments they will face growing up.

It's really about hope. I have been very sad about losing my mom and when I had a chance to write this letter it perked me right up. I am very happy to show my support for Raleigh and Fruma because they have given us so much. I ask for your support and vote. Thank you so much.

Sincerely,
Kim Wies

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From: Jonathan Weisman
To: [Jenny Soo](#)
Cc: [rabbi@](#) [REDACTED]
Subject: Support for Chabad of the Tri Valley
Date: Monday, March 19, 2018 2:54:14 PM

Dear Esteemed Members of the Pleasanton Planning Commission,

My name is Jonathan Weisman and I have been a Pleasanton Resident for three years. I used to live in Santa Clara and have a dental practice in Fremont. As my daughter grew older, my wife and I decided that we wanted a family friendly community in which to raise our daughter. We of course considered Fremont because of the proximity to my office. Once we became familiar with Pleasanton, we decided that Pleasanton exhibited the ambience that we desired. Being able to enjoy a warm and enriching Jewish life was important in our decision.

My family has been with Rabbi Resnick and Chabad even when they were in their former location. As they expanded and needed a more substantial location, it was obvious that there were not many locations that could meet the needs of a religious organization with regard to size and functionality. Included in functionality would be having the ability to have celebrations both indoor and outdoor, and a religious school with a playground.

I heartily support Chabad of the Tri Valley. I beseech the Planning Commission to grant the necessary permits allowing Chabad to function fully; thereby supporting the local Jewish community.

Cordially,

Jonathan Weisman, DDS

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From: Wies, Ed
To: [Jenny Soo](#)
Subject: Please give your support and vote
Date: Tuesday, March 20, 2018 4:59:31 PM
Attachments: [image001.png](#)
[image004.jpg](#)

To : jsoo@cityofpleasantonca.gov

From: Edward A. Wies

Hi,

I am Ed Wies and a member of Chabad Pleasanton. My family and I live in San Ramon. We have been members of Chabad in Pleasanton for the last 9 years. My wife substituted and taught at the Chabad pre-school. We were very excited when we heard of the move to the larger facility. The new facility feels like home and provides all the room needed for temple activities.

Chabad has proven to be very important to my family and I over the years. Recently my family was dealing with a crisis as my Wife's mother passed. Chabad was available and helped us through the crisis. I have never received such personal and prompt support from a temple. They were there when we needed them. I truly do not know what I would have done without their support. I also like Chabad because they seem to find the time to give everyone personal teachings and their time. We are never turned away. They are always there for us.

We belong to several temples but I enjoy going to services at Chabad the most. The services are interesting and engaging. I feel as though I belong.

Please give your support and vote for the necessary permits to open the Gan Chabad Preschool, build a playground, and create an outdoor area for community events and social gatherings. Chabad is very important to us.

Thank You,
Edward Wies



Edward Wies

Technical Support Specialist, Service Delivery

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From: Arie Zilberstein
To: [Jenny Soo](#)
Subject: Vote for opening Chabad Preschool
Date: Tuesday, March 20, 2018 5:24:14 PM

Dear commissioner,

My name is Arie and I've been a Pleasanton resident for the past 1.5 years. My family and I love visiting Chabad of the Tri Valley. Chabad serves as a gathering point for Jewish and Israeli community members. It is there where we observe the holidays, meet friends and family members, and connect to our cultural roots.

We were delighted to hear of the recent opening of the Chabad center at Hopyard Road, and we eagerly expected to enroll our 2-year old daughter in the Chabad Preschool. We are saddened to hear that there are obstacles to opening the preschool. I am writing to ask you to please reconsider the decision, and let the preschool open.

Reasons why we'd like the preschool to open include:

1. The preschool will increase the availability of quality Jewish early education in the area. Today, Jewish education availability is scarce.
2. The preschool will be located in an area suitable for community gatherings. It is close to major roads and has sufficient parking so as to not disturb the neighbors.
3. Extra noise coming from the preschool is negligible considering that the location is adjacent to a church and a major road.
4. We believe Pleasanton as a whole would benefit from increased development and growth.

We hope our voice will be heard and together we can pave a path forward. I wish to thank you for reading this and hope you can vote in favor of opening the Chabad preschool.

Arie Zilberstein
Pleasanton

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April 17, 2018

City of Pleasanton Planning Commission
City Administration Building
P.O. Box 520
Pleasanton, CA. 94566

Via email, only.

RE: Chabad of Tri-Valley California
CUP Project No. P-16-0288

Dear City Council Members:

In conjunction with the Law Office of James G. Schwartz our law firm represents the Chabad of Tri-Valley, a California Religious Non for Profit Corporation, regarding the development of its property for outdoor use. The purpose of this letter is to recount facts that you may not be aware of as well as the current state of the law should the Planning Commission decide to decline to approve the Conditional Use Permit at its hearing on March 28, 2018. I will be attending the hearing that evening with my client.

What is Chabad?

By way of background, my client, been serving the Orthodox Jewish communities of Pleasanton, Dublin and Livermore, California since 2005. We are a Chabad. Chabad is an acronym for chochmah-binah-da'at (wisdom, understanding, knowledge). The term signifies the philosophical-theological approach of a world-wide Jewish Hassidic movement founded over 200 years ago, synthesizing the standard and mystical trends in Judaism, seeking a spiritual regeneration of all Jews to strengthen Jewish religious identification and life-style.

Followers of this movement, known as "Chabad Hassidim," or "Lubavitch Hassidim," cover the total spectrum of population, i.e., rabbis, teachers, academics, medical practitioners, lawyers, businessmen, artists, and every other kind of profession or livelihood. Contemporary followers are guided and inspired by the teachings of the last head of this movement, the late Grand-Rabbi Menachem M. Schneerson, known as the Lubavitcher Rebbe and universally recognized as the foremost Jewish spiritual leader of the 20th century. Rabbi Schneerson taught that it is incumbent upon every Jew, layman no less than clergy, to seek the spiritual and material welfare of all their co-religionists as well as mankind at large, and especially to impress Jewish tradition upon every Jew.

A *Chabad House* is a homonymous term. It may be the official center sponsored by the Chabad-movement in whatever community that serves as a place of worship, lectures and public education, daycare centers for children or the elderly, parochial schools, and social welfare programs for the Jewish community – any one of these or any combination of some of these. There are presently over 2000 such centers throughout the world wherever Jewish communities exist. The Lubavitcher Rebbe instructed all of his followers to designate Chabad Houses in the symbolic sense of identifying with values and goals of the Chabad Movement in terms of personal religious lifestyle alongside devotion to other people (inspiring all who dwell or visit there); and as an educational tool for the resident children to realize their responsibilities toward everyone else.

The mandates of our faith are found in a long library of texts discussing the use of our Chabad House for religious purposes. One text known as the *Shulchan Aruch* is the Definitive Code of Jewish Law, i.e., ecclesiastical laws, binding upon all religious Jews. This legal code, first collated in 16th century, was subsequently complemented by much supplementary commentaries, glosses and other additions, taking into consideration later developments and newly arising conditions ruled upon by the Jewish legal authorities of every generation. In the 20th century, numerous works were published as compendia or digests of specific sections of the *Shulchan Aruch* to summarize all relevant materials in their specific contexts (thus separate synopses of, e.g., all the laws relating to the practical observance of the Sabbath, the various Holy days, prayer, dietary laws, and so forth.

In a Chabad House, even the non-consecrated activities such as eating, sleeping, playing, must also be infused with holiness, even beyond the normative religious rituals that are mandated (such as grace before and after consumption of food and beverages, Torah-study in both day and night-time, the observance of the Sabbath and Holy Days with their specific rituals, family-celebrations that relate to religion, acts of charity and kindness, affixing of mezuzot – scrolls of Biblical passages affixed to all doors as reminders of Divine presence, requirement of some library of religious texts even if it be minimal etc.), to become in effect miniature sanctuaries – though not of permanent status nor of the same kind as a synagogue. Where and when it is possible to partake in communal prayer, as when there is a regular quorum-service in a synagogue, or where it is possible to assemble a quorum, one is duty-bound to do so.

