



PLANNING COMMISSION MEETING MINUTES

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

APPROVED

Wednesday, June 22, 2016

(Staff has reviewed the proposed changes against the recorded proceedings and confirms that these Minutes are accurate.)

CALL TO ORDER

The Planning Commission Meeting of June 22, 2016, was called to order at 7:00 p.m. by Chair Ritter.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Commissioner Balch

1. ROLL CALL

Staff Members Present: Gerry Beaudin, Director of Community Development; Adam Weinstein, Planning Manager; Julie Harryman, Assistant City Attorney; Jenny Soo, Associate Planner; Mark Dennis, Senior Code Enforcement Officer; and Kendall Rose, Recording Secretary

Commissioners Present: Commissioners Nancy Allen, Jack Balch, Greg O'Connor, David Nagler (arrived 7:10 p.m.) and Chair Ritter

Commissioners Absent: Commissioner Brown

2. APPROVAL OF MINUTES

a. May 25, 2016

Chair Ritter requested the following correction under **PLEDGE OF ALLEGIANCE**: "The Pledge of Allegiance was led by Chair Commissioner Allen."

Commissioner Balch requested the seventh sentence of the sixth paragraph on Page 18 of 28 be modified to read as follows: "...but the premise of me being able to say see 'I could see it' is that when it doesn't work..."

Commissioner Balch moved to approve the Minutes of the May 25, 2016 Meeting as amended.

Commissioner Allen seconded the motion.

ROLL CALL VOTE:

AYES: Commissioners Allen, Balch, O'Connor, and Chair Ritter

NOES: None

ABSTAIN: None

RECUSED: None

ABSENT: Commissioner Brown and Nagler

The Minutes of the May 25, 2016 Meeting were approved as amended.

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

Carrie Cox: Good evening Planning Commission Chair and members. My name is Carrie Cox. I see that tonight we may address a future date for discussion of PUD-105, the Johnson Drive EDZ. Since over 7,000 citizens signed the Initiative to vote in November, the Citizens for Planned Growth respectfully request that you delay any scheduling of future discussions until after this vote. These signatures were collected in a relatively short period of time and without the use of a collection firm. Had we collected for the entire six months which was allowed, we believe that more than 15,000 people would have signed to vote. Each day, more people were signing as they became educated on the details of the proposed development. In the last week alone over 2,000 signatures were collected. Last night I urged that the City leaders move forward so that this issue can be decided. Certainly the citizens and the developer deserve a decision. It should not be delayed until next year. Thank you for allowing me to speak.

Bill Wheeler: Good evening Herb, Planning Commission, staff. I'm Bill Wheeler, owner of Black Tie Transportation, still on the corner of Johnson Drive and Commerce. I also represent the many volunteers and Citizens for Planned Growth who have collected and last week submitted over 7,000 signatures for a petition to get the Johnson Drive big box Initiative on the November 8, 2016 ballot. The City Clerk verified the validity of the petitions and has delivered the petitions to the Registrar of Voters to verify the signatures. An Initiative is a positive process allowing people to vote on something they deem important and not to reverse a decision that's already been made. A big box store in the JDEDZ is a major decision that will affect the majority of the citizens of Pleasanton so they should have a vote. Clearly, over 7,000 citizens have expressed their desire to participate in this way.

We learned a lot from the citizens of Pleasanton while collecting the signatures. This is a polarizing subject with both sides passionate about the proposal for a third Costco in the Tri-Valley. We have heard great arguments from both camps; those that are for and those that are against big box retail on Johnson Drive. I hope that the City Council and the Planning Commission will come to see this as a benefit that it truly is and allow the process to proceed rather than making it a political pawn.

I also hope the rumors about the City producing their own ballot initiative about the JDEDZ is just that, a rumor. This single initiative should give you a good sense of what people desire, whether they will want a Costco on Johnson Drive or they will not. What we would like to see is the City heeding the will of the people who they have been elected to serve by acting positively on the initiative in a speedy manner. We would hope that you would try not to delay the vote until a costly special election in the spring of 2017, but rather place it on the November ballot as soon as possible. Let's pursue the easiest and most direct path, by putting the Johnson Drive Initiative on the ballot, you'll find out exactly what Pleasanton really wants. Thank you for allowing me this platform over the past few months. I look forward to working with you on getting the very best solution for the JDEDZ and the residents of Pleasanton. Thank you very much.

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.

There were no Consent Calendar items.

Noted Present:

Commissioner Nagler arrived and was noted present at 7:10 p.m.

6. PUBLIC HEARING AND OTHER MATTERS

a. UP-77-13, Pleasanton Masonic Center

Consideration of retention, modification, or revocation of a Conditional Use Permit for the operation of the Pleasanton Masonic Center located at 3370 Hopyard Road. Zoning for the property is RM-2,500 (Multiple-Family Residential) District.

Jenny Soo presented the staff report and described the scope, layout and key elements of the proposal.

Commissioner Nagler: Maybe to start at the end first and the idea that assuming we do adopt something that it has no precedential impact on a subsequent use permit for potentially a new owner and whether or not that actually is so. I ask my fellow

Commissioners whether it's reasonable to think that after having come through this conversation and we see it really not as a function of the Masons as much as what should be allowed in this building and this neighborhood relative to these neighbors, whether we would completely revisit the question and come up with a different conclusion for a different applicant a month from now. I ask that question to start because I think it's pretty germane about what should be our interest or willingness to get into the depths of this conversation this evening.

Commissioner O'Connor: I think it would be very difficult to make a change with the same building, same location, and same type of impacts.

Commissioner Allen: And I do as well. The principles that I'm applying here would be the same principles I would be thinking about for another application.

Chair Ritter: I concur; the only thing that I would caution us on is what conditions would come at the time the building sells. So it might be six weeks. It might be six months. We don't know if they're going to close or not so that's why it's probably good to do something now.

Commissioner Balch: Well, I was taking the stance that staff knows I've been pretty adamant about getting this back because I think it should be addressed on the merits on which it's coming back and I'd love you to predict future, but I don't know if it will close and I don't know what it would be so I'll take what I have today and hear it.

Chair Ritter: Okay, so any direction or questions for staff?

Commissioner Nagler: I do, but I wanted to start with that because I think that's pretty germane to this conversation and just to say, having been the one that posed the question, I actually don't think we're going to be able to separate the logic of one discussion from the other. As Commissioner Balch is saying, then the question is, should we apply something-whatever it is-for a two-week, four-week, six-month period and know that it's just for a temporary period.

