
City Council Chamber
200 Old Bernal Avenue, Pleasanton, CA 94566

DRAFT

Wednesday, December 14, 2016

CALL TO ORDER

The Planning Commission Meeting of December 14, 2016, was called to order at 7:06 p.m. by Chair Ritter.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Commissioner O'Connor.

1. ROLL CALL

Staff Members Present: Gerry Beaudin, Director of Community Development; Shweta Bonn, Acting Planning Manager; Larissa Seto, Assistant City Attorney; and Kendall Granucci, Recording Secretary

Commissioners Present: Commissioners Nancy Allen, Jack Balch, Justin Brown, David Nagler (arrived 7:08 p.m.), Greg O'Connor, and Chair Herb Ritter

Commissioners Absent: None

2. APPROVAL OF MINUTES

a. September 28, 2016

Commissioner O'Connor requested staff to listen to the recording and clarify the third paragraph on Page 30 of 32.

Commissioner Allen requested the following amendments:

- Page 8, fourth paragraph, starting with "The other comment" on the fourth line, "It's a whole different market".

- Page 30, second paragraph, third line from the bottom, strike the last 3 words; “...just the nearby ones; In N’ Out Burger plus the Starbucks. ~~at Raley’s Pavilion~~”

Noted Present:

Commissioner Nagler was noted present at 7:08 p.m.

Commissioner Brown requested the following amendments:

- Page 25, revise the first sentence of the last paragraph to read, “Put simply it seems like the desire to have the drive-thru doesn’t ~~result~~ fit in the design if after 20 iterations that it isn’t a perfect fit for the property.”

Commissioner O’Connor moved to approve the Minutes of the September 28, 2016 Meeting as amended.

Commissioner Allen seconded the motion.

ROLL CALL VOTE:

AYES: Commissioners Allen, Balch, Nagler, O’Connor, and Ritter

NOES: None

ABSTAIN: None

RECUSED: None

ABSENT: None

The Minutes of the September 28, 2016 Meeting were approved as amended.

b. October 26, 2016

Commissioner Nagler moved to approve the Minutes of the October 26, 2016 Meeting as submitted.

Commissioner Allen seconded the motion.

ROLL CALL VOTE:

AYES: Commissioners Allen, Balch, Nagler, O’Connor and Ritter

NOES: None

ABSTAIN: None

RECUSED: None

ABSENT: None

The Minutes of the October 26, 2016 Meeting were approved as submitted.

3. MEETING OPEN FOR ANY MEMBER OF THE AUDIENCE TO ADDRESS THE PLANNING COMMISSION ON ANY ITEM WHICH IS NOT ALREADY ON THE AGENDA

James Mansour: I’m not sure my issue is being brought to the right people so you’ll have to correct me.

Chair Ritter: Great, we’d love to hear your input.

Mansour: So my name is Jim Mansour. I've been a resident of Pleasanton for about 18 years, all within Ruby Hill. With all of the issues going on with regards to the water and the charges and stuff like that, we got notification once again. We're being double charged in Ruby Hill only for double sewage charges and that's coming from Pleasanton and Livermore. And I don't know if that's an issue for this board or whether I need to be directed to another one.

Chair Ritter: That is a City Council issue. We don't generally deal with that, but I don't know if staff has any updates on that....

Beaudin: This isn't an agenda item, but what I'll do is I'll give you my business card and if you could get in touch with me either by email or phone, I'll make sure I get you in touch with the right staff person to be able to answer all of your questions.

Mansour: Okay, thank you very much.

Chair Ritter: It's great feedback, so thank you very much. The meeting open to the public is always intended for anybody that wants to come talk on any issue, so thank you very much for coming Jim.

4. REVISIONS TO THE AGENDA

There were no revisions to the agenda.

5. CONSENT CALENDAR

Consent Calendar items are considered routine and will be enacted, approved, or adopted by one motion unless a request for removal for discussion or explanation is received from the Planning Commission or a member of the public by submitting a speaker card for that item.

a. P16-1847, City of Pleasanton

Consider a determination that the City's acquisition of two vacant parcels totaling 3.18 acres in Downtown adjacent to the Altamont Commuter Express (ACE) at 401 and 403 Old Bernal Avenue is in conformance with the City's General Plan. Zoning for the property is O (Office), Core Area Overlay District.

Commissioner O'Connor: I only have one question for staff. I probably should have called earlier, but it's asking us to evaluate conformance with the City's General Plan. If this goes through, the General Plan doesn't have to stay static right? If in our review of the Civic Center area going forward, moving of the library and all that, if we were to change the current zoning and the current uses, we're okay to do that, right?

Beaudin: That's right. This doesn't tie our hands. This is essentially a point in time when the City is in the process of acquiring property and so this is a step required by the Government Code.

Commissioner O'Connor moved to approve Case P16-1847, subject to the Conditions of Approval as listed in Exhibit A of the staff report. Commissioner Allen seconded the motion.

ROLL CALL VOTE:

AYES: Commissioners Allen, Balch, O'Connor, Nagler, and Ritter
NOES: None
ABSTAIN: None
RECUSED: None
ABSENT: None

Resolution No. PC-2016-33 approving Case P16-1847 was entered and adopted as motioned.

6. PUBLIC HEARING AND OTHER MATTERS

a. P16-1418, Zoning Code Update

Amendment to the Pleasanton Municipal Code to: update and simplify the list of permitted and conditionally permitted land uses; establish a Minor Conditional Use Permit process for routine uses; reflect current practices, modify review procedures, replace out-of-date references, and undertake other changes to make the Code more user-friendly.

Shweta Bonn presented the staff report and described the scope, layout, and key elements of the Zoning Code Update.

Chair Ritter: I have one higher level question. Once we update the zoning code, will it be integrated with *PleasantonPermits.com* and will it be easier for an applicant to see the process online? I get questions all the time about where projects are in the process.

Beaudin: So there are a couple of steps. We're going to finish the public hearing process for the Minor Conditional Use permit process. If Council approves it, then the ordinance will become effective 30 days after Council's second reading and then from that point, staff will start implementing. Our plan is to leave the fees as is and then come the next fee cycle, we'll make a clear distinction between Minor CUP and CUP in the fee schedule and simultaneously, once we know the Council's on board with the Minor CUP process we'll start revising our processes internally and we'll have website updates. Our *OpenCounter* software and our *PleasantonPermits.com* will be updated to reflect the changes as well. And our Permit Center Manager is currently working on some process flow charts that will highlight these changes.

Chair Ritter: So that's probably going to take place six to eight months after we get this?

Beaudin: No, it should be sooner. The goal is to be ready to implement this when the ordinance becomes effective.

Chair Ritter: Okay, that's huge.

Beaudin: The fees are the one thing that will likely lag because those will line up with the City fiscal year process.

Chair Ritter: Okay.

Commissioner Allen: Question on page 22—this has to do with schools with less than 20 students including heritage schools and tutoring—did this used to be conditional? I see it's permitted now in most zones and I'm thinking of a number of applications we've seen on the Consent Calendar. Did this used to be conditional, like in C-C?

Bonn: There are a couple of things to this. Right now, the code does not address heritage schools at all, so that's a new addition. The schools and colleges category with more than 20 students is in the code right now as a conditional use. With less than 20 it's permitted. As proposed, the no more than 20 would remain permitted. The more than 20 would become a Minor CUP.

Commissioner Allen: Okay, so less than 20 today is permitted. Is that what you're saying?

Bonn: Right.

Commissioner Allen...because the underlining made me think it's a change.

Commissioner Balch: It's all new. The whole page is new.

Commissioner Allen: Okay, so it's permitted in all the areas now.

Bonn: That's correct. The underlining you're seeing is because it's a brand new table and the organization is completely different.

Commissioner Allen: Okay, thank you.

Seto: And I would just note it's underlined in the zoning code, but there have been specific projects that you've seen within specific areas that the PUD or the zoning for that specific site did require educational places to have their own CUP. So that's why you've seen a variety, practically speaking.

Commissioner Allen: Okay, could I just bring up one example because I want to make sure I understand what I should be doing here or know if we're changing anything. An example I'm thinking of, and you guys know the example, is Raley's where there was going to be a tutoring or care facility with an outdoor area and we ended up saying the outdoor area wasn't appropriate. And I thought that was conditional. So, that's why I'm asking and I'm wondering where that kind of facility would fit here and if there's anything we're changing in the way we think about that example.

Commissioner O'Connor: That was more than 20, correct?

Commissioner Balch: But it's a PUD.

Commissioner O'Connor: It's a tutoring facility.

Bonn: If memory serves me correct, and I may be wrong here, the Raley's shopping center is zoned C-N, so it's a straight zone where this table would apply and the Minor CUP process would be applicable if more than 20 students were proposed. However, the footnote number 5 applies here, meaning that if an outdoor play area was proposed and the ambient noise level increased by 4 decibels Ldn, then the use would be automatically subject to a CUP irrespective of the fact that the table identifies it as a Minor CUP.

Commissioner Allen: Okay and how would someone know before it's built that the ambient noise level would exceed 4 dBA or not; to know whether it would be a Minor CUP or CUP?

Bonn: That would be subject to the professional study. The noise consultant would be responsible for determining whether the parameters proposed on the playground would in fact result in that 4 dBA increase.

Commissioner Allen: So, it's a model; they're estimating.

Chair Ritter: Your Table 2, comment 3 says, "Noise ordinance is not within the scope of this update and may be modified in future updates." That sounds like we're already doing a little bit of that with this update, but what does that mean?

Beaudin: We've heard from a number of stakeholders involved that are doing development in the community that the noise ordinance is out of date from their perspective. We actually don't have much of an issue for a number of applications including the Masonic Lodge. We've looked at what our neighbors are doing relative to noise ordinances. We at the staff level aren't as concerned about it, but we know that it is a concern for some other folks who are commenting on our zoning code. So we've added it to a future phase of our code update and we expect to get into it wholeheartedly. It won't be use-by-use considering a 4 decibel change or something like that associated with one use, but rather we'll actually look at how we regulate noise. Whether it's at the property line, or how we measure ambient noise, a one-event spike versus a period of time, all those things would be up for grabs.

Chair Ritter: It'd be a bigger project....

Beaudin...it'd be a much bigger endeavor.

Chair Ritter: Okay, I understand.

Commissioner Balch: I apologize. Could I just ask a follow-up to Commissioner Allen's question which was about the schools; the private school versus the schools and colleges? With the example of the Raley's, which was a heritage school was it not? So that's going to fall under this...? Maybe you could help us understand that?

Beaudin: People refer to it as Little Ivy?

Commissioner Balch: I think so.

Beaudin: I don't know all of the details of that application but I know that it's more than 20 students. I don't know the kind of school and I don't think that we split the hair in the code the last time. That might have been how they identified themselves, but we didn't have the ability to define a heritage school and so we do now and we make that distinction just because they typically don't require the same kind of outdoor spaces because of the kind of programming that they offer.

Commissioner Balch: I think I missed it so I apologize. Let me ask it in a different way. So, what would you call a private school versus school and college? Because we do have that now added in, right? The second and third are "private schools with no more than 20, private schools with more than 20, both with footnote 5 applicable." I'm on page 22 of the table.

Bonn: So I think with the distinction of private schools is that it's intended to be like a general purpose school. It's basically a non-PUSD school whereas the schools and colleges are most often associated with the specialty type of school similar to the rest of the category, like a music and dance school—it's more of a specialized type of school as opposed to a general purpose school.

Beaudin: The definitions help where it's a focused line of education whether it's music and art, business—we have trade schools for things like contractors, so that is the school and college and the kinds of applications we would expect to fall into that category. When you get into the private school, we're thinking that's more like the alternative to your local elementary school if that helps you.

Commissioner Balch:like Genius Kids over in the New Leaf Shopping Center?

Beaudin: Correct, unless they're providing things that are a form of education that's more culturally based in which case something like that would turn into the heritage school definition. It's pretty fluid and frankly it would depend on the description that came in with the application but we'd be using the language that's in the table and the definitions associated with these in the code.

Commissioner Balch: So when you have an application, and maybe just as a question of your experience and what you see, based upon the zoning proposal, heritage schools are permitted in many of the categories in commercial use—so can an applicant argue that they are a heritage school simply on their face or do they actually have to prove they are a heritage school in their application?

Beaudin: We'd be asking for a narrative that describes the project, the curriculum, the number of teachers, and the number of students and so the burden of proof is on the applicant if they believe they fall into one of these categories and if we have any difference of opinion then we'd be asking for additional information that will clarify.

Commissioner Balch: If an applicant came in and wanted to try to get into a permitted straight use they would argue that they're a heritage school. If they fell out of that

because they don't qualify as a heritage school, then they're conditional which is worse than the Minor CUP process that they would probably prefer, right?

Beaudin: Yes, there's also the possibility of outdoor space things triggering. So even if you're a heritage school if you wanted to have some outdoor space then you end up in a more onerous process from an entitlement perspective. But you're going to entitle a project at that location that will run with the land, so it may be in the business owner's or property owner's interest to do that and do it the right way.