With respect to the entitlement process, my client applied for a CUP in September 2017 as it has a prior approved use that it has been working under since occupying the space May 2016. My client purchased the property on August 31, 2017. The requested approval is minor in light of the uses sought in this matter.

The Religious needs of the Chabad.

In this application for a Conditional Use Permit (CUP), we are seeking the use of the outdoor ground for religious purposes for an estimated ten to fifteen events per year. One such use is a

temporary use that occurs during the week-long celebration of Sukkot, one of the three pilgrimage festivals of the Jewish year. According to rabbinic tradition, we build tent-like structures represent the huts in which the Israelites dwelt during their 40 years of wandering in the desert after escaping from slavery in Egypt. The rabbis of the Talmud stipulated that a sukkah should have at least three walls and a covering. The walls can be of any material, but should be sturdy enough to withstand an ordinary wind. The roof should be made out of thatch or branches, which provides some shade and protection from the sun, but also allows the stars to be seen at night. It is traditional to decorate the sukkah and hang fruit and fragrant plants inside.

During the holiday, Jews traditionally spend as much time in the sukkah as possible. Weather permitting, meals are eaten in the sukkah, and some people even to choose to sleep in the Sukkah. No amplification or instrumentation of any kind at any service will be used – not only to accommodate the neighbors but also it is forbidden by Jewish law.

We also intend to use the outdoor area, north of the building, for a preschool playground. The small playground has a capacity for 25 children. As noted above, everything we do at the Chabad has a religious purpose, including children playing outdoors. We believe that responsible play, as an educational tool, helps our children realize their responsibilities toward everyone else. We are aware that one neighbor objects to the outdoor use as a play area based on noise. In light of this objection, we have retained a sound specialist to perform a sound study to test the level of noise that would come from the little children playing outside. The study confirmed what we believed to be true: normal sound would come from the play area, the same sound that, who, performed a study that has been provided to you.

Application of the Religious Land Use and Institutionalized Persons Act (RLUIPA)

The reason for this letter, and my appearance at the Planning Commission meeting, is my concern is the lack of recognition of the implication of the Religious Land Use and Institutionalized Persons Act (RLUIPA) by the members of this honorable commission as this law is relatively new and unknown. In September 2000, Congress passed RLUIPA after it recognized the unique threat to religious liberty posed by certain categories of state action to address them. RLUIPA. RLUIPA's protections must be "construed in favor of a broad protection of religious exercise, the maximum extent," permitted by RLUIPA and the Constitution.

RLUIPA is a federal statute enacted, among other reasons, to protect religious organizations against the effects of improper land use decisions. "RLUIPA is Congress's latest effort to protect the free exercise of religion guaranteed by the First Amendment from governmental regulation." *Guru Nanak Sikh Soc'y v. Cnty. of Sutter*, 456 F.3d 978, 985 (9th Cir. 2006). RLUIPA was designed to provide heightened protection for the free exercise of religion, especially in the area of land use and zoning regulation. *Cutter v. Wilkinson*, 544 U.S. 709, 714-15 (2005).

In their joint statement to the Senate about RLUIPA, co-sponsors Senators Orrin Hatch and Edward Kennedy observed:

The right to assemble for worship is at the very core of the free exercise of religion. Churches and synagogues cannot function without a physical space adequate to their needs and consistent with their theological requirements. The right to build, buy, or rent such a space is an indispensable adjunct of the core First Amendment right to assemble for religious purposes.

146 Cong. Rec. S7774 (July 27, 2000). Concerned that “[c]hurches in general and new, small, or unfamiliar churches in particular, are frequently discriminated against ...in the highly individualized and discretionary processes of land use regulation,” the Senators described how some “[zoning] codes permit churches only with individualized permission from the zoning board, and zoning boards use that authority in discriminatory ways.” *Id.* The Senators further noted “discrimination lurks behind such vague and universally applicable reasons as traffic, aesthetics, or ‘not consistent with the city’s land use plan.’” *Id.*

Under RLUIPA’s Substantial Burden clause,

No government shall impose or implement a land use regulation in a manner that imposes a substantial burden on the religious exercise of a person, including a religious assembly or institution, unless the government demonstrates that imposition of the burden on that person, assembly, or institution—

(A) is in furtherance of a compelling governmental interest; and

(B) is the least restrictive means of furthering that compelling governmental interest.

42 U.S.C. § 2000cc(a)(1).

Congress broadly defined “religious exercise” to include “*any* exercise of religion, whether or not compelled by, or central to, a system of religious belief,” and specified the “use, building, or conversion of real property for the purpose of religious exercise shall be considered to be religious exercise of the person or entity that uses or intends to use the property for that purpose.” 42 U.S.C. § 2000cc-5(7). Congress further clarified RLUIPA is to be “construed in favor of a broad protection of religious exercise, to the maximum extent permitted by the terms of this chapter and the Constitution.” 42 U.S.C. § 2000cc-3(g). The religious use must first show the City has implemented a land use regulation that imposes a substantial burden its religious exercise; the burden then shifts to the City to show the burden furthers a compelling government interest and is the least restrictive means of furthering that interest. 42 U.S.C. § 2000cc-2(b).

It is clear that a denial of the CUP will result in a substantial burden on the Chabad's religious exercise. While RLUIPA does not define the term "substantial burden," case law is instructive. In the Ninth Circuit, "for a land use regulation to impose a substantial burden, it must be oppressive to a significantly great extent. That is, a substantial burden on religious exercise must impose a significantly great restriction or onus upon such exercise." *San Jose Chr. College v. City of Morgan Hill*, 360 F.3d 1024, 1034 (9th Cir. 2004) (internal quotations omitted). Under this interpretation, "[a] substantial burden exists where the governmental authority puts substantial pressure on an adherent to modify his behavior and to violate his beliefs." *Int'l Church of Foursquare Gospel v. City of San Leandro*, 673 F.3d 1059, 1067 (9th Cir. 2011) (internal quotations omitted). Thus, a substantial burden "must place more than an inconvenience on religious exercise." *Guru Nanak*, 456 F.3d at 988 (citing *Midrash Sephardi, Inc. v. Town of Surfside*, 366 F.3d 1214, 1227 (11th Cir. 2004)).

Here, the Chabad has made clear that an essential tenet of its religious mission is to worship outdoors. Should the Planning Commission deny the CUP, the Chabad will be barred from using a large segment of its property for essential religious assembly purposes. This action will impose "a significantly great restriction or onus upon" the Chabad's religious exercise. *San Jose Chr. College*, 360 F.3d at 1034. By barring the Chabad from worshiping outside, the actions are undoubtedly "more than an inconvenience" on its religious exercise. *Guru Nanak*, 456 F.3d at 988. It would be a "substantial burden" on the Free Exercise of Religion.

Once a Court finds a municipality's actions impose a substantial burden on religious exercise, the burden shifts to the municipal defendant to prove that imposing a substantial burden on religious exercise is in furtherance of a compelling governmental interest and the least restrictive means of furthering that compelling interest. See 42 U.S.C. § 2000cc(a)(1); 42 U.S.C. § 2000cc-2(b). Compelling state interests are "interests of the highest order." *Church of Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 546 (1993).