Commissioner Balch: Could I go a different way maybe and if I may grab your conversation line? One of my questions for staff would be if we were rebuilding a building like this in a buffer zoned use within a residential neighborhood, are the conditions that you're suggesting similar to ones you would apply anew? I know it's obviously a very tricky question. Pleasanton doesn't have the issue so much right now because we're virtually built out, but you know, there are several instances I've pointed out to staff that are commercial areas adjoining residential areas. So for example, would a buffer zone be suggested? Would it be required? Would it be a staff recommendation?

Commissioner Nagler: If this were being built anew?

Commissioner Balch: Anew.

Commissioner Nagler: Good question.

Beaudin: We have guidelines and we have standards and there are certainly best practices around these kinds of uses. We also would want to make sure though that the use is economically viable. This is a property that is zoned for this kind of activity and so we want to make sure that we're not creating conditions of approval that would in some way limit significant portions of a property and make it not economically viable and not usable. I can't remember if it was a master use permit or a master plan for the church next door. We took a different tact there. We left some of that space as more passive, so we would continue to approach it that way. To answer your question at a higher level, the reason they are conditional use permits is because they're slightly unique. So I would say the church next door to this facility is more proximate to the neighborhood, this site; closer to Hopyard. We would want to look at it case-by-case. We want to make good buffer determinations and decisions and we want to take noise and activity and parking and other impacts into consideration, but that's why we all come here every couple of weeks—to make sure we understand the site, understand the impacts and we're doing the best job possible.

Commissioner Nagler: Thank you very much. So, can I just continue with my other question? So Jenny, the Miller's obviously point out in their correspondence to the City and to the Commission that they believe that the Masons have lost their non-profit status and no longer have an active business license with the City. I don't know if that's true or not true, but does it matter? In other words, would our approach to this question be any different if they weren't a non-profit or qualified as a non-profit or not? Is that a relevant factor?

Harryman: If I could jump in here. They are a Masonic Lodge and I don't know that it does. We don't track that.

Commissioner Nagler: Thank you.

Commissioner Balch: But, by nature of the condition, it's a condition that this, for example, would be non-commercial use.

Harryman: So just as the 1977 staff report recognized, the Masons rent out facilities. That was noted just like churches or religious facilities will have bar mitzvahs, weddings, various things, day cares...child cares are quite common on church sites and other religious institutions so it's not uncommon. I'm going to jump ahead to a question that I expect will come up at some point in time just because I think this commercial question's going to come up. So the Scottish Right's case was referenced in the Miller's attorney's letter to the Planning Commission. And, unlike here, the difference there is the Scottish Right's organization had stopped using the facility. They weren't using it for their Scottish Right's activities. They stopped using it in 1993 or some years back. They weren't using it at all and they were just renting it out. So here, it's my understanding, and I could be wrong, that the Masons still hold functions there and also rent it out. So there's a mix that's common and allowed.

Commissioner O'Connor: But is it the same organization having those meetings and they've lost their non-profit status and they're not really acting as a lodge? I know you're saying that you don't verify that, but if I came to you and said I'm a such and

such lodge and I want to open up the building and I want to have commercial activities, would you allow me in an RM-2,500 zone without verifying what I'm telling you?

Harryman: That's a difficult question to answer and it's just being raised now. My understanding is the Masons have been the Masons acting as a lodge and maybe hopefully someone's here from the Masons that can talk more to what they're doing there. I can't say whether in 1977 we checked if they submitted their paperwork to the State or not. I think at some point we might be concerned, but my understanding is, and again, I'm hoping the Masons are here, is that they have been acting as Masons whether they have their paperwork, tax returns properly filed and all that, I can't speak to that. That's not necessarily our focus but I suppose that after a certain amount of time if they were just venturing into commercial and they said they weren't who they said they were and it had changed then maybe at some point in time we may look at that.

Commissioner Balch: Could I jump on that? So if you get an entitlement to operate a commercial business at a location and then you decide that you're going to change your business operations to something else and not that type of use, your entitlement doesn't go with you, and theoretically the process to ask is that you would come back to the Planning Commission to get an additional entitlement for that area or that location for what your operations are, correct?

Harryman: Generally speaking I would say yes. One thing we talked about is that I don't know why the language in the code says "non-commercial lodge, religious facilities". I don't know why they're non-commercial. I don't know what kind of a lodge other than lodging would be a commercial lodge, so I'm not sure why. One thing we talked about is cleaning that up in the ominous bill is to remove the commercial part because if you read it in context, it's that type of lodge and religious institutions; I don't think we use religious institutions there, but churches, etc., so I don't know why that language is in there.

Commissioner Balch: But the premise is that if you're operating a business and then you start to operate a church that has an assembly of people in the same location, that is not going to be an entitlement you're allowed. You've got to come back through the process.

Harryman: Yes, and if tomorrow the Masons stopped using the facility altogether like the Scottish Rights folks did down in Los Angeles, then that would be a problem. If it was purely commercial and they weren't having Mason functions there as an accessory use or ancillary use, then yes, that would be a problem.

Commissioner Nagler: And I don't mean to make too fine a point of this, but Julie, you apparently are saying that it is sort of defined by activity; that you know what you know when you see it as opposed to its defined by the license you hold, right?

Harryman: I think that's a fair statement, yes, thinking about what the conditional uses are that are allowed in this RM multi-residential district, that these types of uses, which are based on activities, are okay, and religious institutions. The Masons are known for not just doing that, they do a little bit more. For example, daycares are quite common on church sites.

Commissioner Nagler: So whether they remain qualified as a non-profit or not isn't relevant because it doesn't define the activity nor defines the uses to which the building is being put, right?

Harryman: I think that's generally true and a fair statement, but if so much time passed and they are really not the Masons or really not a church, and they are just calling themselves that, but they are actually a nightclub or some other type of use....

Commissioner Nagler: Okay. Jenny, in the staff recommendation on the number of hours, you are suggesting the use permit should allow for outdoor activities during the summer months, as I understand it, the recommendation is that it be allowed basically both days every weekend, right? Up to eight days a month.

Soo: Eight weekends

Commissioner Nagler: Oh, eight weekends during the period.

Soo: Its eight weekends in nine months.

Weinstein: It's two weekends from March to May, a maximum of four weekends from June to August and a maximum of two weeks from September to October, so it's a total of eight weekends combined over the course of the year.

Commissioner Nagler: Thank you. I just read that to be per month.

Commissioner Allen: I thought it was per month too, so thank you.

Commissioner Nagler: Thank you very much.

Commissioner O'Connor: It does say in one of the conditions that the City can approve additional uses and times, correct?

Soo: Yes, we have a condition that we could approve, but it depends what it is and it is up to discretion of the Director of Community Development and we could bring that request including activities and hours back to the Planning Commission for review.

Commissioner O'Connor: Let me back up to the eight weekends in a nine month period. That's 16 days. If the City feels that these parties are not in violation of the noise ordinance, they're not detrimental to the health and safety of the neighbors, why are you limiting it only to 16 days?