Commissioner Balch: Okay, thank you.

THE PUBLIC HEARING WAS OPENED.

Scott Raty: Good evening Commissioners and staff. I'm Scott Raty on behalf of the Chamber of Commerce. You know, I'll back up even a little bit further than some of your original discussions, but we take it all back to the point that businesses in our community generate roughly 60% of the local tax base and collectively act as the economic engine that drives the ship, essentially providing the amenities and public services that so many people equate to quality of life in our community; an extraordinarily high quality of life.

It follows then that the City must be viewed by the business community throughout the region and beyond as supportive and timely with its decisions on the impacts of business and making things happen in a favorable way. So I am here tonight to express our appreciation to staff and Shweta in particular and Gerry for taking on the comprehensive zoning code update. It's something that the Chamber has asked for many times over many, many years and in fact, it remains very high amongst our local economy objectives and Pleasanton 2020 Community Vision, a document that was authored two and a half years ago and maybe it's prophetic in that specifically in the document, we look for the City's zoning code with an emphasis on providing greater clarity and expediting the approvals related to both permitted and conditional uses to be updated by 2018. With the commitment of staff, they are on course in a three-phase mode to get there, but I think what's important for us to keep in mind in going in that direction is that this is Phase 1. It's not the end but it's the beginning. If you approve and move onto Council and then Council approves it, this really needs to stay within the Council's priorities for the next two years and that I hope you also urge to them to keep it there. And as part of the equation I'm ensuring that our community has the utmost in public service amenities as provided by the tax base our business community generates, and that above all is really why I'm here, and I encourage you to move it forward and continue the great work. Our great pat on the back to staff for this effort—awesome start, awesome beginning—let's keep the dialogue going, let's keep it moving and I hope all of you have a wonderful and happy holiday season.

Chair Ritter: Thanks Scott. Thanks for all you do at the Chamber and in Pleasanton.

THE PUBLIC HEARING WAS CLOSED.

Chair Ritter: So, Gerry, do you want us to go through each line item or what's the best way to give feedback?

Beaudin: I wouldn't say want, but we're certainly happy to go page by page if you want to or we can take buckets of comments and address them that way. It really depends on how extensive the changes are you want to make.

Chair Ritter: We can start with Commissioner Balch and if he's already said something that you thought of... I know Commissioner Balch has been in communications and has provided staff a lot of comments already, so, maybe if you want to put them into summary for the record and that might be the easiest and then ask questions?

Commissioner Balch: Yeah, if you don't mind I can and go from there. I actually, as the speaker said, I think it's great. I talked to Shweta extensively today, unfortunately today because that's how long it took to get through it. We've come to the conclusion that what's probably not fairly prevalent is that we currently have a lot of PUDs in the City and we've done Minor PUD Modifications to add a zoning use of some type and that could come in as conditional or that could come in as a permitted straight use. It's hard to explain what it might be, but it might be that you add a heritage school to be a permitted use in an industrial PUD park. So, my comment to staff is that's at an administrative level. Minor PUD Modifications are at a Zoning Administrator level, so that gets approved and it adds use. And as I was talking to staff very succinctly about their Minor CUP process which is what I mentioned in the workshop—if I had a use and that use isn't straight permitted and it becomes a conditional use under the current code, now we're adding this kind of middle layer where it doesn't rise to conditional. It sits below conditional but above permitted; something that might need just a bit more review before just getting straight up allowed. This is where the Minor CUP process comes in.

So, I'm okay that the Minor PUD process adds a use that becomes a Minor CUP required review, but then I don't prefer that there is then an administrative review that grants the Minor CUP as well, so that basically it's staff level approval twice that gets a new use permitted that Planning Commission nor Council has had a chance to hear as an item.

Take in perspective our proposed Starbucks on Owens Drive. The applicant had several very specific uses that they circled and I pushed them, asking why are not all these other uses allowed. Why are they not asking for all these other uses and possibly if you think about it, maybe they didn't think of them all or they didn't intend them all, but my concern is—for example, we could set up a specific number of uses we want for that location; let's say 10 uses at that specific site. So a PUD gets established, we approve it, it takes effect. And then the applicant comes in and wants two or three more uses that we specifically made sure were not there when we heard the PUD. Well, they could do potentially apply for a Minor PUD Modification to add the use, right? The use gets added as either conditional or permitted or a Minor CUP, and then the Minor CUP comes in as an application that gets approved at a staff level as well, so it never comes to the Planning Commission for a hearing and the use is not what was initially intended.

Maybe it's fine, and I'm not trying to say it was dishonestly, so my comment to staff was—in the code on page 77, it outlines the Minor CUP process and in these A through G as required data and maps, that the requirement be added, and staff could craft the language, that basically says you cannot run a Minor CUP process concurrently with a

Minor PUD process. And correct me if I'm wrong staff, but the Minor PUD process would have to run its course—I think there's a waiting period anyways built into that—and then the CUP process could start and there would just be a breath. That's all I'm trying to ask for—a breath, just so that an applicant doesn't get their zoning in through two administrative actions without a potential hearing.

Chair Ritter: How close are we to getting that?

Beaudin: So, Commissioner Balch is correct. This is an anomaly situation where you could imagine somebody coming in asking for a Minor PUD Modification and wanting to concurrently process a Minor CUP that they're asking for as a change to the project zoning. The purpose of the Minor CUP is to move with the speed of business. Scott Raty was here this evening and the push on the Minor CUP was really to take things that are more routine in nature and move them along. All that being said I understand the concern.

There's a 10-day notice period on a PUD Mod, then the actual decision on a PUD Mod, followed by a 20-day appeal period. So if we're not processing concurrently, you're basically saying to someone that they take about 30 days or a month to process the PUD Mod and then they would start into the Minor CUP process.

With Commissioner Balch's suggestion, there'd be two administrative decisions rather than one administrative decision that would allow this new use, which would essentially allow the Planning Commission and the Council and anyone from the community to appeal at either stage. Once stage one is done and the appeal period is over, they would have one more bite of the apple. But its two bites of the apple instead of one, and you're talking about a two- to two-and-a-half-month process rather than a one-month process.

Commissioner O'Connor: If they were done concurrently, would the notification be clear there were two minor changes—one at the PUD level and one at the CUP level?

Beaudin: They would be. And what we typically do is condition the CUP approval on the appeal period passing for the PUD Mod so you can't get your CUP unless the PUD Mod passed and it became effective.

Commissioner O'Connor: To clarify, both would be noticed and people would have time to raise an issue?

Beaudin: Yes, it's really whether it takes one month or two or more for that to happen.

Commissioner Balch: If I may, Commissioner O'Connor, we actually debated this quite extensively because I didn't know if I had enough support up here on it or not. I do just want to mention that it's only for new.....so the items listed in the proposal by staff now list out the things that are Minor CUP now that they're proposing to add. All I'm trying to do in my desire and of course in my vote is to say that any new entitlements that come on board to this new Minor CUP process, those go through this 30 day wait. Does that make sense? Because they weren't there originally. That's what I'm trying to do, and as we heard, it's not necessarily a full 30 days but it's some time.

Chair Ritter: To keep it transparent.

Commissioner Balch: Well, it's a double notice and that was what I think we talked about with staff. You've got one notice for the Minor PUD and then you've got a second notice that goes out for the Minor CUP. My hope would be that, you know, many people talk about not being noticed when something significant comes in and then they see the building going up and the business moving in and they're like, how did this get into my neighborhood? My hope would be that this would be a very transparent process because that is a use that was not there initially. And I do concede—it's a very low volume we're talking about here. We're really talking about a very minute number of applications.

Commissioner O'Connor: I'm not understanding why we need two notifications rather than one. If you get notified, you're going to know that this change went through. You have a timeframe to respond. Why do you need to get two and one month apart from each other? I'm just trying to figure out why the citizen needs to get two notices.

Commissioner Balch: And my answer is because it didn't come to the Planning Commission. It didn't come to the oversight board or body of the staff.

Commissioner O'Connor: But it does come to you. You're notified.

Commissioner Balch: We're not notified in the same way. We're notified via the email from staff typically on the last day of the appeal period and you have to object.

Commissioner O'Connor: Well, that only happens once in a while. Usually we get them in advance.

Commissioner Balch: That's where I stand on it. I think it needs to be transparent because I don't think a double layer staff approval is appropriate.

Commissioner O'Connor: See, I don't think that's the intent of streamlining this process. I think the intent is to benefit the applicant—and again, these are supposed to be routine in nature.

Commissioner Balch: But these aren't routine.

Commissioner O'Connor: I'm saying if it's a Minor PUD change, it's supposed to be more routine. If it's a Minor CUP, it always goes on a Consent Calendar and we don't even think twice about it most times. We're just saying these are not big changes that hit you and all of a sudden where you ask how that happened. Most people don't even know that some of these things because they do slide through pretty much under the wire even on our Consent Calendar.

Commissioner Balch: So two examples we have is the Gateway Shopping Center which is the Safeway down on Bernal. They did a Minor PUD Modification and they did a concurrent Minor CUP Modification. The CUP came up and they put in a coding education school in the retail center. That was a Minor PUD Modification to add the use. The use went in as a conditional use. It probably didn't need to be at the level of

conditional but it was. That's where they possibly would have put it in as a Minor CUP instead of an approved conditional with the PUD, and then it did come before us as a Consent item. So from my perspective, the fact that it comes up to this body as a Consent item is something I support. Or, but what I'm saying if you're going through a two-step process to get there, you first have to modify your PUD and then you have to go through a Minor CUP. I want a breath personally. I don't want the pacing of it to go so fast that it's at a staff level approval for something that was never there on the PUD.

Commissioner O'Connor: So why did you make the Minor PUD change? So that they could get the Minor CUP item to go through, right? It really is, for lack of a better description, it is a one-step, right? They're only asking for the Minor PUD change in order to get the use.

Commissioner Balch: But what if the second applicant comes through because PUD's are not only a building, a PUD can be an entire park. The entire park puts in their PUD that you can now have heritage schools, for example, as a Minor CUP process, right? So the first applicant goes in and his intent is exactly what you're saying. His intent is to get through the Minor CUP process so that he gets into the park. Now the second applicant comes in and they don't have to go through the Minor CUP process, and I have no problem with that because the Minor PUD process went through its process and now they're going to come through and do a Minor CUP process at an administrative level. So in that case, time has passed that the Minor PUD has gone in, the second applicant comes in and they only have to do a Minor CUP, right? Because now the business park, for example, has the Minor PUD.

Commissioner O'Connor: So only the first applicant to do this is penalized by two months and everyone who follows....

Commissioner Balch....because the use was never there in the first place, that's right.

Chair Ritter: It's a brand new use.

Commissioner Balch: It's a brand new use added to a business park.

Beaudin: The list of Minor CUP items is pretty limited as it's been proposed in this update. I've talked to some of you about the fact that we're dipping our toe in the water and this isn't an effort to go all in on a streamlined review process. I'll put out there the idea of if this list is going to grow then it's possible to revisit the process that we go through associated with Minor PUD Mods or the review and approval of CUPs. I don't know if that helps the conversation this evening, but the list of Minor Conditional Uses is smaller now than it probably will be 10 years from now I would hope, and so there will be other shots at what this section of the code looks like.

Commissioner Balch: And that's where my argument is; that as the list grows—let's just say we have 10 uses that are following the Minor CUP process now, to get to 20, each time one gets added under this theory, if the applicant was trying to get that through a Minor PUD first, that just takes the breath, and it's 20 days—we're talking 20 days. And the second applicant has no breath. The same business park—the same PUD is already applied to the park as a whole, so the second and further applicants have no

delay. I don't think it's that much of a hindrance on a business to wait 20 days when the use was never allowed under the PUD in the first place. If they want to accelerate it, in my opinion, they are welcome to come before this body and pay a little more to get here. But I think we talked about that being a three- to four-month process, so we still are shortening our window if I understand correctly.

Beaudin: Relative to a CUP the Minor CUP is going to be a faster process. Processing Minor CUP and Minor PUD concurrently would be the fastest process, Minor CUP and Minor PUD non-concurrently and second fastest, and CUP would be slowest.

Commissioner Balch: And my other point is that as things are added to the Minor CUP process through the standard zoning updates, this doesn't apply because it's only when the PUD had to be modified through a minor process because Minor PUDs don't come before the Planning Commission. Minor CUPs don't come to the Planning Commission. So my point is that while we're noticed through a process and that works, I haven't seen us ever contest one and I think part of our job is slight oversight and I just feel like we'd be giving up too much of it.

Commissioner O'Connor: It makes a lot of sense when you talk about the example of Hacienda Business Park getting their first Minor PUD, but you've got to remember, almost everything we do is a PUD. So almost any change outside of the business park and every PUD change that needs a Minor CUP change are going to have to go through a two-step process. There's very few—it's not going to be where we're going to have multiples coming through the Hacienda Business Park, so you can only have a stall on one for the business park. It's like every other project is its own.