Such interests include protecting public health, safety or welfare. *Wisconsin v. Yoder*, 406 U.S. 205, 215 (1972) ("Only those interests of the highest order and those not otherwise served can overbalance legitimate claims to the free exercise of religion."); *Sherbert v. Verner*, 374 U.S. 398, 406 (1963) ("[O]nly the gravest abuses, endangering paramount interests, give occasion for permissible limitation."). "Demonstrating a compelling interest and showing that it has adopted the least restrictive means of achieving that interest is the most demanding test known to constitutional law." *City of Boerne v. Flores*, 521 U.S. 507, 534 (1997). The standard "is not watered...down but really means what it says." *Lukumi*, 508 U.S. at 546 (internal citations omitted). Thus, the government must "show a compelling interest...in the particular case at hand, not a compelling interest in general." *Westchester Day Sch. v. Vill. of Mamaroneck*, 504 F.3d 338, 353 (2d Cir. 2007).

According to the Department of Justice, a municipality cannot simply point to an interest in noise in the abstract as a compelling interest justifying a substantial burden on religious exercise. Rather,

City Planning Commission Members
City of Pleasanton, CA.
April 16, 2018
Page 6

the government must show that it has a compelling interest in achieving that interest through the particular restriction at issue.¹ Thus, based on the record, the testimony at the Planning Commission's public hearing, and the sound studies, it is plain the City has no compelling interest to justify outright denying the Church's ability to use the Property for religious purposes.

Finally, even if the City could show its purported interest is compelling, it must also show it employed the least restrictive means of furthering that interest. 42 U.S.C. § 2000cc(a)(1)(B). In other words, the City must show its interests could not have been achieved by narrower action that burdens the Chabad to a lesser degree. *Elsinore Chr. Ctr. v. City of Lake Elsinore*, 291 F. Supp. 2d 1083, 1095 (C.D. Cal. 2003). In denying Chabad's CUP request, the Planning Commission would be employing the *most restrictive means* possible to further its interests. There is simply no way the City can show the outright ban on using the Property for religious purposes constitutes the least restrictive means of the City furthering its interests. In sum, there is no genuine issue of material fact that a denial of the Conditional Use Permit would result in a violation of RLUIPA's Substantial Burden Clause.

If you would like to learn more about the land use portion of RLUIPA, please feel free to order *Litigating Religious Land Use Matters, Second Edition* through [Amazon](#) or the [American Bar Association](#) websites. This book is the only treatise on the subject and the sole authority on the issue. I took great care evaluating every single case that courts have issued opinions on with respect to the land use portion of RLUIPA when writing it.

I write this letter not as a threat but simply as concerns raised by my client in this matter. A denial would result in costly and lengthy litigation, which, I am certain both of us would like to avoid. I have been working in this area of the law for over a decade and have taken similar cases to trial successfully. Just last summer, we prevailed in favor of a Chabad in Northwest Connecticut in a similar case. We would like to avoid conflict and look forward to an amicable resolution of this case.

Naturally, should you have any questions concerning this matter, please do not hesitate to contact me. I remain,

Very truly yours,

DALTON & TOMICH PLC

/s/ Daniel P. Dalton

DPD/omo
cc: Client

¹ U.S.D.O.J Policy Statement on the Land-Use Provisions of RLUIPA at 6-7, accessible at https://www.justice.gov/sites/default/files/crt/legacy/2010/12/15/rluipa_q_a_9-22-10_0.pdf.

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April 23, 2018

Pleasanton Planning Commission
 City of Pleasanton
 Pleasanton City Offices
 123 Main Street
 Pleasanton, CA 94566

Re: Outdoor uses by Chabad of the Tri-Valley at 3370 Hopyard Rd.

Dear Chair Nagler and Commission Members:

I am writing on behalf of my clients, Michael and Darlene Miller, whose home is directly adjacent to the land and facilities for which Chabad of the Tri-Valley is seeking a conditional use permit. My clients have been painted as horrible ogres who don't want to allow Chabad to use this building. That's simply not true. The Millers do not object to Chabad using the building for religious activities, so long as those activities remain within the building. Nor do the Millers object to Chabad conducting religious activities outside the building when such outside use is necessary for the religious activity. For example, the Millers understand and recognize that the Jewish holiday of *Sukkoth* requires construction and use of an outside structure, a *Sukkah*, as an essential part of the religious celebration.

My clients are aware that the Federal Religious Land Use and Institutionalized Person Act of 2000 ("RLUIPA", 42 U.S.C. § 2000cc et seq.) protects religious exercise from bearing an undue burden from local land use controls. Their acceptance of outdoors religious observances and celebrations is in accord with that act. However, Chabad also proposes to maintain a preschool that will use the building, and to construct an outdoor playground for use by the preschool's children. Chabad also proposes to hold barbecues and receptions for weddings and *bar* and *bat mitzvahs* that are expected to "spill out" into the outside area behind the building, which is directly adjacent to my clients' home. Both of these proposed uses are problematic because they raise the prospect of noisy activities that are incompatible with my clients', and other neighbors', quiet enjoyment of their homes. That quiet enjoyment is a reasonable expectation in a residentially zoned area, and a major reason why uses such as those proposed by Chabad are only conditionally permitted.

Chabad may argue that all these outside activities are also protected from local regulation by RLUIPA. That is certainly a stretch. As I previously explained in the context of the Masons' attempt to hold outside parties under the aegis of RLUIPA, its protections are restricted to "*religious exercise*." There is no question that the use of a *Sukkah* during the holiday of *Sukkoth* is a protected religious exercise. However, it is equally clear that a playground for preschoolers, is by no stretch of the imagination, a "*religious exercise*." Certainly preschoolers exercise in a playground, but physical exercise and religious exercise are two very different things. And, while a *bar mitzvah*, *bat mitzvah*, or Jewish wedding clearly involves a religious rite, those ceremonies would be held *inside* the building. There is no religious reason why a reception for a wedding or *bar* or *bat mitzvah* needs to be held outdoors. Further, a reception or party following a religious rite is no more a part of that rite than a post-graduation party is an academic

rite. Rather it is a social event that gains no protection from RLIUPA by the fact that it is "sponsored" by a religious organization. If a particular reception or party requires more space than is available in the building, the answer is to move that event to a bigger space, not expand it onto an outdoor area in a residentially zoned district. As was explained to a Masonic Lodge in Los Angeles in *Scottish Rite Cathedral Assn. of Los Angeles v. City of Los Angeles* (2007) 156 Cal.App.4th 108:

[N]ot every activity carried out by a religious entity or individual constitutes "religious exercise." In many cases, real property is used by religious institutions for purposes that are comparable to those carried out by other institutions. While recognizing that these activities or facilities may be owned, sponsored or operated by a religious institution, or may permit a religious institution to obtain additional funds to further its religious activities, this alone does not automatically bring these activities or facilities within the bill's definition of "religious exercise." For example, a burden on a commercial building, which is connected to religious exercise primarily by the fact that the proceeds from the building's operation would be used to support religious exercise, is not a substantial burden on "religious exercise." (Id. at p. 119 [quoting from *Westchester Day School v. Village of Mamaroneck* (2d Cir. 2004) 386 F.3d 183, 190, fn. 4].)

As for the playground and outdoor events—including receptions, barbecues, and parties proposed outside the building on the Chabad property, the issues raised are identical to those raised by the Masonic temple's prior use of the outside for very similar events. The resulting noise nuisance required my clients to come before this Commission several times to obtain relief, eventually resulting in the City Council voting unanimously to prohibit outdoor activity. My clients do not want to have to relive that experience, nor do other neighbors.

As the City is well aware, Chabad has, for more than a year, occupied and been using the property for which it now seeks a permanent use permit. During that time, it has built, occupied, and used a Sukkah during the festival of Sukkoth. However, it has not conducted the other outside social activities that it now seeks to have approved under its use permit. If these were, like the Sukkah, necessary outdoor religious activities, why were they not, like the Sukkah, also necessary during this previous period?