Weinstein: I think we recognize that even though noise is not being generated in exceedance of the noise ordinance because human voices don't count in regard to the noise ordinance, we're still acknowledging that noise is an issue for neighbors just like activity levels are, just like lighting is, just like traffic is, just like parking is, so these restrictions aren't just focused on noise. They're focused on overall activity levels. We understand that neighbors are impacted by activity and that includes all of the things I just mentioned.

Commissioner O'Connor: So these activities are detrimental to the health, safety and welfare.

Weinstein: I don't think they would rise to that level. The findings that we're recommending indicate that we think that with these restrictions, the use will not be detrimental to the public health, safety and welfare, but there's the potential for that to occur, right? And that's the whole impetus behind conditions that we're suggesting. So we think that with these conditions there won't be an adverse impact on health and safety and public welfare, but without these conditions there could be.

Beaudin: Could I just add to that? So I've seen these types of circumstances in different cities over time where you have residential uses next to commercial or non-residential uses, and I think it's about finding the balance. The reason this is back before you from a staff perspective, the Masons got a little out of hand in 2008/2009. That was reigned in, and frankly the only reason this is back is because we received repeated complaints from a neighboring property. So what we're trying to do is find a middle ground. I would suggest that the public health, safety and welfare of the community isn't threatened by the current use permit, but it's clearly causing some discomfort for the neighbor and so we're trying to address that matter.

Commissioner O'Connor: So Jenny, do you know when the rear yard was landscaped and began use? I mean, do we have a permit for that?

Commissioner Balch: When the door got put in.

Commissioner O'Connor: The door was installed in 2008, but was there a permit for the rear yard improvements? If not, I don't believe so. Do you know when that took place? Was it shortly after the doors were installed?

Soo: I think perhaps it is around that time because otherwise I couldn't think why there is any need for the doors.

Commissioner O'Connor: That also seems to correlate with the timeframe that you said the Masons got a bit out of control; the same time as the yard went in.

Beaudin: Again, it was the scale of the events. We have conditions to modify and regulate the physical improvements to the building. We actually saw a serious or significant increase in the overall number of people attending events and the kinds of events that were happening during that timeframe, and frankly, since that time there haven't been a high number of complaints. The police haven't been involved. Those kinds of things were really serious concerns in 2008 and 2009 haven't happened since. So, I'm not disagreeing with your point but there's a riff that happened around that time and since then things have been not cordial between the neighbors.

Commissioner O'Connor: I do have to disagree with you a little bit. I don't know that I recall a blip when they had several of these parties. Even when the City asked them not to hold them when they found out about them and they continued to move forward, it was pretty....

Beaudin: Yes, I wasn't meaning to diminish the severity of those events. I was speaking more about the timeframe, the nearing 40 years.

Commissioner O'Connor: I was getting more at the attitude that they didn't even comply with what the City was asking.

Beaudin: Understood. I was speaking about the timeframe.

Commissioner O'Connor: So I had a question a few years ago when I thought we were going to have a meeting and Adam brought up to me that the noise ordinance doesn't include human voices, and when I read the noise ordinance, it's clear to me that it says that no person "shall" and there's no comma to separate that we're talking about the same item. "No person shall or any mechanical, etc., etc." To me, I read that it includes both, and one of the issues I remember—I forget how many years back it was, not that long—we had the use come before us to put in a children's playground in the back of Raley's that was limited to only 16 children which was much further away from the property line and we were concerned about the noise that it might create for a few houses on the back side, and we denied that project because we thought those 16 voices would be disturbing to the adjoining neighbors. So I don't understand why we would today say that voices don't count. And if I could yell and scream as loud as I want and it's not a noise violation, but if Nancy records me yelling and screaming and Nancy plays my voice back on a recorder, now I've violated the noise ordinance. It doesn't make a lot of sense to me.

Weinstein: So let's take the question about human-generated noise first and then we'll talk about the Raley's example. We've had a long-standing interpretation here at the City that the noise ordinance does not apply to human-generated noises and we acknowledge there's different ways to read the residential property provision in the noise code, but this is a consistent interpretation that we've been employing for the last couple of years and probably more than several years as well, and it's based on a couple of things. One is that it's not really practical to regulate human noise. Human noise happens all over the place in our community. There are people having parties in residential backyards, there are kids playing in backyards. So from a practicality standpoint, it's just not practical to account for human noise.

And secondly, in a community like this, there's going to be people living in close proximity to others so humans are going to generate noise all over the place in our community. The third point is that human noise changes over time. When kids play there are periods when the noise is really loud. There are periods when the noise is not so loud. So that's sort of the basis for our long-standing interpretation that non-amplified human noise does not exceed the thresholds in the noise ordinance.

In regard to the Raley's example, that was a really different situation. That was a rare parking area being proposed for conversion into an outdoor play area where no outdoor play area previously existed. And staff's recommendation to deny that application in that situation was primarily based on the fact that the proposal posed safety concerns. The back area in the back of the Raley's shopping center was used frequently for drop-off's and pickups and deliveries so there were big semi-trucks moving back there through

that back alley behind the shopping center that we could see potential collisions occurring between those trucks and the fenced outdoor area being proposed.

Commissioner O'Connor: That was one of the issues, but we also mentioned the noise which was the second issue.

Weinstein: Yes, absolutely. Noise was a problem as well. I don't believe we indicated the noise levels there would exceed the noise ordinance. That wasn't a claim that we made during that discussion, but we acknowledged that just like we're talking about tonight, noise can be an irritant along with activity levels, along with the other things we talked about before like lighting; that even though there wasn't necessarily going to be an exceedance of the noise ordinance, that was a consideration; that noise generation at that location was something worth considering in denying the application.

Commissioner O'Connor: The City wouldn't claim that we've never enforced the code against a large party that has too much noise, would they?

Weinstein: Yes, so there's another provision that often is enforced in relation to noise and that's disturbance of the peace. That's completely separate from exceedances of the noise ordinance and that's a call that police get often and typically what happens when somebody has a little party in the backyard that disturbs the peace, a neighbor might call the police. The police will come and talk to the neighbor and talk to the person that's generating the noise and seek some resolution. So that's a separate action that's taken independent of our noise ordinance.

Commissioner O'Connor: So if that's the case, why does the code enforcement officer not enforce this provision of the noise ordinance? Why haven't they talked to the Mason's when they have these parties? Why do they just say they don't enforce it because it's voices?

Weinstein: Our code enforcement officer is here and he can speak to specific examples, but the point I would want to make is that since 2008 City staff have interjected themselves into the complaints that are occurring, the complaints that the Millers are raising about the Masonic Lodge. So back in 2008 and 2009, City staff met with the Masonic Lodge. We sent them letters when we were notified of the big party that was planned to happen to try to get some correction of what was happening and our involvement in the dispute has continued from 2009 on. So I think we have been closely involved. The issues that we've been involved with haven't always centered on enforcing the noise ordinance though. There have been other issues and other tactics that we had taken to address the problems.