Commissioner Balch: Not necessarily because if we do a Minor PUD for example to add a use and the use is straight up, it's going to go in as permitted. This doesn't apply. This is only if the use goes in as a slightly more than permitted and slightly less than conditional. It only has two choices right now. When you modify your PUD you can only go in as conditional or as permitted. If they go in as conditional, there's a three-month wait under the current system. All I'm saying is that if they choose this middle ground where it needed to be a little bit more than permitted and a little bit less than conditional, that would mean....you know what I'm saying; that's where I'm at on that one.

Chair Ritter: Do we need to get a resolution on that point before we move on?

Beaudin: A straw vote would be great just so we can keep a tally as we go.

Chair Ritter: Can you please summarize what Commissioner Balch said.

Beaudin: I believe what Commissioner Balch is looking for is non-concurrent processing of Minor PUD Modifications and Minor CUPs when they're being added to an existing PUD. I understand it as a two-step process where somebody would submit an application for a Minor PUD Mod, we would take that through the administrative process, including the notice period, the decision, and the appeal period, and then we would do the same for a Minor CUP which would start after the appeal period for the PUD Mod.

Commissioner Balch: But only if the Minor PUD had made it a Minor CUP element.

Beaudin: Right, a new Minor CUP use.

Commissioner Balch: Correct.

Chair Ritter: I support it.

Commissioner Allen: I support it.

Commissioner Nagler: I think it's completely reasonable and appropriate.

Chair Ritter: It puts a level of protection on the process.

Commissioner O'Connor: You still have a notification process. The reason why I would say I think it's redundant is because we are putting staff in place as the person who's going to make the decision on the Minor PUD and also the person who is going to make the decision on the Minor CUP and we do still have the notification period which happens once and not twice.

Commissioner Brown: I'm kind of with Greg on this. If the same person is making both decisions, albeit it gives two opportunities for the public to weigh in and send it back, but if it's the same person making both decisions, I don't see why it shouldn't be concurrent.

If you want to extend the notification period or if you want to extend the notice area or various things like that, I get that but the two-step process to me is adding inefficiency to what is intended to be a fast-track process. But if you do a PUD Mod to add a conditional use then to me it's one in the same decision. If you're going to approve that, then you're approving the first case of that.

Commissioner O'Connor: And one won't go through without the approval of the other.

Commissioner Nagler: There's great precedence in our democracy of what we call the first and second reading, and so in the case of actions by the Council, the legislature, Congress, there's a long tradition of telling the public that a vote is going to come and giving the public an opportunity to comment and then taking the vote, and that that's always the same body. So, I appreciate your logic, but that's why I think that what Commissioner Balch is suggesting is appropriate because there's precedence, and even at that, the process is going to be shortened substantially.

Commissioner Brown: I'll counter that. If you're going to have a notice period, you're going to have a decision, and then you're going to have an appeal period, you already have a two-step process.

Commissioner Balch: But if I may, the one thing I think we should keep in mind is that not every applicant for a Minor PUD is going to have a Minor CUP. I didn't mean it to be that this is every case, right? In my case, when I went through the Minor PUD process, similar to how staff is doing now under the great work of Shweta, we basically are removing blacksmiths, we're removing smelting from permitted uses. These were all permitted uses. I could have opened a blacksmith shop because apparently, that's what

we should be able to do. So, we removed those, right? To remove is a Minor PUD process, as well, so notice period, waiting period, appeal period.

I don't think every Minor PUD is going to subsequently have a Minor CUP, but my concern is that when the Minor CUP is the prize and it is so hotly desired, currently it will take four months to do because theoretically the Minor PUD puts in a conditional use, the CUP has to come to us via the Consent Calendar and be noticed to 1,000 feet, right? And so, this body gets to see it, and then this is reducing the noticing period to 300 feet versus the 1,000 feet for a hearing item.

Bonn: Correct, so the Minor CUP noticing radius is proposed to be 300 feet where the PUD Modification noticing is 1,000 feet.

Beaudin: I think there are two criteria there—the minor conditional uses are supposed to be uses more routine in nature and things that we have pretty standard conditions for that we can apply, and so they should be less impactful on the community. Things that require a CUP shouldn't ever elevate into neighborhood issues. By definition, they're minor in nature.

And then the notice criteria; the idea here again is that these are things that are going to fit into the existing context that they're being proposed in.

Chair Ritter: My thinking is that the first time it goes through its going to be a little more challenging, but we're going to make sure that we've vetted all the options. That's why you want it to be checked, but the second, third, fourth, fifth-anybody who submits after, those will go through way more efficiently.

Commissioner Balch: Yes because they don't have the 10 and the 20 days because the PUD allowed the use.

Chair Ritter: So the original one is the double check.

Commissioner Balch: Yes, because it's putting a use in an area that has not been there. That's why it needs the two-steps in my opinion.

Commissioner Brown: Can I clarify one thing with Gerry? The Minor PUD noticing radius is 1,000 feet—is it 1,000 feet of the PUD or 1,000 feet of the business that would be going in?

Beaudin: It's the properties that are encompassed by the PUD. The Minor PUD process is 1,000 feet. The Minor CUP is proposed at 300 feet, so the scope gets smaller based on the use.

Commissioner Brown: So it's 1,000 feet of the PUD whereas the other one would be 300 feet around the proposed unit within the PUD. Is that correct?

Bonn: There have been occasions where we do Minor PUD Modifications for a specific site and in that instance we've done a 1,000-foot noticing radius around that particular

property where that modifies only to that one particular site even though it's a PUD. Where it applies to the entire PUD we would do a 1,000-foot radius around the PUD.

Commissioner Brown: Right. I guess my point was if the site notification is 1,000 feet around the PUD, do you really need to go through a second cycle of noticing 300 feet around the target unit? So, again, I'm just reiterating what Greg's point is, but I think we should probably move on.

Beaudin: I'm seeing a 4-2 straw vote, so we'll move on.

Commissioner Balch: My next question is in the staff report on page 9, and it is just more of a question for semantics. It talks about how the Zoning Administrator under the Minor CUP process can request studies to be performed so that they can have an informed decision in the Minor CUP process. It says here, "Request traffic, noise, and other technical studies." I just wanted to ask maybe how staff envisions this. At what point does it kick up to Planning Commission versus a staff level Minor CUP if we start to order all these reports?

Beaudin: I think reports can just be confirmation in some instances. I think if something gets to be questionable or potentially controversial, I would imagine that would show up here at the Planning Commission and you would be making the decision on the Minor CUP. And that's how we handle things now when uses are under administrative review and we get information through the application process, make some decisions and decide to either elevate those things or make a final decision, and it's going to be subjective based on the application and context.

Commissioner Balch: And I apologize because that's actually leading into my next comment or question which is, what would you do for a notice period or notice radius when it's coming here to make that decision, because 300 feet is not necessarily a standard for the Planning Commission, correct?

Beaudin: It's a good question. It would still be the Planning Commission making a decision on a Minor CUP and the way we proposed it currently is still a 300-foot radius.

Commissioner O'Connor: I would have expected that if it was still a Minor CUP that the Zoning Administrator would make the decision, but if based on the information you have from these reports, if it was a little more challenging than that, it would be a regular CUP, right?

Beaudin: It's a name only at that point. It would essentially still be a CUP that would run with the land and how we've defined it in the use table is how it would live through our process. We wouldn't adjust the use category it's in based on those details.

Commissioner Brown: I suppose it could be minor but it's setting a precedent and you want to run it through as well.

Beaudin: Correct, and frankly I would imagine some of these uses initially, and I think I've said this before to this group, the idea that we're going to get all this perfect the first time out is not there for me. I've seen it and lived it. We're going to make a lot of

changes to the code and we're going to see some things that just don't work, and maybe we get our first couple of Minor CUP applications in one of these categories we've proposed and we just say it's not working and we say we'll be back to correct it with you.

Commissioner Balch: So I just want to make sure....

Beaudin: Shweta is telling me that we have an internal policy, but I would want to modify it if it does come to the Planning Commission. We should say that it's 1,000 feet, and if that's the will of the Commission, I'd be supportive of that. It sounds like we're doing that but it's a policy decision and not in the code. I think it just makes sense for things like that to say it clearly.

Commissioner Balch: I was going to ask but I didn't want to be so specific, because under our Minor PUD Mod, if it kicks up to Planning Commission, you re-notice and re-distribute the card for this meeting with 1,000 feet as I recall.

Beaudin: What Shweta is saying is we've been doing that. It's the same thing with our 1,000-foot notice. We did that by policy and not by law or by code.

Commissioner Balch: Okay, so to make sure I understand—with a Minor CUP we do 300 feet. If it got kicked up because of difficulty or wanting to have it reviewed here, you would notice it for this meeting and increase the notice radius to 1,000 feet.

Beaudin: Yes, and I would say that we'll make a change to the code so the language here says that clearly.

Commissioner Nagler: It's different than what's here but it's a good idea.

Beaudin: Yes.

Commissioner Balch: And then my last question is more just a question on the uses in the Table on page 29. I just noticed that the places of assembly of 100 or fewer attendees at one time are this Minor CUP process. Can you give us your thoughts on what you're asking for here or what you're saying? I know where it's at. It's C-C and Office and Industrial and Park, right, so it's not necessarily that uncalled for per se.

Bonn: The Community Facilities category is new. It's really a consolidation and includes places of worship, and so in evaluating what uses would be applicable to the Minor CUP process, one that frequently comes to the Planning Commission on the Consent Calendar are places of worship. 100 isn't a magic number but it seemed it could act as a reasonable threshold between what is a Minor CUP versus a CUP, that's essentially the gist of where that comes from.

Commissioner Balch: I just wanted to mention that this is on my Minor PUD Mod, we added this in as a Minor PUD use. So this is now something that would be one of these examples....the Minor PUD is in the past by quite a lot of time but now this Minor CUP process is in, so this will be a double administrative approval separated by years in this case. Okay, thank you Shweta. I think I just have one more question...

Well, I think you guys handled it, but it was the 60,000 feet for the retail. I looked at the chart in the staff report, it begs itself for 58,000 feet just by the nature of the ones listed, so I just didn't know if you guys wanted to clarify or add any further color to that, as to why 60,000 is the magic number?

Bonn: There's definitely no magic to it. We're certainly open to suggestions. 60,000 seemed to be on the higher end, you know, where Raley's is. These are not perfect, precise numbers. Also, you'll notice that they're fairly round so it seemed to be on the higher end of the threshold just to accommodate as many uses below that, but also recognizing that that seems to be the upper limit for the types of neighborhood style uses that you would see without having to trigger an additional review process. But again, we're certainly open to other thoughts on the 60,000 number.

Commissioner Balch: My only comment to this was just that the traffic at the Amador Safeway and the Pleasanton Gateway Safeway is fun and so I wanted to qualify, and obviously you look at this and I don't know necessarily that 2,000 square feet makes a major traffic impact, but it sure seems like it's awfully darn close.

Commissioner Allen: The concern I have with 60,000 square feet is specific to the C-C District, and I know it's unlikely but at our last meeting we talked about potentially having three types of sizing. Theoretically, let's say that the Vic's Shopping Center area—I don't know how many square feet—or some of the new redevelopment we're doing downtown frees up a lot of space and Safeway wants to come in. The thing I'm concerned about is if we actually have City code that says someone could come in up to 60,000 feet without a CUP, just straight permitted in C-C, I'm concerned about that because we have such limited downtown space and I think we want to be very strategic about keeping it pedestrian-scaled and small-scaled, and we know we have a huge traffic challenge downtown. Adding a Safeway or Raley's somewhere downtown if something freed up could be a nightmare. So I'm concerned with having that allowed in the C-C District.

Commissioner O'Connor: It's downtown but it's separate though, right?

Commissioner Allen: C-C is downtown. Can you show me on the table? Maybe I'm misreading this.

Commissioner Balch: Page 30.

Commissioner Brown: I think they mention this in Table 2 of Exhibit B, Item no. 8 as well.

Commissioner Allen: Okay, because I'm looking at page 30 and on page 30 for up to 60,000 feet for C-C it says it's permitted, which would say if Safeway came to us, it would say it's permitted.

Bonn: Your read of what it says is correct. A C-C zoned property less than 60,000 square feet would be a permitted use. So to address your comment specifically related to downtown there's probably limited spaces that are 60,000 or more square feet. If somebody were to demolish an existing shopping center and start brand new, that

would also require design review and something like a brand new building downtown would come to the Planning Commission.

Commissioner Allen: So today it comes to us and what we do is we say, was it permitted or not? We'd look here and say, oh yeah, it's permitted. So then it makes it more difficult for us to say, no you can't be here. You know, I mean it begs the question. Today, we don't have any limit, right? Correct?

Bonn: Correct, there's no square footage threshold.

Commissioner Allen: So therefore if Safeway came in, we're sort of given all kinds of flexibility.

Commissioner O'Connor: If it moves to the civic center...

Commissioner Balch: If it becomes a neighborhood grocery store.

Commissioner Allen: Yeah, I mean there could be a lot of redevelopment in that end of town so I'd hate to open ourselves up that it comes to us and we say, is it permitted or not? Oh yeah, it's now permitted and it's real clear up to 60,000 feet and that just doesn't seem like it makes sense. It seems like we're putting ourselves at risk.