My clients are willing to accept indoor social activities so long as Chabad is willing to accept conditions like those that were imposed on the Masons – that the building's rear door be replaced with one that can be shown to effectively contain interior noise, and that the door remain closed during any indoor activities, with no outside activities other than those necessary for religious observances allowed.

Chabad, in its initial appearance before the City Council, stated that it wanted to be a good neighbor, and hoped to establish a warm relationship with the surrounding neighbors at this location. If Chabad is sincere in that sentiment, my clients hope it will be willing to accept the fact that its location in a residentially zoned area carries with it the responsibility to respect its residential neighbors and *their* rights. If it is willing to do that, my clients are more than happy to welcome it into the community.

Most sincerely



Stuart Flashman

cc: Planning Commission
City Manager
City Attorney
Director of Community Development

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April 24, 2018

Pleasanton Planning Commission
City of Pleasanton
Pleasanton City Offices
123 Main Street
Pleasanton, CA 94566

Re: Application of Pleasanton Noise Ordinance to Chabad use Permit.

Dear Chair Nagler and Commission Members:

I am writing on behalf of my clients, Michael and Darlene Miller, whose home is directly adjacent to the land and facilities for which Chabad of the Tri-Valley is seeking a conditional use permit. Chabad has presented the Commission with a noise study, which, it claims, shows that the outside play area for the preschool will fully comply with the provisions of the City's noise ordinance. However, there are significant errors in study that make its conclusions unreliable.

I. CHABAD'S NOISE STUDY MISAPPLIES PLEASANTON'S NOISE ORDINANCE IN WAYS THAT RESULT IN UNDERESTIMATING OUTDOOR NOISE LEVELS.

To support its application, Chabad submitted a noise study prepared by Charles M. Salter Associates, Inc. ("Noise Study").¹ A key error in Chabad's Noise Study is that it is based on the average noise level, not the maximum as required by the Pleasanton Municipal Code. Specifically, the Noise Study states ". . . we expect the average noise level from children playing to be between 53 to 56 dBA." [Noise Study at p. 1] However, the City's noise ordinance (Chapter 9.04 of the Pleasanton Municipal Code)² is not based on average noise levels. In Section 9.04.020, Definitions, the noise ordinance defines "noise level" as:

the maximum continuous sound level or repetitive peak level produced by a source or group of sources as measured with a precision sound level meter using the "A" weighting scale, and the meter response function set to "slow." [emphasis added]

Thus, what should have been estimated and assessed was not the average noise level of children playing, but the "maximum continuous sound level" or "repetitive peak level" for that play. Given that the noise from children playing, unlike that of, for example, a cement mixer, is episodic rather than continuous, the repetitive peak level – that is the maximum noise level that is produced on a recurring basis – should have

¹ *JCC Tri Valley Preschool – Outdoor Preschool Play Area Noise*, Salter Project No. 17-0029, Charles M. Salter Associates, Inc., 30 January 2017.

² Unfortunately, Chabad's noise study does not attach a copy of the City's ordinance. A copy of the relevant portions is attached to this letter.

been used. It is invalid for the Noise Study to compare average noise levels to maximum or repetitive peak noise level limits.

II. CHABAD'S NOISE STUDY USES AN ERRONEOUS INTERPRETATION OF THE APPLICABILITY OF THE CITY'S NOISE ORDINANCE.

A second problem with Chabad's Noise Study is that it misinterprets the noise ordinance's applicability. The study states, "The Pleasanton Noise Ordinance (Chapter 9.04 of the Municipal Code) does not contain specific language limiting the noise from children playing or unamplified voices." That may be true, but the lack of a specific provision addressing noise from human voices does not mean that the ordinance does not apply to human voices. That assertion comes from the City Planning Department's current interpretation of the ordinance, but this interpretation is clearly incorrect. The policy declaration at the very beginning of the noise ordinance states, in Section 9.04.010, that:

...the peace, health, safety and welfare of the citizens of the city require protection from excessive, unnecessary and unreasonable noises from any and all sources in the community. It is the intention of the city council to control the adverse effect of such noise sources on the citizens under any condition of use, especially those conditions of use which have the most severe impact upon any person. [emphasis added]

It would be hard to imagine a broader statement of applicability, and if anything, the policy declaration indicates that the ordinance does apply to human voices.

Further, while Chabad's noise study argues that Section 9.04.030 does not apply to the noise of human voices, that section states that "no person shall produce ..., on residential property, noise level in excess of 60 dBA at any point outside of the property plane" [emphasis added] A child is clearly a person.

To anticipate another possible objection, Section **9.04.070, Daytime exception**, states:

Any noise which does not produce a noise level exceeding 70 dBA at a **distance of 25 feet** under its most noisy condition of use shall be exempt from the provisions of Sections 9.04.030 [emphases added]

My client's acoustical expert, Mr. Derek Watry, used a noise estimate from a study³ on children playing that stated that a **single child yelling produces a noise level of 80 dBA at a distance of 5 feet** and well-established formulae for estimating the noise from multiple sources at different distances from the sources to determine that **24 children yelling simultaneously would produce a maximum noise level of 80 dBA at a distance of 25 feet**. That level far exceeds the limit for the exception under section 9.04.070. Additionally, given the logarithmic nature of the decibel scale, Mr. Watry determined that it would only takes three children yelling simultaneously to create a noise level of 71 dBA at 25 ft. In short, a large group of children playing should not be exempt from the standard noise limits under Section 9.04.030 Daytime Exceptions of the Municipal Code.

It should also be noted that in that same study, it was determined that, on average, each child was yelling approximately 30% of the time. While the number of

³ Sachwald, Benjamin H., *Acoustical analysis methodology for urban rooftop playgrounds in New York City*, InterNoise 2000, Ottawa, Canada, 23-26 August 2009.

children yelling at any one time would vary, the repetitive peak noise level would be considerably higher than that. Thus, for 24 children, one would need to use the noise level of more than seven, and more like nine or ten, as the repetitive peak noise – that is, a noise level that would occur several times during a play period.

Even if Section 9.04.070 were deemed to apply, its limitation is at a distance of 25 feet from the source and pertains to the “most noisy condition” – i.e., peak noise level, not average noise level. Furthermore, even if there was compliance, this exception would only apply from 8 AM to 8 PM Monday through Saturday (non-holidays). On Sundays and holidays, it would only apply from 10 AM to 6 PM. Thus, while the exception might apply to the day care playground, it would not apply to evening events after 8 PM weekdays, or 6 PM Sundays. For the reasons stated above, we contest the notion that the Daytime exception applies to the day care playground.

III. ADDITIONAL RESULTS PRODUCED BY MY CLIENT’S EXPERT

Mr. Watry, using the same data and algorithm, also determined that the noise level from 24 children yelling 70 feet away (i.e., at the residential property plane, based on the City’s representations about the playground’s location) would be 71 dBA, well above the limit for noise of 60 dBA at a residential property plane. Furthermore, only two children yelling at a distance of 70 feet would be required to create a noise level of 60 dBA at that distance.

Mr. Watry confirmed that the type of noise barrier proposed by the Noise Study, a six-foot high wooden fence that just breaks the line-of-sight, would only reduce the noise level by 5 dBA. Therefore, the noise levels, as summarized in the table below, would still significantly exceed both the standards for residential areas and the daytime exception to those standards. In order to meet City standards, Chabad would also have to be able to *assure* that no more than a small portion of the children would be shouting at any one time. Given that these are preschool children, that degree of control would be impossible.