Commissioner O'Connor: We can move on. I just know personally in my neighborhood there was a party shut down because the noise was so loud that they did show up—a different code enforcement officer, but they did close it down. I don't want to beat this to death.

Beaudin: The difference is, there's code enforcement and there's police response. Our code enforcement officer is not responding to disturbing the peace calls. There's a possibility that if he was on a shift and a call like that came in that he may ask for some

support, but there's the difference between being out there with a noise meter and determining a violation and people creating a nuisance in the neighborhood. Typically, there's a fork in the road there for who responds and how you respond.

Commissioner O'Connor: Code enforcement would not want to respond 10 o'clock at night.

Beaudin: Correct, exactly. He's at home with his family at that point in time.

Commissioner O'Connor: Okay, and limited too.

Commissioner Allen: I have a simple question. In your proposal about discriminating between Mason events and non-Mason events, how would neighbors or how would we know which kind of event it was to know whether they were in compliance or not? Before you answer, my reason for asking is I went on the Mason's site today because I know they had committed several years ago with Brian Dolan the posting of all of their events. I noticed that the last event posted was May 4th. So even today, they're not posting. I wasn't able to see the events to even know there was an event going on as they had committed to doing. But, bottom line, how would one know what kind of event it is to know whether they were in violation if we have separate parameters around those?

Weinstein: So we acknowledge that the Masons have not been completely consistent in enforcing the voluntary measures that were suggested a couple of years ago so we definitely understand that. One of the objectives of this CUP relook is to codify those voluntary measures plus some additional measures that we've identified to make sure that they actually happen. So if there was an event at the Masonic Lodge in the outdoor area and a neighbor complained, we would investigate the complaint. One of the things that we would look at in investigating the complaint would be the event calendar that, per these conditions of approval that we're recommending, the Masons would need to update. If we found that there wasn't an event that happened, say, on a certain weekend and that event wasn't listed on that schedule, that would be a violation of the conditional use permit and we would seek to rectify that. So we get the fact that the events log hasn't been consistently updated, but the updating of the schedule would be something we would expect as part of this CUP modification.

Chair Ritter: Go ahead, you haven't had a turn.

Commissioner Balch: I haven't, but I'll try to be brief. So some quick questions for you Jenny--The concrete patio and the associated landscape, I think we covered this, but no permit required for that type of work?

Soo: Landscaping no. A concrete patio, I don't believe the building division issues permit for that.

Commissioner Balch: Okay. A quick question also on that—several accessory structures have been placed on the property line north and west. Can you elaborate?

Soo: We noticed, but there's no permit for it.

Commissioner Balch: Do they require a permit over a certain height?

Soo: They should come in for the permit and actually I saw it today.

Commissioner Balch: So if I build a structure of 121 square feet at my house without a permit, typically that's a code enforcement issue, correct?

Soo: Correct.

Commissioner Balch: Has code enforcement issued a citation for that? You just told me it required a permit.

Beaudin: Can I jump in here? The CUP process here is probably the appropriate way to do that. So you can decide tonight if part of your action, if you choose to do so, to permit those or to grant planning approval for those. And if you do, they would have to come in and have to go through the building permit process. If you don't, then they would have to remove those from the property.

Commissioner Balch: Okay, if I may, I've seen one or two of these actually in my time despite my slight grey hair. So, typically when there's a structure without a permit they can hold action on a code enforcement action so that they can go through approval. Do you have a permit or application on file for a building and a design review request?

Soo: Not at this time.

Commissioner Balch: I don't see that attached to the staff report, so I see an item where a permit is required, no code enforcement action or citation has occurred, and no application is pending that would put a pause on City enforcement.

Beaudin: Code enforcement is completely complaint-driven.

Commissioner Nagler: I'm sorry Gerry, are they really permanent structures or are they these temporary things that you can buy at Costco?

Beaudin: They're utility sheds and there are a number of them on the property.

Commissioner Nagler: But they're temporary things, right? I mean, I walked back there and I thought they were.

Beaudin: The definition of temporary is that someone could come and remove these things pretty quickly. This is not attached to the building in any way. These are true accessory...they're sheds on the property. There is no application. If we had a neighbor complain and somebody said we think there's building without permits and these structures need a permit, we'd go out and enforce. We've been there. This is one of the challenges with where we are in the process. Staff resources are what they are. We have one code enforcement officer in the City of Pleasanton. He responds to complaints, and we've got this application moving through our process. We know that there's a likely sale. It's in escrow, so we hope that within a month we have a new

property owner and they'll be coming in and we'll be addressing all of these issues from top to bottom. If I can be candid with you, this site is in terrible shape. There's a lot of stuff out there that just includes junk, and so if we had complaints we'd probably be up there for more than just the sheds and we haven't had that kind of complaint. We've been dealing with other issues with this use permit.

Weinstein: If I could just add something to that, Mark, our code enforcement officer mentioned that in his review of the site, there are several accessory structures as Gerry mentioned, but none of them exceed 120 square feet and so don't require a permit. We actually did originally have a condition in our exhibit A that addressed the accessory structures and cleaning them up because Gerry's right, the site is not in great shape right now and needs some maintenance. It's not there anymore, but regardless, it appears that building permits were not required anyway.

Commissioner Balch: I'm going to just, because I was ready to pounce one way and that solves some other issues, so let me just ask a bit. So we're comfortable at this point that the structures that are there—these ancillary structures—do not require a permit whether the 120 square feet, the height or any of the other requirements that would require a building permit. In other words, because there's a design review, even though it doesn't have 120 feet and things like that—height.....how about I don't get an answer on that. Let me just say maybe a statement, I find it concerning—I will say this to staff—I find it concerning that we have a code enforcement officer out there for other items as our focus, but because a complaint hasn't been made about a particular item, we haven't addressed it if we saw it at the time.

Beaudin: I think what Mark has said is that based on his look of the structures, he doesn't have a floor plan, and he's not out there measuring everything as he walks past it. Based on his look, it meets code.

Commissioner Balch: Sounds good.

Commissioner O'Connor: I'll follow up by saying I have a concern. If I can build a 118-square-foot structure without a permit and I can put 10 of them out there, I would be concerned because obviously it doesn't look well.

Beaudin: That's the part for me that suggests as you're looking for the CUP, if you think there are too many structures out there, even if they don't require a building permit, that's within your purview. You're looking for site design criteria in addition to the uses associated.

Commissioner O'Connor: I don't mean just for the Masons.