Commissioner Nagler: The questions on C-C or related downtown questions are going to be subject to further review by the Downtown Specific Plan Task Force, right?

Commissioner Allen: Therefore, I kind of say let's keep this as is or let's put on C-C and make it conditional.

Commissioner O'Connor: Let the rest be permitted and under C-C make it conditional.

Commissioner Nagler: That makes sense, not to say we have a policy position but to....

Commissioner Allen....you know, we'll let the team decide.

Beaudin: I think Commissioner Allen, your comment is pretty specific to downtown, so the question Shweta and I were just discussing was whether we could have an additional footnote that talks about retail in C-C Downtown and defers to the Downtown Specific Plan in terms of uses and a size threshold, or maybe we set a size threshold in a footnote on the C-C for downtown.

The other large C-C district in town is Rosewood Commons, so I think not bringing this up to that scale is important. It's unfortunate that C-C serves Rosewood Commons and the downtown and they're just different pieces and fabric in our community, so the idea of footnoting C-C to pull out downtown properties and setting a retail threshold that's more reasonable to downtown as a permitted use and then having anything require a CUP that's above a certain size?

Commissioner O'Connor: Or the footnote referring to the Downtown Specific Plan-- Would that work?

Beaudin: That works as well.

Commissioner Allen: I'm fine with either of those. I mean if we set a threshold, we want to decide here what that is. Is it 20,000, 30,000, I don't know, and I'm fine having the task force decide that and have it go to public review.

Commissioner Nagler: Yeah, let's do that.

Commissioner Balch: I like that idea. I didn't know if you wanted to talk about the threshold here for the rest of it; the 60,000 or not?

Commissioner Allen: My only intent was downtown because I'm really into pedestrian scale small town.

Commissioner Balch: I'd support a footnote deferring to the DSP.

Beaudin: I want to make sure we actually address the retail head on. So, if we have time for a recess before we're done, Shweta and I can try to wordsmith it; otherwise, I'm going to ask for some grace from you all to draft a footnote that meets the intent of what you're asking, which was to make sure retail is, I'll call it "downtown scale" which is a pedestrian scale rather than being subject to the broader C-C parameters.

Commissioner Nagler: Well, just out of curiosity, why wouldn't it make specific reference to the DSP?

Beaudin: I think it can but the DSP does not set limits on retail size either.

Chair Ritter: It could.

Commissioner Allen: Should it though?

Beaudin: It could and it might in two years, but in this interim period, I want to make sure we're covered. So we probably want to set a number on that. I'd want to do some downtown number searching before we hit the City Council to make sure I understood what the largest banks buildings look like, the library building, and some of the others so we set the size appropriately to make sure we keep that scale.

Commissioner Balch: So right now, do you need a recess to do that? Or, do you want to have this come back to us?

Chair Ritter: You know what our intent is and make sure you move forward with that.

Beaudin: Yes, if you're willing to do that.

Chair Ritter: I'm willing to do that.

Commissioner Allen: I'd like to see a number though.

Beaudin: It may not be a number.

Commissioner Allen: Pedestrian scale and consistent with downtown existing buildings. That feels okay because that's what we'd look at if it came to us, right?

Beaudin: And it would still be a CUP if it's above a certain number. I will put a number on that but I just don't know tonight what that would be. A lot of our businesses downtown are between 7,000 and 10,000 square feet; but there are larger and smaller ones. I just don't want to pin a number on it tonight without doing a little bit more research.

Chair Ritter: You still have the opportunity because it still has to go to the City Council. With the number you pin on it, it goes to the City Council. If we don't like it....

Commissioner Allen:I mean if we're in the 7,000 to 10,000 with that footnote, I mean that feels right. It feels a lot different than 80,000.

Beaudin: Right and I think there are Trader Joe's models that fit into downtowns pretty well that are a little bit larger than that, so I'll do a little homework and we'll make sure the number works for the Commission. I'll make sure you get a copy of the staff report for Council.

Commissioner Nagler: Do you happen to know the square footage of the hardware store?

Beaudin: I can do a Google Earth outline of the building and try to get a rough estimate tonight, but I can't imagine it's more than 30,000 or 40,000 square feet.

Bonn: Is that on the upper end of what the Commission is comfortable with just so we get a sense?

Commissioner Allen: I'm comfortable with that. I'm comfortable with something like a Pottery Barn or Restoration Hardware; not a lot of them, but I would say that's within realm.

Commissioner Balch: Could I ask for clarification maybe? I think we're asking and to make sure I'm following, I apologize Nancy—we're basically saying at what level is permitted and at what level does it become conditional?

Commissioner Allen: Yes, that's the point.

Commissioner Balch: So, frankly being lower isn't a major risk except that we catch more fish in our net and obviously we're trying to be efficient here, right? I would set it at 7,500 square feet.

Commissioner Allen: That feels about right.

Commissioner Balch: Between permitted and new?

Commissioner Allen: Yes.

Commissioner Nagler: Maintain the downtown character....and up to 7,500 square feet.

Commissioner Balch: And anything more, you've got to be looking at it more specifically.

Commissioner Nagler: Exactly.

Chair Ritter: Does that help Gerry? Shweta?

Beaudin: Yes, it does and that will be the threshold—anything 7,500 square feet and larger will require a CUP.

Commissioner Balch: And then as you probably will prepare for Council and ask them to weigh in on that number....Is everyone comfortable with the 60,000 for the rest? Or not?

Commissioner Nagler: What are you suggesting?

Commissioner Balch: I'm just looking at Table 1 on page 5. I'm saying the two Safeway complexes at approximately 50,000 square feet each generate a lot of traffic, right? But at the same time, those are done so those are permitted now by nature of their PUDs, right? It's a slightly moot point, but...

Commissioner O'Connor: Raley's is 60,000. If you eliminate that, if we wanted another large grocery store someplace else in town, they won't come if the threshold is too small.

Commissioner Balch: And again, it's only between permitted and conditional.

Commissioner Brown: I would agree with Commissioner Balch. I would think 55,000 square feet is probably better based on the table that I see.

Commissioner Nagler: I would support 55,000.

Commissioner Allen: I would support 55,000 too.

Chair Ritter: Okay.

Commissioner Allen: So I'm on page 19, the very beginning which defines the special purpose in C-C (Central Commercial) District. I'm not doing this just to wordsmith because otherwise we'd waste our time, but we look at these documents to determine our priority. So, I'm not getting what the purpose of the C-C District is from here and it doesn't seem to be quite in sync with the DSP. In other words, when I think of the C-C district, I think of a business district. It's not solely business but it's a predominantly, as the DSP says: "Retail use is considered highly desirable because it promotes pedestrian activity and interest, supports and complements other downtown businesses, and draws people into the downtown." So I would expect to be seeing the purpose A be something like that; it's important—it's the center of our small town commercial downtown activity. Point B can be something related to, "and it also is residential and

historic and multi-use is promoted.” But I just felt like this whole emphasis on commercial got lost here in both the name change of this district and the way this is worded.

Shweta, you and I talked about a mixed use. The term “mixed use” is being added here and I am 100% supportive of the way it’s used on page 20. On the last paragraph of page 20, there is Point B, which says, “Multi-family dwellings and mixed use development shall be permitted in the C-C district.” And Gerry and Shweta, this is what you and I talked about a couple of days ago. I’m fully supportive of that. What I worry about a little bit is that if you put it up front and center to this whole thing, it could imply that our goal is to take all of our commercial space that’s commercial which is limited really and turn it into mixed use which could be predominantly residential. So, I just think the Downtown Specific Plan Task Force needs to define what they want the downtown to be and we shouldn’t start saying everything should be mixed use now. I would propose we revise Section A of the purpose to be stronger on commercial and commercial retail.

Beaudin: I think the reason we added mixed use is because we’re trying to get that compatibility between the policy documents and the implementation documents. So our General Plan and our existing DSP reference this. I think if we took A and re-wrote it to, “To maintain compactness and pedestrian scale and to encourage commercial mixed use and more intensive development in Pleasanton’s Downtown Revitalization District.” Does that work by adding the word, “commercial” after “encourage”?

Commissioner Allen: Possibly, but I’m also not sure about “intense development.” That makes an assumption that again I think the DSP Task Force needs to determine what is “intense” and I don’t think we should be putting that in as a goal because I don’t think it’s been publicly discussed and that team needs to define what that looks like. There are also implications about growth management and everything else. I don’t know the community would agree with that.

Beaudin: The only words we added here and it was really to try and give that downtown character that you were referencing earlier where really the pedestrian scale. We added “mixed use” because it shows up in the policy documents and in some of the other land use planning tools we have for downtown. The “intensive development” was there already and we call it the Downtown Revitalization District to again be consistent across those other documents.

I hear the point and as someone who is setting up the agenda for that first task force meeting, I’m really interested in hearing from the community. These purpose statements are guiding but they’re not really regulations in terms of the code itself. So, I want to be responsive to the comment and I want to make sure the Commission gives me and Shweta the clarity we need to move forward. But just know that they set a regulatory tone, but really it’s the very specific regulations that execute. So whether it says commercial or not, if commercial is a permitted use in downtown then it’s going to happen or not through that.

Commissioner Allen: We all know that we look at these documents too. We look and we pick words that are written here as what the purpose of something is and that’s why I

think it's important we treat it as an important statement. So anyway, let me ask my peers. My alternative proposal would be to have Section A focus on what is in the DSP specifically about retail use being highly desirable because it promotes pedestrian activities, supports and complements other downtown businesses and draws people. The purpose of our commercial district is predominantly retail and that's because of that, and I would propose that that be Section A, and Section B be related to residential. The other purpose is to have a vibrant residential community that can be multi-use as well and something along that line.

I would propose that commercial be in Section A and residential be B as opposed to melding them, but I will look to my peers here, because I think that's why when people talk about downtown they talk about a vibrant business district and that's what Scott Raty came to talk about—business thrives vitality.

Chair Ritter: What other areas are the Central Commercial districts? This isn't just downtown in 18.44.030, is it?

Bonn: It's predominantly downtown. There's straight zoning that has the C-C designation like Rosewood Commons as Gerry mentioned earlier, and there probably are a handful of PUDs that refer back to the C-C district. So half of Rosewood Commons is PUD-C and it refers back to the C-C district with some exceptions. The other half of Rosewood Commons is straight zoned C-C and there are probably a couple of other examples as well.

Commissioner Brown: I'm not sure Rosewood Commons would fit into this definition, right, if you're targeting it towards the downtown?

Beaudin: Right, we really need our DSP update to take the lead on these and so that's part of what we'll be trying to accomplish. The C-C district, because it does apply elsewhere in the City, the idea of pedestrian scale, the idea of encouraging mixed use—those are somewhat similar planning directions that we've been giving folks for our downtown based on the existing DSP and in Rosewood Commons where they're contemplating the residential projects that were contemplated during the Housing Element process. So, whether its horizontal mixed use or vertical mixed use, it becomes more of the conversation. This doesn't tie you're hands one way or the other.

Commissioner Balch: Well, the pedestrian element across anything in the City in my opinion should be supported. I mean, we've got to get out of our cars, right? So I don't have a problem with that. I'm hearing everything everyone is saying. I do support the idea of adding the commercial. I think that might be our little compromise here. The intensive development language from my point, I think I'm going to punt. I could go either way. I understand what staff is saying that basically it's been there and it's kind of the grandfathered language they have inherited to edit, so I'm not really sure now would be the time in my opinion to alter it. I apologize Nancy, I didn't get your A versus B and I just want to make sure I understand that comment. Where was that at? Was that in the Point 10 part in the Purpose?

Commissioner Allen: It was the top of page 19; "The purpose of the District is as follows". Gerry's proposal was to have one sentence that had commercial and

residential. Mine was just to say Point A would focus on the purpose to have a vibrant business commercial center that's pedestrian scale and supports and complements other downtown businesses and draws people into downtown. Point A would focus on the business side of the C-C district.

Commissioner Balch: So you would add that in?

Commissioner Allen: Yes.

Commissioner Balch: Brand new wordsmith in.

Commissioner Allen: Yes.

Chair Ritter: I agree with you Nancy, but I think it's almost like we're a little ahead—if we had the DSP, and I don't want to restrict that group from doing what they think we should do down there by creating this code right now but this one leaves it open since C-C is mostly downtown from what you're telling me.

Commissioner Balch: Although I see her argument that, you know, we look back to the purpose statements to kind of give us the context of the point, right?

Chair Ritter: But won't the DSP come up with a purpose?

Commissioner Allen: It's two years away.

Chair Ritter: It's January.

Commissioner Balch: Well, if we had that we'd be done here.

Commissioner Allen: Maybe we just keep with what we have until it's redone. So what did this used to say before it was revised?

Bonn: So the only new language is what's underlined here, the rest is existing language.