TABLE I ESTIMATED MAXIMUM NOISE LEVELS

Number of Children	Distance	Noise Level	
		Without Fence	With Fence
1	5 ft	80 dBA	75 dBA
3	25 ft	71 dBA	66 dBA
9	25 ft	76 dBA	71 dBA
24	25 ft	80 dBA	75 dBA
2	25 ft	60 dBA	55 dBA
3	70 ft	62 dBA	57 dBA
6	70 ft	65 dBA	60 dBA
7	70 ft	66 dBA	61 dBA
24	70 ft	71 dBA	66 dBA

Furthermore, a 6-foot high barrier will not intercept the line-of-sight between play structures in the playground and the second-story bedrooms in my clients’ house. It would therefore have no effect on the noise levels at the property line plane in that

straight-line path, which would remain above the City's standard, nor on the noise levels in those bedrooms.

CONCLUSION

Mr. Watry's noise analysis shows that Chabad's playground area will, even with the additional noise protection proposed by City staff, significantly exceed the noise limits allowed by the City's noise ordinance, and will undoubtedly adversely affect the health, safety, and welfare of my clients and other nearby neighbors of Chabad's property. Likewise, large outdoor social events, such as parties and barbecues, are also very likely to violate the City's noise ordinance and similarly adversely affect the health, safety, and welfare of Chabad's residential neighbors.

As noted in a prior letter, my clients understand that, under RELIUPA, to the extent outside activities are necessary for Chabad's and its members' religious exercises, that may take precedence over temporary minor inconvenience to my clients and other neighbors. However, activities that are not religious exercise or do not need to be outdoors do not share that protection. Nor is RELIUPA's protection a blank check allowing Chabad and its members to run roughshod over the rights of my clients and other neighbors.

Under RM zoning, and specifically under Municipal Code Section 18.124.070(b), the City must make a finding that the approved use, based on its location and the conditions under which it will be operated and maintained, will not be detrimental to the public health, safety or welfare, or materially injurious to the properties or improvements in the vicinity. The City still has a duty to make that finding, and to require any reasonable measures to protect neighbors' health, safety, and welfare, so long as the measures needed to do so do not place an undue burden on Chabad and its members' religious exercise. Such reasonable measures can include, for example, requiring Chabad to locate its outside religious use areas as far as possible away from neighboring residences, erecting practicable and effective sound protection barriers around its outdoor use areas, limiting the hours when such outdoor use areas may be used (e.g., requiring evening activities to end at 8 PM or at the earliest hour allowed by required religious exercises), and placing reasonable limits at the attendance at outside events at any one time (thus, for example, providing multiple sessions with smaller groups, rather than one large session).

As also noted in my earlier letter, my clients and, I am sure, other nearby neighbors, welcome Chabad to the neighborhood and support granting its use permit applications, so long as that use permit is coupled to conditions that protect the neighbors' reasonable concerns for their health, safety, welfare, and property. Of course, those conditions must also take into account the provisions of RELIUPA, but the two need not and should not be incompatible.

Most sincerely


Stuart Flashman

cc: Planning Commission
City Manager
City Attorney
Director of Community Development

Exhibit A.
Relevant Portions of Pleasanton Noise Ordinance
Pleasanton Municipal Code, Chapter 9.04.

Chapter 9.04 NOISE REGULATIONS

9.04.010 Declaration of policy.

It is declared to be the policy of the city that the peace, health, safety and welfare of the citizens of the city require protection from excessive, unnecessary and unreasonable noises from any and all sources in the community. It is the intention of the city council to control the adverse effect of such noise sources on the citizens under any condition of use, especially those conditions of use which have the most severe impact upon any person. (Prior code § 4-9.01)

9.04.020 Definitions.

For the purposes of this chapter, certain terms are defined as follows:

B. "Noise level" means the maximum continuous sound level or repetitive peak level produced by a source or group of sources as measured with a precision sound level meter using the "A" weighting scale, and the meter response function set to "slow."

C. "Person" means any individual, or other entity including, but not limited to, a partnership, association or corporation.

D. "Property plane" means a vertical plane including the property line which determines the property boundaries in space.

E. "Sound level" is expressed in decibels (dB), which is a logarithmic indication of the ratio between the acoustic energy present at a given location and the lowest amount of acoustic energy audible to sensitive human ears and weighted by frequency to account for characteristics of human hearing, as given in the American National Standards Institute Standard S1.1, "Acoustic Terminology," paragraph Z.9, or successor reference. All references to dBA in this chapter utilize the A-level weighting scale, abbreviated dBA, measured as set forth in this section.

F. "Sound level meter" means an instrument, including a microphone, an amplifier, an output meter, and frequency weighting networks for the measurement of sound levels, which meets or exceeds the requirements pertinent for Type S2A meters in American National Standards Institute specifications for sound level meters, S1.4-1971, or the most recent revision thereof.

9.04.030 Noise limits—Residential property.

A. Residential Property. No person shall produce or allow to be produced by any machine, animal, device, or any combination of the same, on residential property, noise level in excess of 60 dBA at any point outside of the property plane, unless otherwise provided in this chapter.

9.04.070 Daytime exceptions.

B. Any noise which does not produce a noise level exceeding 70 dBA at a distance of 25 feet under its most noisy condition of use shall be exempt from the provisions of Sections 9.04.030, 9.04.040 and 9.04.060(A) of this chapter between the hours of 8:00 a.m. and 8:00 p.m. daily, except Sundays and holidays, when the exemption herein shall apply between 10:00 a.m. and 6:00 p.m. (Prior code § 4-9.07(a))

April 23, 2018

Via Email and Regular Mail

Daniel G. Sodergren
Pleasanton City of Attorney
PO Box 520, Pleasanton, CA 94566
dsodergren@cityofpleasantonca.gov

Re: CHABAD OF THE TRI VALLEY, Conditional Use Permit No. UP-77-13

Dear Mr. Sodergren:

I represent CHABAD OF THE TRI VALLEY, a Jewish religious organization ("Chabad") which has applied for a Conditional Use Permit (the "CUP") to operate its Synagogue and childcare/preschool at its 3370 Hopyard Road. A hearing for the CUP is scheduled for this Wednesday in front of the Pleasanton Planning Commission.

Rabbi Resnick, the spiritual leader of this Jewish community has gone all out to try and be a good neighbor since Chabad purchased the Hopyard Property. Just recently he met with the Mayor and other City officials in an effort to work with City staff and in fact the City Staff gave off a "we want to work with you" attitude. The Rabbi left the meeting feeling like everyone was on the same page. Then Rabbi Resnick read the staff report.

The Staff Report seemingly approves the CUP on the one hand yet adds such undue and draconian restrictions on the other hand, as to not allow this religious organization the full use and enjoyment of their property. The Staff Report (attached) seems to completely ignore the recognition and implications of the Federal Law known as "RLUIPA" (Religious Land Use and Institutionalized Persons act).

Daniel P. Dalton, an expert in RLUIPA law sent the City a letter on April 16, 2018 reminding the City of its obligations under RLUIPA (attached). Yet the City Staff neither mentions the Federal Law nor states in any way that its recommendations are in compliance with RLUIPA. Based on the Staff Report to the Planning Commission, the burdens and restrictions to Chabad in the Report are not in compliance with the Federal Statute.

RLUIPA makes it clear that the City of Pleasanton cannot impose or implement its land use in a manner "...that imposes a substantial burden on the religious exercise of a person, including a religious assembly or institution, unless the government demonstrates that imposition of the burden on that person, assembly, or institution— (A) is in furtherance of a compelling governmental interest; and (B) is the least restrictive means of furthering that compelling governmental interest". 42 U.S. Code § 2000cc

Daniel G. Sodergren
April 23, 2018
Page 2

Yet, the Staff report is so restrictive that the Synagogue would have to keep "... All exterior doors and windows remain closed but not locked when the building is in use" (Number 11 in the draft Staff Report). This is just one of many burdens and restrictions which will not allow this religious organization to fully utilize its building for its religious purposes. I doubt if any other church in the surrounding area has such government-imposed burdens and restrictions like the ones the City is trying to enforce on this Jewish organization. I would suggest you look at items 5,8,11,13,19,28,43,45 and 52. Not only do these restrictions not allow the Synagogue to open any of their doors or windows, this Jewish community will not be allowed use of 1/3 of their entire property.