Beaudin: I believe that on residential property, we do have a maximum number of accessory structures as well, so we'd want to look into all of that and we will.

Commissioner Balch: So I apologize because I know we're on the question part. Real quick on the conditions that staff has proposed, I believe it would be basically, to the Director of Community Development's point, condition 20 or right above 21 on page 3, whether other buildings are ancillary structures, but further on condition 34, 35, 36,

these are the noise/music items that staff has proposed. I'm just confirming that no music shall be allowed outside the building means no music of any type, amplified or not and that the live or pre-recorded music; by the nature pre-recorded amplified, is that purposely not included in that condition? It is probably implied given it was pre-recorded. I ask so we can consider it as we move further. And lastly, a timer shall be installed on the exterior light on the north side of the building; condition 39. That's great. What are the times of the timer so we can work through that? Those are my questions but more discussion points.

Chair Ritter: I just have one question. Jenny, when you put these conditions together in option 3, did the Millers or the Masons or residents of the Masons look at them and give you feedback on them as whether they are in favor or not in favor or 50/50?

Soo: Some of the conditions included are actually addressed at Miller's concern such as the door, to have an STC rated door, to have the lights to the shield and the window covering to be added. These are actually fully addressed issues brought by the Millers.

Commissioner Nagler: But to be fair, they strongly object to the permitted days to allow that use? Okay.

Chair Ritter: Partially. I'm sure we'll hear about this. Okay, so are we okay with questions? Thank you. So as you can see, we have a lot of cards here. What I would ask is that you come through and talk about not the history but what we need to do going forward because that's what we really have to make a decision on and we've read a lot about the history and there's a lot of history. Not good history, interesting history, but if you can, give us your feedback because we really want to listen to you of what we think we need to do to help get this moving forward, whether it be six-weeks or six- months, we're not sure. And, because there's no applicant, what we're going to do is everybody gets three minutes. I'll be lenient on it for some of you because I know people want to say a little more, but we're going to try and keep it to three minutes and just pick out your bullets and give them to us because we really want your opinion, so. Raise of hands, how many Masons are here? Okay, the rest I'm assuming are residents. Okay, I'll just start here, Michael Miller please.

THE PUBLIC HEARING WAS OPENED.

Michael Miller: Thank you and Commissioners, I appreciate very much your attention to this. Staff has worked on it and we thank you very much for your time. I'd like to start by posing a situation to you and bring this kind of personal so you're kind of sitting in our shoes. Imagine you're in your backyard. You're having a quiet dinner with your friends and suddenly you hear 200 people right across your fence line throwing a party. That noise is going to be enormous. It will completely ruin your evening with your friends. The next day you ask your neighbors, what's going on with all this noise? And they say, well, we're renting our backyard out for parties and make some money. We say, well, maybe can you keep the noise inside so we don't hear it? And they're answer is, we make more money by renting out the backyard. Well, I didn't think that was allowed in a residential area. You're killing us with this. Can you please just make it better? And they say we like doing this. We're going to keep doing it and in fact they continue to do that. Okay, this is your home, your backyard. My guess is that you'd go ballistic but in fact

since 2006 that's what's happened with the Masons. They have been conducting parties and events of all types outside their building right across our fence line for money. They collect money for people they're renting the building to. That's commerce. Now, this is a complicated issue as you've seen lots of material we presented to you. We're sorry about that you had to read through it, but there really is a simple question here. The question is should a quiet, private, non-commercial fraternity in a residential zone be allowed to morph into a noisy commercial business that ruins the lives and damages the property of the people who live close to them so they can make money? That's the fundamental issue. Put yourself in our house and the house of people behind me. That's what this is about.

Now staff has suggested the conditional use permit is not clear about the outside building use. We would disagree with that in the staff report. If you look back in 1977 until 2006 and I've lived in the house since 1985, there were absolutely no events of any kind. I thought the building was abandoned. The CUP was a perfect solution, perfect. In fact, even in 2008 the City said the existing entitlement does not allow outdoor use on any side of the structure. In the last staff report in 2015, staff said, enforcing the conditions of the CUP would not allow continued active use of the backyard. So, it's very clear to us both from the history and from the comments from the City that the Masons are not allowed to use the outside property. Now, there were absolutely no problems of any kind until they modified their building, put in French doors, landscaped the outside and brought the inside activity outside into our lives. So, Chair Ritter you asked what we would suggest going forward? Enforce the current CUP and keep the activity inside. That worked beautifully. The Masons could do whatever they wanted inside their building with absolutely no complaint from residents around it. But, once that activity comes outside, there is no way to control it. And again, if it were your house, would you want to be outside with your friends on a Saturday night with 200 people across your fence line partying so the people next door could make money? We would say, you wouldn't want to do that, nor would we.

We have our attorney to speak more to the specific codes and issues with this account and we'd like to climb up second if that's possible. We appreciate your time very much on this. Thank you.

Stuart Flashman: Good evening Commissioners and I really appreciate your spending the effort and time on this issue. It is a serious one for my clients and it's been a long-standing one and it's been very frustrating for them to have to live with this for as long as they have. As I indicated in my recent letter to the City, when the City allowed the Mason's to go ahead and landscape the backyard and put in the glass doors and put in the patio, they basically literally opened the door to a whole new range of problems for my clients, and those problems should not have been there because the use permit that was granted in 1977 was pretty specific about saying that the uses are supposed to be concentrated on the southern side of the property. Well, all those glass doors, the patio, the landscaping in the backyard, that's all on the north side where there's not supposed to be activities going on. That's supposed to be on the southern side, and the City just went ahead and let that all happen and essentially since then has turned a blind eye to it and continued to let that sort of stuff happen. And I want to talk a little bit about what that use permit was about because when a use permit is granted, as you know, it has conditions attached to it and you also have to make findings. One of those findings

specifically says that the use, as conditioned, will not be detrimental to public health, safety or welfare or injurious to properties or improvements in the vicinity. That's exactly what's happened here, is that things that have gone on at the Masons are injurious to the property improvements of the people in the vicinity—of the neighbors, and yet the City has basically said we don't care. And you should care because when you approved the findings, you are saying that as conditioned by the conditions you're putting in that use permit, this isn't going to cause problems. You're basically promising the City and the people of the City that when you approve something like this, it's going to work. If the City doesn't enforce those conditions it isn't going to work, so you shouldn't be making those findings if you can't say these conditions will be enforced. If the conditions can't be enforced and you know the conditions can't be enforced, you can't make those findings. Staff may tell you can. They may want to make those findings, but they're not you. You're the people who are the decision-makers. You're the people that the decision rests with and if you can't, in good faith, make those findings, you can't approve the permit. So, it's important to you that when conditions are attached that they be enforced because otherwise, you can't do your job.