Commissioner Allen: "To maintain compactness and encourage more intensive development in Pleasanton Central Business District." So that is a business. You know what? I'm okay leaving it as is and not changing the name too. See, by changing the name, we've eliminated the word "business." I mean, that's the other angle of this. It's subtle but revitalization has nothing to do specifically with the commercial district and we sort of lost that this is the heart of the downtown pedestrian scale commercial business. That's my main point. I think we lost by both the name change and the way we just talked about mixed use which often times implies more residential.

I'm either fine with leaving it as is—the whole thing, and then punting to where Chair Ritter was—let the Downtown Task Force determine what their purpose is.

Commissioner Nagler: What does capital D and capital R refer to? Downtown Revitalization; capital D, capital R; it's a formal name, so what does it refer to?

Bonn: It's actually a sub-district defined in the code so it's a subset within the downtown.

Commissioner Nagler: So with blocks then, how is it divided?

Bonn: I don't know the boundaries off the top of my head, but it roughly encompasses the major Central Commercial district within the downtown.

Beaudin: I'm going to stick my neck out on a limb because I've been looking at a lot of the downtown maps lately and I think that it goes from essentially the bridge to Bernal and Peters over to First, and I don't know where it bends but it stays pretty close to Main Street. I don't think it stays on First all the way up to Stanley.

Commissioner Nagler: And in your recollection of having looked at all of these maps recently, what is the delta between Central Business district and Downtown Revitalization district?

Commissioner Balch: Well, they eliminate Central Business....

Beaudin: It was trying to get the language to line up between the zoning and the Specific Plan.

Commissioner Balch: I think one of the things Nancy has caught onto is if I add the Downtown Revitalization District specifically to the C-C here, the C-C applies elsewhere, right? So, we're calling out the one area by your changes here that really hone in the downtown and kind of ignore the step child in the room. I could go with no changes and let them handle it in the specific plan.

Commissioner Nagler: Me too.

Chair Ritter: I agree.

Commissioner Nagler: Me too. That's the most neutral thing we can do.

Commissioner Allen: Agreed.

Commissioner Nagler: I'm getting your point here about wanting to include mixed use in form, but let's just leave it the way it is.

Commissioner Brown: I was just going to say you could add a reference that's back to the Specific Plan and say, "and support C; objectives as stated in the Downtown Specific Plan."

Commissioner Nagler: Too complicated, too many words, so let's just leave it the way it is.

Commissioner O'Connor: In paragraph B are they talking about retail only on the ground floor? I know that came up years ago. They're not inferring anything in there about the continuity...?

Beaudin: I wasn't around for the intent discussion on this, but that's not how we use it and it's not how any of the regulations are written in that section of the code.

Commissioner O'Connor: Well, it just reads as continuity of commercial frontage. So you know, it's like trying to...

Beaudin: I like it, but that's not how we interpret it.

Chair Ritter: So are we good on that point? Okay.

Commissioner Allen: What happens in terms of fees if a Minor CUP gets bumped to Planning Commission? Does the applicant then pay a higher fee? I'm assuming yes.

Commissioner O'Connor: If it doesn't change from minor, I would say it's the same fee.

Commissioner Allen: But if it comes to us; if it comes in as Minor and it comes to us in terms of our cost structure that we've done all of the fee restructuring for, we now have a lot more involvement and work by staff.

Beaudin: We would not change the fee with the caveat that if something is appealed, then the appeal fees get paid. If the reason changes, if it's beyond something where staff bumped it up, then it stays the same.

Commissioner Allen: Okay, and then my other process question had to do with the timing of when you will be doing an audit for this. I know the staff report was a little loose. It said maybe six months we do an audit. My recommendation is that we pick a date and put it on the schedule; otherwise, I'm afraid it won't happen. Just think about the DSP that was done 10-15 years ago said, a lot of things would happen and nothing happened because people moved onto other projects. So I'd say, let's make a commitment whether it's a year, whether it's six months, and let's build a schedule.

Beaudin: Can I make it an "if then" for you all to consider because I hear the point and I think what you're going to find is you're going to see zoning from us for at least the next year and a half and possibly two, so what I'd like to do is as we come back with the pieces of the zoning. We may bring you things that need to be cleaned up along the way so you're going to see us a lot unless the Council Work Plan changes. If that happens, then what I would say is we should put a timeframe on it because then you may never see us again, right? That's the possibility, but between now and when we're done with the comprehensive update, you going to see us I'd have to imagine every nine months at the most.

Commissioner Allen: Well, let's just say that. Let's say a minimum of nine months we'll be back in our commitment.

Chair Ritter: What you're saying is that it might come in a month or a couple.

Commissioner Allen: At least nine months.

Beaudin: I'll leave that all to you. I would ask that you not do that to staff because I don't know what we're going to be doing in nine months, but I know that when we

schedule the next zoning code update meeting with you all, we'd be more than happy to talk about the work that we've done so far and successes and not successes we're having.

Commissioner Balch: The next phase you're going to know because we're going to ask.

Beaudin: Yes.

Commissioner Allen: But, you're saying for sure that it'll be in nine months that you will be back to us.

Beaudin: Yes, we're going to be kicking off the next phase of this work I would say in March or April of next year if the Council approves what we're doing now, so we'll be back for a workshop asking for your input just like we did the last time with this.

Chair Ritter: Stakeholders are going to want to know too so it's just not us.

Commissioner Allen: I'm okay with it.

Commissioner Nagler: The problem with doing what you're suggesting is that we're requiring of staff work that they may or may not have.

Commissioner Allen: That's why I'm saying I'm okay in listening to Gerry and supporting what your recommendation is.

Beaudin: Thank you.

Commissioner O'Connor: On the top of the table on page 22 when we go through these categories of permitted and conditional, the very first line: "Adult entertainment establishments" and then it refers us to Chapter 18.104 and I never got the time to go and look at that chapter, but I didn't even know we had any adult entertainment establishments in Pleasanton. Do we? We have a lot of P, P, P and P right across the board here, everything's permitted. I'm wondering what's included.

Commissioner Balch: It's defined somewhere in here because I saw it. It's not what you're thinking.

Commissioner O'Connor: Just for number 3, I want to know what's permitted because it takes us to Chapter 18, and I don't know what's in Chapter 18.

Commissioner Allen: Good point. Point 3 doesn't answer the question.

Seto: I would just clarify because this issue is one of those issues is actually protected under the First Amendment so it has to be a permitted use, but in my probably 15 years I worked for the City I've never seen an application come forward if that provides any history.

Commissioner Balch: It's discussed more broadly in here somewhere.

Commissioner O'Connor: So, it's protected. It has to be permitted somewhere you're saying?

Seto: Yes, it has to be permitted somewhere in the community. Under a court decision, you have to provide a reasonable number of locations and at times there have actually been challenges where certain interest groups say having them only in industrial commercial areas is not enough; that you should have them in more main stream areas and our ordinance has always tried to keep them in areas that they wouldn't have as much interaction near residences or parks or schools. So we picked some areas as limited as possible to still meet the letter of the law in terms of providing a few options.

Commissioner O'Connor: So the one glaring area that I saw out of the list was again the C-C area. It means they're permitted downtown?

Beaudin: Except they're not because the separation criteria related to it. It's within 500 feet of any other adult entertainment business, 500 feet of any residential zone or use, or within 500 feet of any church, school, public park in the City, 500 feet of selling or serving alcohol. So, we permit them, but then we have these very specific criteria. I would imagine there's a patch of soil in Pleasanton where someone could meet this criteria but I couldn't identify it for you.

Chair Ritter: But we've met our obligations.

Seto: That's correct.

Commissioner Allen: Well, thank you for clarifying.

Commissioner Brown: Did we address the Hacienda letter from Mr. Paxson? He consistently called out there is no clear direction provided as to what happens in the event of a discrepancy between an approved PUD and direction provided by the table. He points out the same point Commissioner O'Connor made earlier in that we have a lot of PUDs in this city and do we need to explicitly say that in the case of a discrepancy, the PUD takes precedent over the table. I think this was his point.

Beaudin: There are administrative sections and there are kind of rules of interpretation that exist in a lot of City zoning codes and so I would imagine us doing that in a future phase and creating that for the City of Pleasanton. In the meantime, there's just what we do practically as practitioners in using the code on a regular basis and from a legal perspective. So, you have the base zoning district and then you put a PUD on top of it and the PUD guides. I understand Mr. Paxson is interested in saying that. We can add a footnote to say that, but the reality is, it's clear to everyone who uses the code from staff's perspective and I can see where he would want that to be clearer for people coming in and trying to identify this.

Commissioner Brown: I think the point of the code simplification is to make it clearer for the public, so I think it's a useful point. The other point he made was around the same point you made earlier in terms of we're going to go through a period of tweaking as we go through these learnings. He was talking about a "publicly accessible record of interpretive actions" such that it be rolled back into those periodic code amendments as

we go through these three phases. And then also, he was talking about instituting a zoning code amendment adopted every two years, so I wasn't sure if you had any comment or thoughts on his points.

Beaudin: I've had this conversation with Mr. Paxson. We kind of agree to disagree on a couple of things and it's still a public process. I understand his desire to have that every two-year check-in. I think it makes sense to bring issues with the code. We do an omnibus for administrative cleanup items on an annual basis in Pleasanton. I think that land use and zoning are a little bit different and sometimes you need to jump right on it and sometimes it's less urgent. I would encourage him to talk with the City Council about creating this as part of a Work Plan item because it's not a minor task. And I would suggest the same thing earlier that we do that at the end of the zoning code cleanup process. I think there's going to be an annual check-in a year or two after the code is updated, and then maybe it makes sense to do it every two years. But it's a significant workload commitment to go through and vet individual projects and look at the development standards that we have in place.

Commissioner Brown: My view is the same as yours. It's going to be re-visited multiple times in the next couple of years and then maybe every two years after that as appropriate. I did think it was a useful point around the interpretive piece and is that going to be recorded, or are we relying on staff to just bring those things up when we talk about the future phases?

Beaudin: I fully agree with Mr. Paxson on this point. I think for a number of reasons— for budget and staffing reasons primarily, most cities do have an interpretation finder and those are kind of gold with people who work with the code because they've identified the pitfalls and somebody's taken the time to think carefully about it, and that sets if not a precedent, it gives you at least a solid direction to go in when you're trying to tackle these issues. I want to take all of those in Pleasanton and get them into our code and then going forward, I think it's our job to keep track of those and make them publicly available. I have no problem doing that. I'll tell you right now, Steve Otto's zoning code has pencil notes in every margin. So as we get into the zoning code update, we're basically taking those pieces of information depending on the content of the piece of the update that we're doing and we're having conversations about them. I understand the frustration and we're going to do our best to get the pencil notes in the margin into the code.

Commissioner Brown: At times I've expressed frustration. I just thought it was a good point.

Beaudin: Yes, I'm sharing Mr. Paxson's sentiment.

Commissioner Brown: Okay. Exhibit B, Table 1, you mention when we were talking about the 4 dBA earlier, what is meant by the property plane?

Beaudin: It's the property line going straight up. It's not a visible....

Commissioner Brown: Okay, all right. Page 7, Exhibit B, Item 1, write in headings for zoning districts in the chart. I think if you avoided repeating on every page the definition

of CUP, MCUP, P and C, you could probably fit that in if you make it smaller and make it vertical. I think it would make the table a lot easier to read versus C-N, C-C, C-R, C-S, CFO, etc. But again, I'm not going to belabor the point, but I respectfully disagree on that.

Commissioner Brown: I think Commissioner Balch also wanted to see that if I'm not mistaken.

Commissioner Balch: I'm going to echo that and I'm thinking and I want to make sure we're talking about the same thing, I'm thinking that on the first time you introduce the chart, the top of the chart, C-N is Commercial Neighborhood written out because I have to go look up again and the M versus the P in Commercial Region 1 and Mall versus Periphery. So, it just takes time. I think in terms of users, you guys have such a quick knowledge that you'll handle acronyms well. The user is taking time, so maybe it's on the first page of the table and not necessarily repeated every page therein. Like Industrial Park versus Industrial General, right? Office, Commercial Freeway, Commercial Service, and now I'm getting used to them...

Bonn: Would it be acceptable to the Commission to actually list it underneath the text that's identified up on top, you know, where we have the bold text where it talks about properties in the PUD and then the PUD shall be consulted. Would it be acceptable to itemize what all of those are as opposed to the row that includes the abbreviation?

Commissioner Balch: I think any way you would fit it. If I could get it...and again, I'm thinking I would only do it on page 1 of the table. For further pages, they might need the legend, but that's my opinion.

Commissioner Brown: I even think that the three lines that you have is kind of a bit unnecessary. If I was doing it I would just put TC=Temporary Conditional, P=Permitted, etc. Bullets. Sorry, I'm used to PowerPoint in my daily job I guess.

Commissioner Balch: Can I just add to that? I think that was a reason again for me is because the Commercials are all listed up in the first couple of pages, but the Industrial Park and Industrial General is not. It's listed a little further back, so you've got to go back there to confirm your knowledge on what those area, again for the user.

Bonn: That's all good. We can figure out a way to incorporate it.