The Jewish Community of Chabad wants to be good neighbors and to work with the City, but will not, and cannot, accept the undue burdens and restrictions, which the City now wants to impose on this religious Community's use of its property. These restrictions are not in any way in furtherance of a compelling governmental interest other than to appease the "Miller" constituency. These restrictions are a violation of RLUIPA. It is hoped that prior to Wednesday's meeting that the City will carefully review the Staff Report in light of the Federal Law. If necessary it may be in the best interest to postpone this hearing and give Staff time to modify its report to be in compliance with RLUIPA.

I would also suggest you research the latest cases coming down from the Federal District Courts, as you will find that the any restrictions must be narrow on the burdens and restrictions imposed on religious organizations by a government entity. See the recent case last week involving a Chabad in Toms River New Jersey and RLUIPA.

My Client and I are available to meet with you and other administrators from the City to try and reach an amenable agreement on the CUP.

Very yours truly,

Law Offices of James G. Schwartz
A Professional Corporation

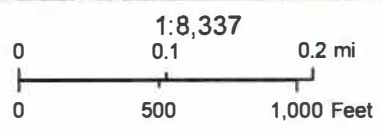
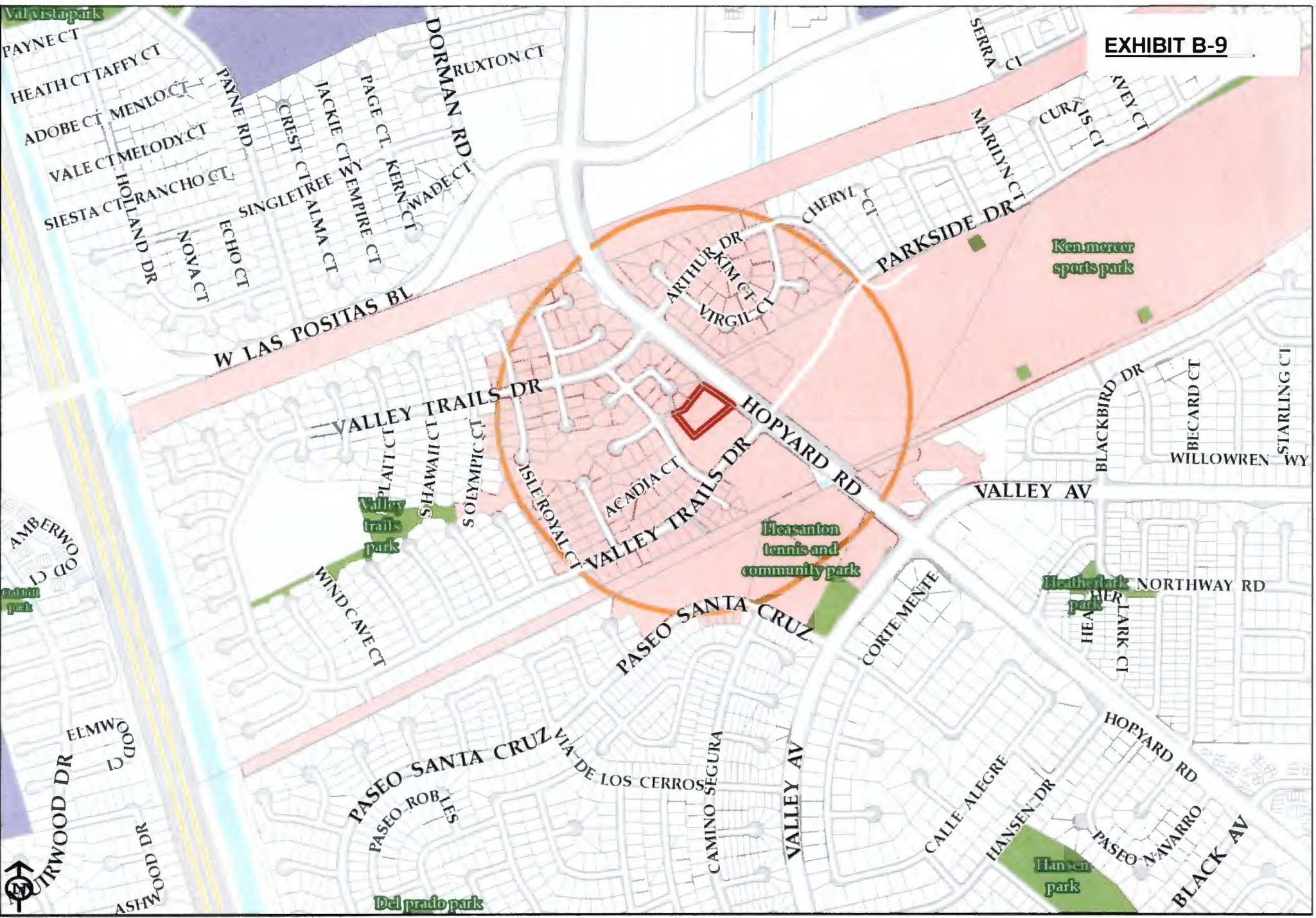


James G. Schwartz

JGS\rs
Enclosures

cc: Client
Daniel P. Dalton Email Only

Reznick/hopyard/letter/to/Sodergren



P16-0288/P16-1883; 3370 Hopyard Road

P16-1883/P16-0288, Chabad of the Tri-Valley

Applications for Conditional Use Permit and Design Review approvals to operate a religious institution with a childcare facility/preschool and for site modifications including a playground and outdoor terrace at 3370 Hopyard Road. Zoning for the property is RM-2,500 (Multi-Family Residential) District.

Associate Planner Jenny Soo presented the agenda report.

City Attorney Dan Sodergren acknowledged comments received with regard to the federal Religious Land Use and Institutionalized Persons Act (RLUIPA) and said he had provided the Planning Commission with a confidential memorandum regarding legal advice pertaining to this application.

Commissioner Ritter referred to Figure 1 and asked staff to identify where other daycares are located. Ms. Soo then pointed out nearby daycares in the figure.

Commissioner Allen asked about General Plan versus zoning which are different. Ms. Clark responded that in this instance they are consistent because both the General Plan designation and zoning allow for the proposed use.

In response to a question from Commissioner O'Connor, Ms. Clark explained that based on staff's calculations the Chabad property distance is 70 feet from the northern property line and about 108 feet to the nearest home. It would be about 83 feet to the nearest residence and about 20 feet between the home and rear property line of approximately 63 feet.

Commissioner O'Connor asked about tenant improvements, specifically the conversion of the bathroom to one youth bathroom for 48 children, one bathroom with no separation for men and women for up to 120 individuals during events, and asked if this would be adequate and also meet zoning requirements.

Ms. Clark replied that this issue would be resolved through the building permit process. The applicant will need to provide adequate bathroom facilities to accommodate all needs of the entire project, in accordance with the building code.

Commissioner Brown asked about the RM-2,500 multi-family residential district zoning and if someone were to operate a day care out of their home, he asked what would be the limitation before a CUP would be required. Ms. Soo replied that the maximum is 8 children for small daycares and 14 children for a large daycare which requires City approval but no conditional use permit.

Chair Nagler asked if there was anything out of the ordinary for this application. Ms. Clark replied that preschools and daycares are common throughout the city; most churches and religious facilities have daycare facilities associated with them.

In response to Commissioner Brown, Ms. Clark stated not that she was not aware of any limitations to the number of people which may gather in a residential backyard at any given time.

Commissioner Brown disclosed that he has two children that attend St. Clare's preschool but he has no financial interest in the project and he also met with the applicant and with the Millers.

THE PUBLIC HEARING WAS OPENED.