So, again, the condition says it's supposed to be designed so the activity is focused to the south side of the property. What's happened is that they put a building entrance in the south and actually in fact, one of the things they said in the staff report that accompanied that was they said, the building entrance should be on the south. There should be no windows facing the residential frontage and any other access should be for emergency use only. Well, staff just blew that all off and put in the glass doors and let them use that to go into the backyard and in spite of the fact that the staff report, which is the basis for what the use permit that was approved basically said, don't do that. So, what are we going to do at this point? Well, I think staff has given you a way out of this basically saying let all of the things that are going on, make them all legal. Put them in the CUP so that they're okay and then we won't have a problem. Well, you will have a problem. It just won't be something you can't do anything about. But the neighbors are still going to have a problem and you still have to make findings if you're going to approve changes to the use permit. Can you make those findings when you know what that's going to do to the neighbors? I don't think you can. I think there's a real problem for you. Maybe not for them but for you, about making the findings for the changes that they're proposing.

What needs to happen is that the backyard needs to be put back to the way it was. It's supposed to be a buffer between their property, their uses and the residents. The back entrances should be replaced by solid doors and not glass doors and they should be used for emergency exit only. The patio should be removed or put the patio on the southern side where it's supposed to be and there shouldn't be any party rentals of the facility, certainly not outdoor party rentals. Thank you.

Darlene Miller: Commissioners, after nine years it's great to be here. First, we have detrimental impacts to our health, safety, welfare and property because of these outdoor parties. We have borne the brunt of the lodge's abuses since we are the only neighbor who shares a fence line with them. Specifically, we cannot use our backyard when the Masons are having parties because the noise is deafening. We are being denied our enjoyment of our property and the peace of our home. Furthermore, the noise is so loud that it makes it difficult for us to think, read, work or even sleep. I actually video-taped

the Chabad party recently from the inside of our upstairs bedroom. We didn't bring it tonight because our noise engineer said it wasn't calibrated but you could easily hear my voice in relation to the noise and you can hear the roar of the party inside our upstairs bedroom. I want that to sink in.

Our property damage has been estimated to be 3% to 5% or possibly 100% if we can't sell it to anybody because of this noise nuisance behind our home. Point number two, staff clearly saw the problem of outdoor noise residence in the Young Ivy case. I know it's been discussed but let me remind staff of what they wrote in their own staff report. I will quote: "The introduction of the outdoor playground area with up to 16 children and no significant sound attenuation could result in increased ambient noise levels" and staff denied the playground because of that. Comparing Young Ivy to the Masons, Young Ivy has 16 children. The Masons has 115 to 600 people. Young Ivy has 60 to 80 feet away from the neighbors. The Masons has zero. Young Ivy has four hours of outdoor activity. The Masons have 12. It's obvious that staff can clearly see the problems with ambient noise. We are confused and that's putting it politely as to why we are not being given the same consideration as the neighbors of Young Ivy were.

Point number 3: the City says that the CUP is not clear but we say the CUP is perfectly clear. The problem is that staff has not enforced this. The points of the CUP works is that we've lived next to the Masons for 20 years without complaints and the Masons made good money; \$75,000 to \$90,000 per year but they wanted more money so they rented out the backyard, very entrepreneurial of them. We are guessing that the residents in Pleasanton and maybe some of them can speak to this would also like to make a little bit more money by renting out their backyards. I'm sure that you've heard of Airbnb. Staff, have you heard of Airbnb, the Internet company where neighbors can rent out a room in their house for money? Well, we would like to suggest to staff that they create "air backyard" where neighbors can rent their backyards for parties. Oh, wait a minute, that's not allowed for residents, but the Masons can do it.

Number 4: the goal of the CUP is to make the Masons act like a neighbor. Commercial parties in the backyard is not acting like a neighbor. Did you know that most Masonic lodges are in commercial areas? And that the very few who are in residential areas do not rent out their backyards? Your neighbor might have an occasional large party in the backyard, but the Mason's profit motive creates more parties and more people than a normal neighbor. Therefore, the Masons are not acting like a normal neighbor. The City is proposing a schedule for outdoor parties here with problems with it: (1) we have no protection from voices because of the City's interpretation of the noise code does not include voices. We are dumbfounded as to why the City would even consider putting this huge noise nuisance next to us without any protection; (2) There is no limit on the number of Masonic parties; (3) there's no way to monitor if the party is a Masonic or commercial party; (4) the City can override and approve additional parties. What this is saying is that the Masons can basically have parties every weekend of the year.

Point number 5: who is profiting from the revenues from the parties in the backyard? It is not the public. The Masons lost their tax exempt status/non-profit status and Pleasanton business license. What this means is that their revenues are no longer posted on a public website by the IRS so that the public can see the benefit of their revenues. By the way Commissioner Nagler, we gave proof to the City of the links to

both the IRS and the Secretary of State to prove that those two things were lost and that document was not included in your packet. So who is profiting from all of the money from the outside parties? It's a private company and make no mistake about it that the health of our neighbors' neighborhood is not at stake here. It's the pockets of a private enterprise. What we want is the City to enforce and stop the Masonic use of the backyard.

In conclusion, put yourself in our shoes please. You now have these commercial parties on the other side of your fence. Would you want this? Do you think this should be happening in a residential neighborhood? Just look into your heart and vote your conscience. We hope that you help the City get back on track so that we can all be proud of what it says on the side of our police cars which is, 'Pleasanton, a City of Character.'

Derek Watry: I am CEO and principal of Wilson Ihrig, an acoustical consulting firm in the Bay Area. I've been there for 24 years. First, I would remind you of a couple of definitions that are fundamental here. Sound is simply the propagation of pressure waves through the air. Noise is simply unwanted sound. There's all there is to it. Regarding regulation of noise, every City is required to have a noise ordinance and Pleasanton of course has one. There's a wide misconception that all it does is limit loud noises, that there's a decibel reading and a limit that you can't go over, and if you don't you're not in violation of the noise ordinance. That is simply not true. Noise ordinances also address noises that are disruptive, whether or not they are particularly loud or not. I'll give you a good example of that. This is a pretty stayed meeting. People are behaving well, but I've been at meetings where people weren't behaving well. There was a lot of murmuring and talking in the backyard, with a lot of background noise. Commissioners get angry, Commissioners get irritated, they get upset and that's the reaction that people have to noise. That's the reaction that you get when you hear clearly with Darlene Miller's voice. When they're trying to have a party and the Masons are posting a party, they get upset. That's their reaction. So noise is not just about levels.