Commissioner Brown: Okay, fair enough. I did have a question on Item 14 and if you could explain that a little more to me—Item 14 in Table 2 which is page 8 of Exhibit B, I think I raised this last time—why we are classifying restaurants past 11:00 p.m. and you reference that it was implemented in preparation for the Downtown Hospitality Guidelines. Can you just expand on that?

Bonn: Sure, so previously the definition for restaurant versus bars included a 10:00 p.m. cutoff for the sale of alcohol. So by definition of restaurant that sold alcohol past 10:00 p.m. was classified as a bar for purposes of the zoning code. That was modified to 11:00 p.m. as part of the Downtown Hospitality Guidelines. One of the comments we received for this update to the zoning code is that restaurants serving alcohol past

11:00 p.m. should not be classified as bars, and we're proposing not to address that at this time given it was very recently addressed with the Hospitality Guidelines.

Commissioner Brown: Okay, all right.

Commissioner Nagler: I think staff has done a terrific job in this process and they have been remarkably diligent in reaching out to the community and reflecting their input and that this is a terrific product and that the expertise of the Planning Commission has helped, and that I think the product is very well supported.

Chair Ritter: Great. The best part about going last is that most things have been discussed. My only question is on page 26, Table 18; parking lots. We just have one under C-C as conditional. It sounds like they're excluding pay for parking facilities. I just didn't know if that was an option or if that's something....or are we good with that?

Beaudin: So what we're saying here is that paid parking lots are not permitted in most of these zoning districts, and if you're going to do an off-site paid parking lot; if you're just going to take a piece of property in a C-C zone, you have to come in and get a CUP to operate that commercial business, which is essentially a parking structure or parking lot that takes money for parking spaces.

Chair Ritter: So we're not excluding anything.

Beaudin: We're not excluding it in C-C.

Chair Ritter: Okay.

Commissioner Balch: I'll make a motion that we find that the proposed amendment to the Municipal Code is exempt from CEQA and I move that we adopt a resolution recommending approval of Case P16-1418 with the following amendments which are: For code section 18.124.200 which is the Minor CUP Element, we add Condition H which says "A Minor PUD process and a Minor CUP process cannot run concurrently." Staff could modify the language as they see fit; that we modify to say that Downtown Retail C-C has a footnote added that says that 7,500 feet becomes between permitted and now conditional; that we adjust the retail number for permitted versus condition from 60,000 as it is written to 55,000 square feet; and that we modify Section 18.44.030 which is related to the downtown language with the Downtown Revitalization to leave it the way it is without the comments or redlines as proposed. So we're reverting to the original text, and that was the Retail Downtown or the item Commissioner Allen brought up; and, strongly recommends that a legend be added to the top of the Table listing the zoning districts.

Commissioner Nagler: Second.

Beaudin: Do you want to add the 1,000 foot radius if a Minor Use Permit kicks up to the Planning Commission?

Commissioner Balch: Do you want us to because I would but...okay, so amended.

Commissioner Nagler: Second as amended.

Commissioner Balch moved to recommend approval of Case P16-1418, per staff recommendation with the following modifications: (1) under section 18.124.200, add section “H” that indicates a Minor CUP cannot be processed as a result of the PUD Minor Modification until the effective date of the PUD Minor Modification; (2) add a footnote to Table 18.44.080 to require a CUP for retail uses that exceed 7,500 square feet and are located within the Downtown Specific Plan area; (3) modify the threshold for a CUP for retail uses outside the Downtown Specific Plan area to be 55,000 square feet instead of 60,000 square feet; (4) discard proposed modifications to section 18.44.030 and retain existing language; (5) add language that indicates a Minor CUP that is subject to review by the Planning Commission will be noticed to property owners and occupants within 1,000 feet of the exterior boundaries of the property on which the minor conditional use permit is proposed; and (6) strongly recommend the zoning designations be spelled out in the heading of Table 18.44.080.

Commissioner Nagler seconded the motion.

ROLL CALL VOTE:

AYES: Commissioners Allen, Balch, Nagler, O’Connor, and Chair Ritter
NOES: None
ABSTAIN: None
RECUSED: None
ABSENT: None

Resolution No. PC-2016-34 approving Case P16-1418 was entered and adopted as motioned.

7. MATTERS INITIATED BY COMMISSION MEMBERS

Chair Ritter: I think there were some Commission members who went to a training? Do we bring that up here?

Beaudin: This is the Planning Commission section, but I just wanted to tee it up a bit. We went to Sonoma State University for Planning Commissioner training on Saturday, December 3rd. It was a four-hour training session with three topics. The first topic was a talk given by Woodie Tescher who talked about updating General Plans. The second was Miriam Chion from ABAG and she was talking about local plans and regional strategies and how the regional planning process plays out here in the Bay Area, and then Vivian Kahn from Dyett and Bhatia talked about sign code updates and sign regulations. Dyett and Bhatia is the firm also helping us out with our Downtown Specific Plan, and so it was timely for a couple of reasons. Obviously, Dyett and Bhatia talking about sign regulations is what we’ll be doing next with our zoning code update and having them also as experts helping us out with professional services for our downtown plan. It was great to get to talk with Vivian while she was there. I’ll turn it back, but I can certainly add some color to each of those topics if the Commission wants me to do that. I thought it was time well spent and I hope we can make it an annual pilgrimage and

bring a few people up there. I think this was the 33rd Annual Planning Conference at Sonoma State, so yeah, I went up with Commissioner Allen and Commissioner Brown.

Chair Ritter: Great. Do you want to add anything to that? You've been to one of these before?

Commissioner Allen: This was the first one I went to at Sonoma State and I actually found the presentations to be very helpful. I had two take-a-ways on the first presenter. The greatest learning I had was a theme about how we should be finding creative ways to visualize, in our plans, a place. The comment was the purpose of doing a plan is not to complete a plan but it's to really build a place. You know, when we create a plan for Downtown, it's not about finishing the plan. It's about really creating a place and creating an experience. So there was quite a bit of discussion about visualization and some techniques consultants are using to help the task force members and the public really walk through—using video and other schemes—walk through what the experience is of this place that one's building. It applies to projects as well.

So, it was a take-off too on some of the discussions we've been having, for example, we struggle with it in some of our projects when we talk about story poles and we talk about visualizations. We're talking about tactical elements, but it was all around as helping us as Commissioners to really not just read something on paper but visualize what the experience of what the viewer will be from the street as they look at this building. So that was a really important theme that everyone spending a lot of money and time about creating an experience.

Now, my second learning was related to the presenter from ABAG. It was my first time hearing someone from ABAG talk about how they do forecasting, why they do it and what their vision is. The bottom line is, in the Bay Area, we've created so many jobs and we don't have enough houses, which we all know, right? But, then she talked about how they're trying to create forecasts for each of the areas and about how that might be balanced and create more housing.

Some of the presenters from the audience who were planning commissioners or staff members brought up things like creating houses in places where the jobs are not, and so that creates freeway congestion. There were people from the audience that would talk about challenging some of the assumptions they're doing. But, the bottom line for me is, I appreciated that I got a better understanding of where they're coming from because at a global level, we do need to have more balance of jobs and houses. Globally we do, but very tactically, if we end up putting the jobs in different places than the houses, we've created a nightmare that could get worse through the gridlock we create, and so there wasn't quite an answer to that. But, I got a better appreciation for the challenges that are going on, and it prompted to me the question, are we creating too many jobs? Some other people I sat around started asking that question too—do we need to think more strategically about the kind of jobs we're creating, or home jobs versus corporate jobs, or are there other answers than just saying throw housing at it. But, it prompted more questions to me than answers. Justin, how about you?

Commissioner Brown: Yes, in terms of the General Plan, they spent a fair amount of time talking about LA and that sort of area around the Hollywood Boulevard I think it

was. As Nancy pointed out, they talked about creating a special place and having a larger vision. As they were talking about that, I was thinking about the civic center as well as downtown. And they talked about a town that got incorporated. It was everyone's dumping ground for everything they didn't want and the General Plan was a vehicle for significant change over a long time period.

So, the Downtown Specific Plan needs to be a vision for what we want downtown reflective of community input. The General Plan is a similar vision but just at a citywide level. It did point out to me that sort of when we kick off the Specific Plan, there is hopefully a fair amount of brainstorming we need to do is what is that long-term vision that we want 10-15-20-30 years in the future of what we want the Downtown to look like.

And, on the ABAG piece, I found the graphs fascinating around the demographics and changes. We couldn't really see them in the room because they were black on black, and that's why downloading the presentations afterwards is really interesting. She spent some time talking about gentrification and some of the challenges that we haven't had necessarily here, but we also have similar issues in terms of cost of living and the average household and so on. Nancy described it well—it's sort of a three sided pyramid—jobs, housing and transportation. As you grow one or the other, it puts pressure on the other two. If jobs and housing aren't in the same place, it creates transportation issues. Some people in the audience were asking why we are getting pressure for houses when jobs are elsewhere, and so on. What it really pointed out to me is I need to learn a lot more about ABAG and get better educated. And, it struck me how difficult a job they have and how much of a probably thankless job they have.

On the sign ordinance piece there was a lot of colored commentary around First Amendment rights and free speech rights and so on. What was interesting is the overriding take-away I took was you can't control the content on the sign but you can put some constraints around it. As an example, you can't create an ordinance that says, political signs can only be this size or that size, and you can put out political signs but they have to be down 30 days after the election. What you can do is you can say all temporary signs have a maximum size of this and can only be out for a certain period of time, or you can't have a temporary sign that's falling under an art ordinance that's really advertising a business. So someone can't put a mural on the side of their pet care that has a picture of a dog and they're passing it off as art when it is really advertising the business, right? So there were a lot of things, but the broader picture is, don't try to control the content, try to have something consistent. So you could control the location of sandwich board signs or A-frame sizes in particular towns, but you can't say restaurants can't put A-frame signs out or anything like that. You have to generalize it around location, size, and things like that.

The last thing I'll comment on is they talked about sign allocation content as well. If you have let's call it a PUD, you could consider at a PUD level saying that you have a certain amount of allocation for signs servicing that PUD so that they can do a trade-off between having a large entryway sign to the property versus a series of smaller directional signs and things like that. So that was kind of an interesting comment.

One of the things I asked her about was mobile signs and can you restrict them. The comment there was as an example; you can't target and say you can't address the free

speech component. You can restrict parking a vehicle for over 10 days in one place but you can't tell someone they can't put out a large sign because you don't agree with the point of view. So anyway, those were just some of the take-a-ways of what I got from the sign piece.

Chair Ritter: Thank you, and thank you for going.

8. MATTERS FOR COMMISSION'S REVIEW/ACTION/INFORMATION

a. Reports from Meetings Attended (e.g., Committee, Task Force, etc.)

Chair Ritter: So, Bikes and Pedestrian Trails Committee?

Commissioner Allen: I missed the last one.

Chair Ritter: I went. I didn't sit in the hot seat, but it was a great meeting. They had a lot of bicyclists there. They discussed how they're using Measure BB funds. Mike Tassano was there. They're going to use the curb and gutter removal and replacement on Hopyard Road and Black Avenue, approximately 300 feet. It's estimated to cost about \$50,000. So there was a discussion about do we use it to fix this temporarily or save the \$50,000 for the bigger project on Santa Rita. The general consensus was to use the \$50,000 to get this issue fixed right now and we can take advantage of Measure BB funds. That was interesting, and they also talked about the Stanley and Valley intersection of the things that are coming with that, and I can send you a choice of pictures of what they're talking about.

Commissioner Allen: Did they say how much money is allocated for that?

Chair Ritter: They did not say on that one. One thing I've noticed and I like a lot is that we have Mike Tassano come to some of these meetings because it is road, and they talk about traffic counts, and on Parks and Recreation we never talked about any of that stuff, so it's kind of a neat transition. That's kind of why I went; for the bicycle side.

Commissioner Allen: Thank you. Good coverage for us.

Chair Ritter: And again, I'm so thankful that you guys are putting these in here because I think it's important that we're all trying to attend some of these every once in a while. Civic Arts—did anybody go to that one? Downtown Specific Plan Task Force, we didn't have. Economic Vitality Committee? Heritage Tree Board appeals?

Commissioner O'Connor: We said no to two trees. Leave them there.

Chair Allen: One of them was interesting because it's near where the Ponderosa development is. It's Cameron by Martin Avenue and Moore Avenue. It's about a one-acre site that had a gorgeous Walnut tree and the homeowner came up to us afterwards and said—we denied him—and he said, but Ponderosa just got permission from the Planning Commission before us to cut down all the walnut trees on their property to build the Ponderosa property and he said it doesn't seem fair that you're holding me to

protecting my tree when you let the developer go and cut down all of the walnut trees on that property.

Commissioner O'Connor: He only bought three years ago. I don't think he was there when they took out the....it was really a half-dying orchard. They weren't 100 year old trees like he had in his backyard.

Commissioner Allen: Anyway, it was a good discussion about standards between how we treat developers and residents when they're right next to each other too.

Chair Ritter: Anybody go to the Housing Commission? Human Services? Library? Parks and Recreation? Youth Groups? Okay.