James Schwartz, attorney representing the applicant, introduced Neil Newman and requested the Commission not look at previous commercial tenants in the building which rented the facility out extensively, and stated the Chabad is a house of prayer and education. He referred to the City Attorney's memo regarding RLUIPA and did not believe many of the restrictions that have been put on Chabad as a religious organization are the least restrictive and did not believe they comply with RLUIPA.

Mr. Schwartz spoke to the layout of the property, said they are willing to accept the condition to move the playground to the west side of the property as staff requests but do not accept the fact that one-third of the property cannot be used at all. They propose a biblical garden in this location that would be used for small group contemplation, counseling and prayer. They are opposed to restriction of playground hours and do not agree with the condition that they cannot open doors or windows.

He explained that Chabad has been using the building for two years for all kinds of events and there has never been a parking problem or complaint. They also have a parking agreement with St. Clare's Episcopal Church. He was opposed to Condition No. 52 relating to loitering which he thought was unconstitutional and which is not prohibited by city ordinance.

Neil Newman, Director of Security and Building Development, Chabad of Tri-Valley, said he understands the neighbors' concerns given the Masons as previous tenants and questioned why the Chabad should be subjected to the negative reputation and commercial rental operations of the Masons. He provided support for the project and spoke to the character of the Chabad community, said they will improve the community and asked for the Commission's support.

Rabbi Resnik introduced his wife, Frumah Resnik and briefly provided a historical account of the Chabad of Tri-Valley and described the use of the backyard area.

Frumah Resnik spoke of the importance of early childhood years and the childcare center which is the foundation of every child's strength and involvement of families.

The following individuals spoke in opposition to the application:

- Stuart Flashman, attorney for the Millers, voiced opposition, spoke to provisions of the RLUIPA, questioned the maximum occupancy of the enclosed area, voiced concerns with the right to hold two large events per year with amplified music, 10-15 events for up to 120 people, BBQs, picnics, and other events spilling to the outdoors running up to 10 p.m., unlimited use of the terrace by groups of less than 25 people and without consideration of noise impacts. He said the only analysis of noise was for the preschool and he asked for balance.
- Derek Watry, acoustical engineer hired by the Millers, argued that the Chabad noise study took an average reading and did not consider a maximum. He argued that large

assembly events were not reviewed and spoke in opposition to the project due to noise impacts, argued that the six-foot fence would not mitigate noise issues and pointed to the Young Ivy project which was denied due to noise issues.

- Darlene Miller, neighbor, acknowledged support for Chabad as tenants and explained their objection was to noise impacts of outdoor use, and said they now have up to 25 immediate households who have signed a petition for no outdoor activity. She noted that Chabad is also aware of the City Council's unanimous decision to vote for no outside activity.
- Michael Miller, neighbor, spoke to significant noise impacts, specifically outdoor uses requested by Chabad which they claim are required by their faith.
- Usha Gurazada, neighbor, asked to know what recourse citizens have if the noise becomes a nuisance.
- Connie Cox, neighbor, spoke about lack of communication and neighbors' concerns regarding noise, traffic and parking, lighting and location of sheds.
- Bhaskar Maddi spoke in opposition to the project with regard to parking and noise.
- Kartnik, neighbor, spoke in opposition to the project due to noise and was opposed to the 100-foot buffer zone which is drawn to his bedroom. He did not oppose project in its entirety and was supportive of daycares but said noise will be excessive and he asked for equity. He was also opposed to parking behind his house and asked that consideration be given to the location of the playground.
- Shyamal Gurazaoa, neighbor, spoke in opposition to the project for noise on weekends and evenings.
- John Nutterfield, voiced support for the Millers and the problem regarding noise and future amplified outdoor events. He is a retired police officer and spoke to the burden placed on police to enforce noise, and said he also loves having Chabad in the neighborhood as compared to the Masons.

Members of the Chabad community spoke in favor of the project, explaining the character and philosophy of the Jewish faith and provided personal comments in support of the application.

- Rebecca Banks, high school student, spoke of the Rabbi's guidance and assistance to the elderly and tutoring children.
- Sue Mallah, Pleasant Hill, spoke of the foundational teachings of the Chabad and asked the Commission to listen to both sides as they want to bring peace and harmony.
- Paul Levinson said he came from Russia where his family could not practice Judaism, stated his daughter goes to Hebrew School and believes the entire community is inclusive and peaceful.
- Steve Deselms voiced support for the project.
- Rev. Ron Colmer, St. Clare's Church, voiced support of Chabad over the Mason's operations and thinks it is important to show good relations between Christians and Jews.

- Fran Herts, San Leandro teacher, cited Pleasanton as an all-inclusive community, thinks neighbors are misguided regarding noise, and voiced support of the application.
- Ilene Cooper echoed Ms. Herts comments.
- Leonard Cooper said he was a reserve police officer for Pleasanton and spoke of the noise meter police use in measuring sound based on the ordinance. He has never been to a Jewish event where noise was a problem, but if it were, he suggested contacting the Police and/or closing down the event.
- Michael Fluss said his five children make noise and noted that breathing requires 10 decibels and human speech 50 decibels. He suggested neighbors move if they cannot tolerate listening to children talking and laughing.
- Lloyd Felix said he is a realtor and has witnessed changing City demographics with more and more young children. He asked the City to evolve, accommodate more needs and voiced support of the application.
- Douglas Banks spoke of his children's attendance to preschool and Hebrew School which have benefitted them and the community. He agreed the site is large and said it could have accommodated multiple homes instead and he asked that Chabad not be compared to the previous use by the Masons.
- Dr. Jason Belk spoke of his children who have attended Chabad since a young age and who questioned him why there is an issue about playground noise. Parking has never been a problem at events and to be courteous to neighbors his family walks and parks from afar to accommodate neighbors.
- Jonah James, high school student said he has been active in Chabad and thinks exposing children in their early years to the Jewish culture is important and vital for fostering Judaism.
- David James spoke of the Jews' history of unwillful confinement which now seems to also extend to young people. He spoke about definitions of disturbances of peace, said licensed preschools and religious centers have a higher noise sensitivity requirement than actual residences, and no complaints have been received from the minister across the street.
- Naomi Bloom, student at Chabad, spoke about her learning from Jewish preschool and said they will be peaceful and respectful neighbors.
- Todd Katz agrees that people are concerned with neighborhood noise but jokingly suggested relocating all neighbors' houses about 70 feet to the north, keeping barking dogs inside, turning off air conditioners and limiting neighbors' use of their backyards to 30 minutes a day between 2 and 3 p.m.
- Jim Shiffer, Treasurer of St. Clare's, said he negotiated the 50 year parking agreement with Chabad, said the playground needs to remain on the north side of the building and asked that Chabad put a parking lot between their two parking lots for access reasons.
- Sagir Weiss-Ishai said he is an architect/engineer for the City and County of San Francisco and he issues many fire permits and occupancies for daycares. His job is to ensure places are safe and he said there are hundreds of similar projects in San Francisco with no problems and voiced support of the project.
- Shira Weiss-Ishai, 13 year old student and student of Chabad, said she did not see that residents living next to preschools and schools were complaining of noise from children.
- Marina Abreckov, junior at Amador Valley High School, said Chabad is the only Orthodox synagogue in Pleasanton and is very much needed.
- Alex Roshal said he has two grandchildren attending Hebrew School, is the Chief Building Official for a Bay Area city, and 70 dB noise levels are those encountered from

construction equipment which cannot be compared to children playing. The project is straight-forward and he asked for approval.