The proposed changes in the CUP here tonight would introduce as you know, new noise in an area that's been peaceful and quiet, the peace and quiet of which in the 1977 Planning Commission intended to protect as evidence by their staff report which states in part, "It would be possible to design the structure so as to minimize any noise generated from within. This could be done by prohibiting opening to the north and west sides of the structure and therefore, activity would be focused away from the northern residences." Let's tie this back to the Pleasanton noise ordinance. The declaration of policy, the first line says, "It is declared to be the policy of the City that the peace, health, safety and welfare of the citizens of the City require protection from excessive, unnecessary and unreasonable noises from any and all sources in the community." Noise from backyard activities, especially commercial activities in residential zone is excessive, unnecessary and unreasonable. If the City of Pleasanton stands behind this noise ordinance and if this Planning Commission stands behind the past actions, the CUP being considered tonight should not give the Masons the ability to hold large, disruptive parties on a regular basis in a residential neighborhood. I want to address quickly the idea that voices are exempt from the noise ordinance which has been brought up several times in this process, which going back to the policy it says "any and

all sources.” That does not exclude human voices. That includes human voices. People do not filter out voice frequencies. In fact, it’s exactly the opposite. Our hearing is centered on a frequency band. We don’t hear low noises, dog whistles. The frequencies we hear best are vocal frequencies. We’re designed to hear voices. In fact, because hearing other people speak in an unwanted manner is so annoying, many noise ordinances include a 5dB penalty for noise ordinances. In other words, the limit for noise from voices is lower than from other noises.

Finally, staff has stated that Danville, Dublin, Livermore and San Ramon “do not specifically regulate what the dB limit unamplified human voices.” Well, guess what, those ordinances don’t have any dB limits. They only have qualitative things to decide what a noise nuisance is. So again, it’s not necessarily tied to a decibel level. It can be tied to disruption; in this case, the noise you’ve heard about from the Millers is very disruptive to them in the life that they have enjoyed for so many years before the parties began and they’re simply asking you to take that into account in your positions. Thank you very much.

Yinghai Lu: Hi folks. I live on Sequoia Court and its kind of right across the road from the Masons’ structure. Basically I can see their backyard and the structure with no buffer. I’m here to just say that I’m very concerned about the recommendation that they are allowing outdoor activities. I’m very concerned about the noise level because as far as I know, there’s no way to control or no regulation of human voices. I’ve lived in our community for about three years in a very quiet neighborhood and the one day that somebody has like six people in the backyard and has a party, you notice it. It’s not very disturbing but you notice that because it’s not quiet. So my point is if you have not 6 people but 100 people in the backyard partying, just the voices would destroy you. Maybe we live far enough that we would be disturbed less, but for the Millers I think that’s detrimental and I really hope you guys can reconsider the outdoor activity regulation. That’s all.

Mingying Fan: Thank you Commissioners. I just wanted to share some points from the perspective of an expectant mother. Yinghai and I are expecting our first baby this August and we’re both full-time employees so we can imagine that probably the most time we spend with our kids will be during the weekends and as I am expecting I always imagine that during the weekend I can play with my baby and maybe singing a lullaby to him and him gradually falling asleep, but with this project going on with all of these events around our house, I don’t know how this picture is going to look like. So noise is definitely a key concern for us and I definitely agree with Greg that I’m not an acoustic expert but I know noises don’t only come from music. It also includes human voices and what if some people start to play something not musical at all? For example, if someone plays the drums, is that allowed outdoors? I mean, by nature, you just cannot control the sound of a party. It’s just the nature of the party, and the other point is I don’t know if you use an app called NextDoor. It’s a community app and people share information with the community. I think there’s one item under each person’s profile which is called, “Why do you choose to live in this community?” I found that most people who live in Valley Trail put “quiet” and “peaceful” for their reason to live in this community. So the reason we’re here today is that we don’t want to lose the reason why we live in Valley Trail and we want our kid to grow in a healthy and quiet environment.

Usha Gurazada: Good evening and thank you so much for listening to us. My name is Usha Gurazada and I am my husband Shama moved in here about 10 years ago and our property backs into the Masons property right next to the Millers. From everything that you guys just heard, all I want to say is we're a family. We work full-time. We have seniors in our home. We have young children in our home and what we love about Pleasanton is the environment, and this is clearly disrupting the environment that we chose the City for. So I think it is the responsibility of the City to adhere to the restriction of keeping these parties indoors and not letting it disturb what we want to do in our home and in our living space. I am totally with the Millers with the fact that these parties—the recommendations that the City is making is legalizing what they're doing outdoors and that's clearly not what we want and we're in fact hoping and expecting that you will listen to our voices. Thank you so much.

Steven Deselms: Hello. I'm not very good at talking. I've been a resident since 1971. I'm an original owner. I grew up on the corner from the Millers and I don't think that you should permit the staff to pass their agenda. I think number one would be the best bet. I'm really appalled that the staff for the fact that they had a problem since 2009 and they can't fix the problem. That's all I want to say.

Lori Dillon: I live on Sequoia Court and I just want to say that I'm hoping that there are no outside parties and hoping that everyone stays inside. The meetings can stay inside. It's the parties. There's usually going to be alcohol involved and you know, bars, restaurants, it's always escalated with alcohol and that's all I have to say. Thanks.

Jeff Renholts: Good evening Commissioners. My name is Jeff Renholts. I live on Astor Court and as a point of reference my dining room looks out on the 50 yard line of Foothill High School. I do understand noise. I invite you to the annual Foothill and Amador Valley football games and I'll leave it at that. I just want to say the Board of Directors has been engaged in negotiations regarding the sale of the building and we have been in contact with the City trying to reach some sort of an agreement here. We sought to postpone this hearing one month to July 27th just so we would be prepared to review all items in the agenda packet. The Millers have been granted numerous and extended postponements. This hearing, as you heard, was supposed to be taken in January of 2015 and we're just seeking a one month delay to prepare for allegations which have been made but not conveyed to us except through this packet that we were able to download just this past week. We will object to the adoption of any of the conditions that are in Exhibit 1. That is based on the letter from our attorney and Board at that time which does not represent the current board inasmuch as the Millers have continually refused to accept any of the self-imposed conditions that the Board at that time proposed. The City has pointed out, through a number of letters attached to the agenda item that the lodge is not in violation of the existing CUP. We therefore are willing to accept that opinion and we will be willing to negotiate with the Millers moving forward. We do not understand though why the property is from both Pleasanton's Masonic Center and St. Claire's Church are zoned RM-2,500 when the existing uses have been in place for more than 35 years and as much as the church is running a daycare and hosting multiple indoor and outdoor events during the course of any given week, far more than the lodge is or ever has done, we believe that both properties should be zoned in a manner appropriate for their current uses.