Commissioner O'Connor: So I did go to the Downtown Vitality. Was that in here somewhere?

Chair Ritter: Economic Vitality Committee?

Commissioner O'Connor: It was the Downtown Vitality Committee. We had a presentation and guest speaker who presented the new East Pleasanton Master Plan which we know the City isn't supporting. Mr. Dunn was kind of running around talking with different people, some Council people individually. He's going to the DVC. He also went to the Chamber. Anyway, they were presenting that they were downsizing their portion of the property. It's hard to tell because he left out one piece where another owner would develop homes as well from the original site. Probably 100 homes reduction? 150? Something like that of a 900 unit plan or something like that.

Beaudin: Can I add some flare to this?

Commissioner O'Connor: They were a little surprised to see a Planning Commissioner and a Councilmember attending.

Beaudin: So we don't have the DVC on our list because it's technically part of the PDA, so it doesn't show up as an official City meeting. Steve Dunn and his partner, Pam Frentzel-Beyme are out on the road with their reduced East Pleasanton Specific Plan. It's not being reviewed by staff. It's not under consideration by the City at all. They are trying to garner some support in the community and from Council in particular to get it on the Work Plan, and we'll see if they're going to be successful. We'll know more in the first quarter of 2017 when that Work Plan is firmed up.

Commissioner O'Connor: So Pam is actually in partnership with Mr. Dunn? She didn't introduce herself.

Beaudin: Yes, Pam and Steve work together.

Commissioner Allen: And just to clarify, the plan they are presenting, originally there were two developers who were involved and so Steve Dunn's numbers don't include the section that Kiewit originally had.

Commissioner O'Connor: That's why I said the plan they are proposing looks like 100-150 fewer homes because we don't have Kiewit's number.

Beaudin: So I haven't spent any real time on this, but I know it's under 900 units now with the Steelwave project and I would say that overall, with Kiewit's downsized proportionally, it's probably 100 units less than what was taken forward by the task force the last time. We'll see in early 2017 whether there's any political appetite for this.

Chair Ritter: Great, thank you.

b. Future Planning Calendar

Commissioner O'Connor: What does it mean to modify the performance standards for second dwelling units? What are the performance standards?

Beaudin: So these are the development standards. There's new state law effective January 1, 2017. There are two layers to accessory dwelling units. In our code we call them second dwelling units. The new state term for them is accessory dwelling units. There are flexibilities on parking based on proximity to transit and shopping centers and so that's for a second living unit in the broadest terms in the definition, which are accessory units now. There's also going to be junior accessory dwelling units which are accessory dwelling units located entirely within an existing single family home and we will not have the ability to regulate parking any more for those units. So you'll have a fully agendaized public hearing process to get us into compliance with state law on this land use change that came down as part of the latest legislative cycle.

Commissioner O'Connor: So that's an attached second dwelling unit?

Beaudin: The junior accessory dwelling unit is entirely within the existing walls. The accessory dwelling unit definition more broadly does not have to be attached. It can be a stand-alone structure on a property or it could be attached or entirely within and larger than the junior accessory dwelling unit.

Commissioner O'Connor: So state law currently states you cannot deny a second unit? Are there parameters around which you can?

Beaudin: There was already a first wave for second living units and it limited the size and it talked about us having less flexibility on parking requirements. In Pleasanton we were very conservative and we continue to regulate parking for second living units consistent with state law, but we're really pushed up against it. Other communities gave more parking relief than we did here in Pleasanton. This time around, a lot of that flexibility has been removed.

Commissioner O'Connor: So what about PUDs where you build 100 units and within that PUD there are 40 set aside with second dwelling units? So if one of those people without it, if they have one of the lots that doesn't allow it, do you have to let them build on it?

Beaudin: Our hands are tied by state law and we do have to make sure we're facilitating and enabling the way the state law is written. So we're going to agendize this and I don't want to go too much farther into it, but we'll make sure that we give you the complete picture for accessory dwelling units, how many we've seen and the rationale for this change at least from the state's perspective, and how it's going to impact us here in Pleasanton.

Commissioner Brown: I've got one other question here. I see Lund Ranch dropped off.

Beaudin: It shouldn't have dropped off. It still should be living on the list. It is the Vesting Tentative Map and that application does live on. We're just sorting out some technical issues with the application, so we want to be sure we have up to date information when we get it here to the Planning Commission.

Commissioner Nagler: What do you see to be the steps for Johnson Drive; the process steps?

Beaudin: We're going to restart the process with the Planning Commission in early 2017 and I'll say February/March is likely when the Planning Commission will see it, and then we'll move onto the City Council public hearings with the legislative changes and design guidelines that go with the economic development zone, followed by development applications after the effective date and appeal period.

Commissioner Nagler: And the development applications will then be for specific uses, right?

Beaudin: Correct, and we're working on more specific details for those for the approval processes now.

Commissioner Nagler: Okay, thank you.

c. Actions of the City Council

d. Actions of the Zoning Administrator

Commissioner Balch: As we roll out the modified CUP process, I would like to see that grouped by if it was PUD versus CUP. I know these are all administrative design reviews, but if we could kind of get that going, it would be nice to see it called out.

Beaudin: The type of application.

Commissioner Balch: Yes, just to maybe help us see that volume and flavor.

Chair Ritter: Good point.

e. Matters for Commission's Information

f. Adoption of Planning Commission Schedule of Meeting Dates for 2017

Commissioner Allen: I do have just a question either for this meeting or the next one and that is, do we have some follow-up information about that Bay Area forecast which has implications potentially for what our RHNA expectation might be in 2022 indirectly?

Commissioner O'Connor: Doesn't it go out to 2040?

Commissioner Allen: Right, but then if you back in, and I know staff is working with the Council and others to validate some of the assumptions.

Beaudin: I'll try and keep it brief. We do plan to agendize a visit from ABAG and/or MTC staff early in the New Year and it would be a presentation to the City Council on the topic. We worked with ABAG staff pretty extensively. *Plan Bay Area* is the plan ABAG is charged with and it's the Transportation, Land Use and Housing Plan. You mentioned "pyramid," most of the planners talk about it like a 3-legged stool; to be able to sit on it, you need all three pieces working, and it is the Sustainable Community Strategy, so it incorporates both the GHG requirements, transportation related things, as well as land use.

Plan Bay Area takes housing components and transportation components. We were not happy with the model that was done for *Plan Bay Area* for a number of months and the rate of growth that was being projected, particularly for the residential side of Pleasanton was at rates that were inconsistent with our growth management ordinance but also inconsistent with prior planning efforts, whether it was a regional plan or per the City's Housing Element. We stated our concerns and wanted to make sure our issues were clarified, or at least our questions regarding the methodology were clarified. We still don't have a better understanding about our methodology but we're pleased with the numbers. They came down to below our current growth management allocation for residential which we considered a win. So we backed off on our letter opposing the numbers at the Council meeting. So *Plan Bay Area*, while it's all part of the regional planning effort doesn't necessarily direct or is not indicative of our next housing numbers. There are a couple of other regional processes and state level processes. The housing numbers come from the state and so we expect to do another round of *Plan Bay Area* before we do our next Housing Element and we get our next RHNA allocation. This is an interesting middle step that we've been part of and we got a good outcome from a Pleasanton perspective, but we'll be doing it all again prior to our next RHNA allocation.

Chair Ritter: Was it a good revised outcome?

Beaudin: Yes, very significantly revised in terms of the allocation. We're talking about almost a 90 unit per year change over City-wide. So we went from above our existing growth management ordinance allocation to below.

Commissioner Allen: So do you have the new numbers or what the new forecast would be?

Beaudin: We do. The number that we got is in the neighborhood of 178 units per year, on an annualized basis for the next 30 years. Our existing growth management is based on our RHNA cycle and it's at 235. That takes us to 2023 and so obviously *Plan Bay*

Area goes beyond, and like I said, they update more regularly than we will with growth management and RHNA with this plan, but this was a good outcome for us on the residential side.

Commissioner Allen: Good work working that.

Beaudin: Thank you.

Commissioner Balch: Can I also just ask, as part of their process, do they kind of do an evaluation of past plans versus reality. Particularly, I'll just mention on the traffic element?

Beaudin: So the methodology is challenging to understand and it's not just Pleasanton that saying that out loud. There's the environment, economy of people, housing and transportation, earthquake, drought and flooding are all the criteria they take into account when they're doing these models, so there's a lot of environmental factors. There are a lot of people related factors, and so when we have the ABAG and MTC staff here, we'll ask them to talk to us about their methodology but it really is a complicated web that they're operating with in terms of local plans and how they play regionally with respect to housing, transportation and land use in particular.

Commissioner Brown: It's nice that it was lowered. Quick question on ABAG though—do they have any sort of public forums that we as Commissioners could listen as part of the audience?

Beaudin: Yes, so this is part of the broader conversation that I'd like to have with the Planning Commission and Council. ABAG is being absorbed by MTC. ABAG currently has a board and the board is made up of elected representatives which make ABAG fairly responsive to local governments. MTC is made up of political appointments and so we are going to be farther from decision-makers. This has been playing out for the last year and a half. A lot of the funding comes through MTC with transportation funding and federal dollars, and the local housing discussion was coming through ABAG, ABAG being the organization of governments for the Bay Area. ABAG represents HCD's will on the housing side, so you have a housing component, a transportation component, and you have little funding and a lot of funding, so the two of them were having a hard time when developing *Plan Bay Area* and so that came to a head and now ABAG is slowly becoming part of MTC. It's a long answer but they're responsive and responsible to us currently, but it's changing.

Commissioner O'Connor: It's not good for local control basically.

Beaudin: There's a physical merge that's happening and then there's going to be this broader discussion about governance and representation that's happening at the regional level for the Bay Area. It's nine counties and it's not likely that local governments are going to be ignored, so MTC is going to have to shift their model as well.

Commissioner Brown: What's the timeframe for that being absorbed? Are we talking a year? Two years?

Beaudin: You know, I backed away from it over the last few months; I don't have the timeline on it for you, but it's happening.

Commissioner Brown: All right, thank you.

g. Selection of Planning Commission Chair and Vice Chair for 2017

Chair Ritter: I reached out, but I'd be willing to...should I make a recommendation that Commissioner Balch should be Chair? The next one would be Commissioner Nagler as Vice Chair. That's the right order of things.

**Chair Ritter moved to appoint Commissioner Balch and Chair and Commissioner Nagler as Vice Chair of the Planning Commission.
Commissioner Allen seconded the motion.**

ROLL CALL VOTE:

**AYES: Commissioners Allen, Balch, Nagler, O'Connor, and Ritter
NOES: None
ABSTAIN: None
RECUSED: None
ABSENT: None**

h. Selection of one Planning Commission representative to replace Commissioner Nagler for the Heritage Tree Board of Appeals

Commissioner Balch: I nominate Commissioner Allen. Can I also just mention as we do this, I don't know how the Planning Commission has done it, but at least from the Parks and Recreation Commission, we would look at all of them every year. We'd have the list of where everyone served and how long. The reason they did that is because then they could agendize the whole thing and move others around.

Commissioner Allen: That's a good idea.

Commissioner Balch: I would just get off of the Bike/Ped Committee, but the Bike/Ped's not agendized.

Commissioner Nagler: Yeah, let's leave it to Chair Balch.

Chair Ritter: Should we have a list of all of our appointments at the January meeting? Gerry, are we okay to make this in the first meeting in January; selection of Commissioners and Alternates for committees?

Beaudin: Will do.

i. Selection of one replacement Planning Commission representative for the Downtown Specific Plan Update Task Force

Chair Ritter: Do you want to give us the update for that Gerry?

Beaudin: I'll jump in and I'm going to have support from both folks who have been working on this a lot as we go here. So our DSP Update Task Force membership from the Planning Commission was selected and I think we did that in September. At that point, we appointed two members—Commissioner Allen and Chair Ritter, and we had Commissioner Brown as our alternate. The City Council ratified that list. We made some changes to our definition of public official and we also had some questions for FPPC. After the analysis that went into both of those efforts, we're now down to just a couple of people who are actually going to qualify here or who have a desire to be on the Task Force.

What we're here tonight to ask you to do is to reconsider the list. We had Commissioner Allen who had a conflict. We had some other conflict issues and they're in the staff report if you want to read about those as well, but Commissioner Allen had a conflict so we'd like to replace Commissioner Allen and then we'll bring this back to the City Council and have them re-ratify the task force membership list.

Commissioner O'Connor: So Gerry, correct me if I'm wrong, but aren't there only three people up here who don't have a conflict?

Beaudin: Commissioner O'Connor has some property proximate to downtown and for perception reasons has stepped back. Commissioner Nagler at a prior meeting discussed not wanting to be part of the task force also, and so Chair Ritter and Commissioner Brown are the two folks who are left. I'm going to make a staff recommendation because it's all that's left; that the two of you be the Downtown Specific Plan Update Task Force members and I'll turn it over to the Commission for discussion with that recommendation.

Chair Ritter: We have no alternate basically.

Commissioner O'Connor: David, would you be available as an alternate?