- Karina Abreckuv questioned why people would be opposed to the project and said if the application is denied the real disappointment will lie in the community.
- Ariel Burstein, 12 year old student, spoke of her positive experiences and influence from her teachings of Chabad, and asked for support.
- Viktoria Garo said the beauty of Pleasanton is the ability to celebrate the outdoors, noise is a normal part of family life, and Chabad is an investment for the community.
- Leia Zirogiannis, 3rd grader and Hebrew School student, supported the playground and project.
- David Silberman said this is about NIMBY and thinks neighbors should be required to have permits for all outdoor activities at their homes. If noise levels are excessive he suggested neighbors call and also suggested Chabad have a noise monitor for neighborhood homes to be fair.
- Amit Noble, high school student, said Chabad is trying to connect people to their roots and what being Jewish means. He was part of a Chabad Teens program and could not have learned many things in his journeys without Chabad.
- David Grossbaum said he moved from New York to Pleasanton and thinks the sounds of little children are beautiful.
- Daniel Jontof-Mutter said Chabad needs the playground for children, noting he lives next door to an elementary school with a lot more noise than Chabad would ever produce outdoors.
- Judie Lawrence said she worked for the Rabbi in the same building as they housed their preschool and she was never disturbed by noise from children.
- Natasha Radovilsky said she is from the Soviet Union and to practice religion is forbidden. She voiced support of Chabad and the noise of children's laughter.
- Alina Ostrovsky said she was surprised to hear of noise issues. She lives near the fairgrounds and simply closes her windows if there is excessive noise, and said she looks forward to her 4 year old attending the preschool.
- Aden Zirogiannis, 6th grader and attends the Chabad, thinks the playground will be great for preschoolers and that everybody will be peaceful and good neighbors.
- Gabriel Zirogiannis echoed support of Chabad and cited noise is not a true issue.
- Mark Hoffman spoke of Chabad's valuable and essential service to the community which should be allowed to fulfill its mission to provide religious services, education, preschool and programs. The immediate neighbors' position is one of zero tolerance and complete silence even though they moved in after the building was in place. The issue is one of compliance of code and reasonableness, and he cited noise from a variety of other noise-generating activities in the nearby neighborhood.

Rabbi Resnik said they met with City staff and are willing to accept some compromise, but wants to see the conditions of the approval modified to reflect the following:

1. Elimination of condition not allowing windows or doors to be open;
2. Allow for a biblical garden in the back third of the property;
3. They want a seamless playground in the back for kids which can be accessed from the classrooms;
4. Allow for the playground to be open whenever the preschool is open and that it not be limited to certain hours;
5. Allow balloons; and

6. Not have to hire staff to monitor parking.

THE PUBLIC HEARING WAS CLOSED.

Commissioner Ritter addressed the comments regarding lack of outreach to neighborhood and questioned whether the application should be continued to allow outreach to happen.

Commissioner Allen echoed Commissioner Ritter's comments, was supportive of continuing the application.

Chair Nagler asked for the Commission to first express their position, recognizing that neighbors want no outside activity and the applicant would like some outdoor activity.

Commissioner Brown voiced support of the outdoor activity and thinks it would be unreasonable to restrict operations for a property with a RM-2,500 zoning designation, thinks the ruling should not be based on the actions of the previous property owner and voiced support of some form of preschool playground operations and outdoor provisions in order for Chabad to use their property much like everyone else. With regard to comments on noise he supported staff's direction and interpretation of code which restricts amplified and synthetic noise.

Commissioner Ritter agreed with Commissioner Brown's perspective. He acknowledged the neighboring residents and Chabad property owners understanding of the community and zoning when the properties were purchased. He was inclined to follow the code and not impose additional restrictions.

Commissioner O'Connor agreed with previous comments and acknowledged the history and basis for the neighbors' concerns with the previous use. He expressed a preference for compromise and conversation between neighbors to eliminate the potential for conflict and mitigate any noise concerns.

Commissioner Allen agreed with previous comments. She believes it was unreasonable to restrict outdoor activity and said other churches have playgrounds that are as close or closer to residences. She supported the request for an outdoor playground but was unsure of the right location, thinks play hours are reasonable but asked staff to determine what the other church playground hours are to be consistent in this application.

Regarding outdoor events, Commissioner Allen believed that 15 events per year equaled about 3 events per month during prime months, which appears to be excessive when compared to similar events held by neighbors. She asked to see this pared back at most to one event per month or less, asked staff to provide information on numbers of events of other churches and generally more data to better understand operations.

Chair Nagler agreed with comments from Commissioners. He acknowledged the history of the use of the property, the differences between the previous tenants and this tenant, and the prior decisions that he thinks has influenced the use of the property today which are completely different. He asked staff to gather information from churches, requested Chabad recognize that neighbors have legitimate concerns and asked to conduct outreach to neighbors and find compromise to be closer to resolution.

**Chair Nagler moved to continue Cases P16-1883 and P16-0288.
Commissioner Ritter seconded the motion.**

ROLL CALL VOTE:

AYES:	Commissioners Allen, Brown, Nagler, O'Connor, and Ritter
NOES:	None
ABSENT:	None
RECUSED:	Commissioner Balch

Cases P16-1883 and P16-0288 were continued to a future meeting.

JEWISH RITUALS THAT NECESSITATE THE USE OF THE OUTDOORS

Sanctification of the Moon - Held each month on the Saturday evening before the full moon

http://www.chabad.org/library/article_cdo/aid/1904288/jewish/Sanctification-of-the-Moon.htm

Tashlich - Held on the first day of the Jewish year (Sep-Oct)

http://www.chabad.org/holidays/JewishNewYear/template_cdo/aid/564247/jewish/What-is-Tashlich.htm

Sukkot - Held for 8 days (Sep-Oct)

http://www.chabad.org/library/article_cdo/aid/4126/jewish/Sukkot.htm

Tu B’shvat - Held in Jan-Feb

http://www.chabad.org/library/article_cdo/aid/3264/jewish/15-Shevat.htm

Blessing on Blossoming Trees - Held in Mar-Apr

http://www.chabad.org/library/article_cdo/aid/260801/jewish/The-Laws-of-the-Blessing-on-Trees.htm

Ridding of Bread Ceremony - Held in Mar-Apr

http://www.chabad.org/library/article_cdo/aid/647208/jewish/Chametz-Search-and-Destroy.htm

Lag B’omer – Held in Apr-May

http://www.chabad.org/library/article_cdo/aid/42944/jewish/Lag-BaOmer.htm

SOMETIMES TAKE PLACE OUTDOORS:

Chanukah (Dec-Jan) - http://www.chabad.org/holidays/chanukah/default_cdo/jewish/Hanukkah.htm

Purim (Feb-Mar) - http://www.chabad.org/holidays/purim/default_cdo/jewish/Purim.htm

I have been a resident of Pleasanton for over 30 years. I am embarrassed to say that I have never attended a planning commission meeting before. Several weeks ago on Wed. April 25, I did attend. My motivation for being there was neither for or against Chabad or the neighbors. I was, however, just an interested observant of what goes on at these meetings. I was very impressed with the passion of the Chabad community. (I am not Jewish)

I am writing this letter to express my disappointment at the commissioners' recommendation to postpone the decision on where the preschool and playground should be. Your recommendation to meet, once again, with the neighbors in an attempt to reach an amicable agreement seems cowardly. Sometimes, it is impossible to compromise with neighbors who are uncooperative. One can have a dialogue with another until you're blue in the face.

I am acquainted with the Millers. In my opinion, they are very misguided. They seem to have a very reactionary view of the situation. I live across the street from a school, where at any given time, there must be 200 or more students outside on the playground. The noise has never been an issue with any of the neighbors. To make an issue of a small amount of noise that might occur with 40 preschoolers seem very petty of the neighbors.

Please, no more talking. Decide now where the placement of the playground should be. Get things done. These children and their families are depending on you to make a quick decision.

Chabad is an asset to the city and not a liability. What is a liability to our community are neighbors who have biases, intolerance, and misconceptions.

Thankyou,
Dr. Brian [Signature]