Commissioner Nagler: Before we go there, this is actually a more complex issue than has been addressed, and if I could just take a moment. I appreciate it's been a long evening and what we don't want is another long-winded conversation, but I'm afraid the topic is important, or at least, it surely is to me.

Let me start by saying what I'm about to say has not been discussed with Commissioner Allen. She has no idea that I'm about to say what I'm about to say. I think it's important for that to be in the public record. I think it's also important to say I have received no legal advice, no FPPC input, no formal guidance on this. What I'm about to say is based on my work, my research and my opinion. I think it's also important to say for the record that staff was very kind and forthcoming to offer to be of assistance in approaching FPPC if I had questions or wanted to get clarification, but I purposely didn't do that because there are members of our community who regularly ascribe and into various purposes to office holders and public officials because somehow things are done out of the public eye and I want everything that I have to say to be on the public record, so I personally didn't avail myself of your kind offer, and that's why it's coming up this evening.

I think that it is absolutely imperative that the public interest be protected away from self-dealing by public officials. It should be inherent in our democracy. There was a time in California history when it wasn't so and the Fair Political Practices Act is a central tenant of good government in California and ought to be upheld.

I also believe that the attempts by the FPPC, in some cases the courts, have been substantial and purposeful and appropriate in interpreting the Act and I think the public's interest is substantially served. However, I also believe that the public's interests demands that its implementation be careful and sometimes more subtle than obvious and that at we at times challenge the 'on the face' conclusion that one might reach about when conflicts exist or when self-interests exist and when it does not. And, that the public's interests ultimately is best served by those who are most qualified to represent their collective interests are asked to do so. And I just want to say what's motivating me on this issue in particular is that I think that Commissioner Allen would provide value to the Downtown Specific Plan Update Task Force that would be substantial and meaningful to the community and that the public's interests are best served by her participation on the task force. So at the base of this for me is what I believe to be in the larger scope of things in the public interests.

So with all that said, I think we can agree that as givens, what Larissa has suggested in her communications and staff report are true—that Commissioner Allen receives income out of a retail operation that is going to be within the boundaries of the DSP. I think it should be a given that that income has been disclosed by Commissioner Allen so there's no secret about it; that it's a known amount. I think it's a given that that amount is above the threshold of \$500 that establishes potentially a conflict or probably a conflict of self-interest. It's a given that Commissioner Allen has not in any way objected to the conclusion that she's conflicted out and is completely willing to acquiesce to that conclusion, and I think that again, from my perspective, it's a given that Commissioner Allen would do a terrific job on the task force.

So given all of that I was referred to this tomb of a publication which is entitled, "Conflicts of Interest 2010 California Attorney General's Office" which has been suggested to me to be the operating bible for attorneys and others who are attempting to interpret the Fair Political Practices Act, specifically around conflicts of interest. What is in this document and further in the California regulations from the FPPC is a listing of seven criteria; questions that are to be asked to determine whether someone has a financial conflict of interest. And if all those 7 questions are answered in the affirmative, then in fact, a person is subject to the conflict and therefore, may not serve on a subject body or otherwise would have to disqualify themselves from voting.

Because of those seven criteria, there are also specified exceptions to the conflict rules that might otherwise apply, okay? Two of the seven questions are to ask, is it reasonable foreseeable that the economic interest of the individual will be materially affected by the actions taken by the body on which this person serves?

So is it reasonable foreseeable that in this case, Commissioner Allen will personally financially benefit from any action she may take as a member of the DSPUTF. The seventh and final question to be addressed is, is the effect of the governmental decision to be made by the body on the public official's economic interests distinguishable from

its effect on the general public? So again, the question specifically in this instance is, could Commissioner Allen, in her participation on the DSPUTF personally benefit economically in a way that is distinguishable in a meaningful manner from other members of the public, or what's called the public generally potential economic benefit; is it distinguishable.

And out of those two questions again are what are potentially exemptions. So if you look at, is it reasonable foreseeable, one of the questions or factors that's applied is that a substantial likelihood must exist that decisions would have a material impact on Commissioner Allen and that further, that the extent to which the occurrence the material financial effect is contingent upon intervening events, not including future governmental decisions by the official's own agency or other agencies appointed to subject to the control of that official, meaning, is there the potential for intervening decisions made by other governmental bodies between the recommendations made by the DSPUTF and the final change in the DSP that could potentially impact a material self-interest that would be benefitted by Commissioner Allen. Is there a direct line to potential financial benefit from her actions on the DSPUTF or are there intervening potential events, right?

Chair Ritter: So it sounds like you're getting into legal discussions. We could get an answer.

Commissioner Nagler: Let me just say that my conclusion and my request is that we actually not resolve these matters tonight because I'm only trying to establish a public record of what I think the questions are but my bottom line is going to be a request that we not take action on this not, that we not appoint a replacement tonight for Commissioner Allen and that we do have an opportunity to work with the City Attorney's Office and the FPPC to see if any of the questions I'm raising are legitimate.

So question number one is there a reasonable foreseeable economic interest to be benefitted. The second is, is the effect of the governmental decision distinguishable from its effect on others. What's interesting about that is that there's sort of a decision tree in determining the resolution of this question and whether it leads to an exemption, and that decision tree, at least how I understand it, is that broadly asked, does the decision that Commissioner Allen makes or contributes to benefit her differentially than the general public. Further, the general public as a phrase is defined as "A significant segment of the public generally." What's interesting is, then the FPPC regulation further speaks specifically to a retail operator and how this test of "a significant segment of the public generally" plays itself out on someone who realizes income from a retail operation within the affected geographic area. The two tests as I understand it applied are, if the business is open to the public broadly and does not sell to any "specialized occupation, profession or business". In other words, if the retail operation is open to the public generally and does not specialize in selling to architects or engineers or haberdasheries or whatever, or if the answer to that is "no" that there is no differentiation, then it suggests there could be an exemption to the coverage.

The second is, is income from any particular customer of this retailer distinguishable from their income in general. So in other words, do you have a customer who contributes \$25, \$30, \$56, or whatever the amount is of your income that changes in the

DSP would impact their ability to remain your primary income source and therefore you may be motivated to make recommendations on the task force that affects their specific ability to buy your jewelry, right? So again, if that's not possible for your actions on the task force, the potential is that it leads to an exemption.

So, having said all of that, here is specifically what I ask as I said a moment ago is that we further the excellent work that Larissa has done with the FPPC; that we understand that because the FPPC staff has communicated in writing with the City Attorney's office, the only way I would think you would feel comfortable operating under an exemption is for them to further put in writing, yes, under these circumstances you are exempt, or in other words, we need to work with them, and that we pursue that and that we put off action from this evening.

Commissioner O'Connor: I think we have to ask Nancy if she wants to pursue that.

Commissioner Allen: I do. I really wanted to be on the task force and if it was clear cut that I was out of compliance then I said so be it because it is important to be in compliance, but actually if there's a legitimate reason for exclusion and we get support from the FPPC, I would love to be on the task force because then I am in support of the state law and regulations. So I guess I would look to Larissa. I appreciate, David, you taking the time to do this. It's amazing and thank you. It means a lot to me. How do you feel about this? I didn't have any idea on this. I mean, how do you feel about this?

Seto: To date, as we've discussed, since about August we've been in communications; the City Attorney's Office and myself in particular have been in communications with staff counsel at the FPPC with regard to several different public officials and more recently with Nancy, and Nancy has seen my communication with staff counsel there. So typically the process is we pose questions to them and ask them how various regulations apply. The most recent response we received back was, as described in the staff report, that they found that because Studio 7 is a source of income to Nancy's business of which she's a sole proprietor; that that source of income and the regulations regarding sources of income involved in specific plan decisions made her ineligible to serve. So if you wanted us to write back to them asking about other exemptions, we can do that, but at the same time I understand that some of these other exemptions the thresholds are actually very difficult to meet but I could continue to work with you to do that.

Commissioner Allen: I would love that. I think David brings up some potentials that seem to me that I would love to have a discussion to make sure they're fully vetted.

Seto: The public generally exemption usually requires that it either involve everyone or 25% of the whole public of your whole community. I mean some of the thresholds are quite steep, so I don't want to create a false expectation.

Commissioner Allen: No, I'm assuming I probably will not be able to be on it, but I think they're legitimate so let's explore it, and I'm happy to give whatever financial information that helps you to work through it.

Commissioner O'Connor: Do we have a deadline Gerry to actually place people on the task force? When's the first meeting?

Beaudin: So that was part of what I was going to wrap up with this evening. The first task force meeting is scheduled for January 24th and it's 6:30 p.m. at the Operations Services Center. The goal was to be with the City Council on December 20th to re-ratify the task force membership and then to be ready to go for that January 24th meeting.

There is another City Council meeting the 17th of January and I think there is a Planning Commission meeting on the 11th of January. So there is a possibility of that time working for us.

Seto: The FPPC has been reasonably responsive. If Nancy and I collaborate quickly, we could probably get something to them and hope to have an answer back by that time.

Commissioner Allen: And in worst cases, all three of us; Justin, Herb and I, all three of us have been approved by the City Council so for sure there will be two people. I think Justin ought to assume that he would be at that meeting, whether as an alternate or as a primary member.

Commissioner Brown: Much like I'm an alternate here, I come to the meetings ready to go in an instance.

Commissioner Allen: And I'll hopefully be there whether I'm on the task force or not. I hope to be attending the meeting and I've asked Larissa that if I'm not on the task force is it okay if I attend the meetings and participate as an individual.

Seto: You can get guidance because the Commission's regulations provide for different levels of participation depending on your level of financial interest.

Commissioner Balch: As a person on the Commission who has dealt with the FPPC with Larissa for many years, can I just add a word of caution that unfortunately it might be in conflict with Commissioner Nagler, but in personal experience in many instances, I do back out of situations that are possible grey areas because the....and I'll just say it for myself...so I'm a licensed CPA so in the training of a CPA you have to look at not only the public perception but the rule of the law. So the rule of the law might be where you can get the exemption, but the public expectation or perception might be different. So I've applied the same standard with my sitting on this body and I back out of a lot of things unfortunately where I would keenly like to participate. From a personal perspective I try to do that to advance the reverence of this body. And I also try to do it so that at no time could a decision of this body be invalidated by my sitting for the decision or putting my vote in. So I just caution you when going on this route that there could be personal reasons as well that you should probably consider fully.

Commissioner Allen: You are absolutely correct, and so all I want to do is understand what we learn and based on that, if there would be a perception issue, I certainly would take that into effect, as I've done on other task forces before.

Commissioner Balch: Personally, I'm fine with rolling the dice and letting the time roll and trying to give you that time. I'll be honest—I would not sit in the seat until it is fully resolved.

Commissioner Allen: Absolutely, I would not.

Commissioner Nagler: To that point is exactly why I wanted to do it tonight and on the record and not discuss it with you ahead of time so it is not as if you're trying to somehow operate to exactly to this point. Just because I obviously have an interest in the matter, if I could be part of the conversation on how the questions will be asked of the FPPC before they're submitted to the FPPC, I'd really appreciate that.

Seto: I typically work with the official that's involved so if I send the drafts to Nancy, if she's comfortable sending them to you, that would be fine.

Commissioner Nagler: Perfect.

Chair Ritter: So with that said, we'll defer a decision. It sounds like we'll continue it until January 11th. It's always worth knowing all the facts, and what I want to know is making sure we can hear from other public citizens at the meeting. We still should be able to listen to our downtown business people.

Seto: And like I said, the rules are different depending on what your financial interest is.

Chair Ritter: So I want that clarified.

Seto: So we're actually preparing a memo for the Planning Commission, the Council, the Economic Vitality Committee and everyone who might be involved to see what that level of involvement can be.

Commissioner Nagler: Perfect. Thank you very much.

9. ADJOURNMENT

Chair Ritter: Okay, my last word is I had a report sent to me that shows all the things we accomplished in 2016 and it's kind of remarkable. We had 37 items. There were roughly 10 PUDs, 9 CUPs, 6 design reviews, 4 Vesting Tentative Maps, 3 work sessions, code update work session, amendment to the Municipal Code, one General Plan Amendment, one Specific Plan amendment, one rezoning, and one policy review procedural change. We've done a lot. I am honored to be on this Commission with such high level people and I've learned a ton from you guys. I've enjoyed being the Chair. It's been a lot of fun.

I want to challenge the next year's Chair. I always try to keep the meeting moving forward and push everybody to state their opinions and bullets so we can get it on the record and it helps eliminate the interpretation of multiple words into what you really want. I challenge the Chair to speak last, say the least, but speak efficiently with comments, and I always I wanted to make sure the public was heard. We give them three minutes. There have been a number of times members of the public have come to

me asking why we don't you give Commissioners three minutes, I say we need to hear what everybody's interests are and we need to respect the public at the same time when they are here listening to us.

But, I'm very happy that I've had all of your support and I appreciate all of you guys.
Meeting adjourned!

Chair Ritter adjourned the meeting at 10:11 p.m.

Respectfully submitted,

Kendall Granucci
Recording Secretary