The attorney for the Millers makes several references to the fact that the Hall Association, the holding company, has not filed taxes for several years. That is not the case. I would refer you to our CPA but he is out of the country on a trip he planned more than two years ago and he would be able to give you more specific information and this was one of the reasons they sought to postpone this particular hearing. Their attorney also makes several references to the fact that the lodge lost its tax exempt status. This happened simply due to a filing oversight which has since been corrected and the tax exempt status has been restored. The attorney for the Millers makes reference to the fact that our caterer uses the lodge 96% of the time and the lodge only 4%. This is untrue. The numbers are based solely on estimates the Millers have conjured from thin air. Lodge use, which includes the other Masonic groups which meet there is much greater and the caterer is off-site doing what caterers do—cater. If we applied those same metrics and assumptions to St. Claire's Church, we would find that their daycare facility comprises over 98% of the use and the church not even 2%. We have, on each occasion when we've rented to an outside party over the last several years, made diligent use of a sound meter and have taken readings near our fence line at multiple times during the event. In most cases the levels were below the required level. A little experimentation; however, revealed that by judicious selection of ranges and waiting of volumes above those limits could be obtained. It is important to note that the proper setting is dB A as specified in the code. We do not know what the Millers may have used when they made their readings. It also should be known that on rare occasions when volumes were obtained which were above the limits, the person taking those readings immediately affected a reduction in volume, returned to the spot where those readings were taken to confirm that the levels had been reduced and the noise level limits were being met. It should be noted also that during many of the times, particularly at night, the noise level from Hopyard Road traffic exceeded the levels coming from the lodge building and sometimes the road noise along exceeded the limits. We've also heard a number of times that the Millers referred to parties consisting of between 150 and 600 people. That has not happened in quite a long time. They make allegations that we have parties all the time. The last party that we had that involved a group playing music was last August. We do not rent very often. We do rent, however, to Chabad of Tri-Valley which is a Jewish synagogue. So I just wanted to make sure you were informed of all of those little items. Thank you very much.

Mike Salazar: Commissioners and staff, hi, good evening and thank you for your time. I'm also a Pleasanton resident and also a member of the lodge here. I just actually wanted to clarify a couple of things because I've actually been involved quite a bit in negotiations with the Millers getting our attorney and coming to the office here to try and be a good neighbor to come up with a solution that would meet our needs. We actually did volunteer some of those recommendations that were up there that basically our attorney said you really don't have to do that, again, trying to be a good neighbor. We've been here over 100 years. Let's go ahead and do it on our own and we proposed it to the Millers with the City and we thought we had an agreement and the Millers disagreed. So, you know, again we pride coming in. We pride having the City becoming the third party to help us come up with solutions. You know, we're open to suggestions. We're just not willing to live with number one.

You know, when talking about the fact that we've never used the backyard prior to having the door back there—that's not a true statement. On the 4th of July, we always

use it back then. We have a dunk tank. We have a BBQ. We have 100 members out there with our kids so I'm not sure where the statement is that they would never use prior to that. That's not a true statement. We actually do rent the facility not only to outside groups but also the Masons here sponsor free youth groups. Okay? I happen to work with one of those. I think you mentioned that on there. It's a youth group for young men where we teach them leadership skills and character development. One of those things again is trying to teach them how to plan and things like that so we rent it to them at a reasonable rate. It probably doesn't pay for the electricity and the use of the building, but we do charge them, so there is rent associated with that but again, it's not a whole lot, but it's just a way to teach them how to manage themselves and how to conduct themselves in a proper way. So we do have kids out there. You know there were some comments from some of the members that live in the community talking about they live in the community and it's been fairly quiet. I think their concerns are allowing the lodge to have 600 people out there in the backyard. I don't think they want it and I know we don't want it so I don't think that's an issue. We talked about trying to stay within the constraints of the timeframe in which, you know, during the day or whatever. If I'm a resident of Pleasanton and I have a neighbor in the back who has a pool, and during the summer they've got kids playing out there, and I'm sure if I took a noise meter out there, it would probably exceed whatever the limit is that we have. But that's just kids. I'm not about to call Pleasanton Police and go and have them tell my neighbors in the back that they can't be jumping in the pool. So, you know, there's also one of the letters that is in, actually again, in support of the Millers that talks about it's a quiet community. We again try to do that.

Commissioner Allen, you mentioned that you were looking at our website and the last entry was in May. Well, we haven't had any others since then. So we ourselves have turned around and said until we get some of this fixed, again, trying to be good neighbors, trying to curtail some of our rentals also. We publicly want to attest to the fact that we had issues back in 2008. Yes, we put it out to a third party. It didn't work for us. When the City came and asked us not to do the event, there was a signed contract so we were told legally if we didn't do it they were going to sue us so we went ahead and went with the event. Of course, once they broke the agreement we had to tell them to stop and leave. So I publicly want to apologize to you and also to the members of Pleasanton and say that wasn't our intent. So hopefully we've taken things into our own hands and try to manage the issues that we have. So we're here to turn around and say the Masons are trying to be good neighbors. Thanks for your time.

Commissioner O'Connor: I have one question. You had mentioned that you had tried to negotiate in the past with the Millers, but couldn't come to an agreement.

Salazar: Correct.

Commissioner O'Connor: In any of your proposals, whatever the other items were, did you ever at any time agree not to use the outside buffer zone area between the building and the back fence?

Salazar: In our agreements we turned around and that's why we were talking about let's do it only a couple of times during the month that we would actually rent it, and

that's how we came up with—I forget what the number was—that we had turned around and proposed. We said during six or seven months, we'll do about eight events.

Commissioner O'Connor: But at no point did you say you would cease to use that area?

Salazar: It doesn't seem fair for us not to use that facility, that's correct, and that's because, again we use it, our kids use it, so you know, it didn't seem fair for us not to be able to use that. Any other questions?

Commissioner Balch: So could you maybe elaborate, for prior to 2008, let's call it 1980 to 2005, how did you use that area, that buffer zone differently than using it subsequent?

Salazar: Well, in 2006 was when we actually put the door in there, so prior to then you're asking?

Commissioner Balch: Yes.

Salazar: Again, we used it for where we would put a dunk tank out there and do BBQs. One of our members has one of those BBQ things that you pull it and drop, and put it back there and BBQ hot dogs and hamburgers for all of our members.

Commissioner Balch: So I want to ask maybe for confirmation, it sounds like that's a Mason event versus it sounded like now you have talked about non-Mason rental events.

Salazar: Right. That was strictly the Masons.

Commissioner Balch: So that's a significant change you would agree with, correct, since approximately that point in time?

Salazar: Yes, because no one would rent the backyard back there, correct.

Commissioner Balch: Thank you.

Ed Broome: I don't think I'll use all five minutes and I promise I won't bring up the Johnson Drive EDZ. So briefly, I live on Hawaii Court within Valley Trails. I'm sympathetic to the Miller's issue. I'm fairly passionate about it now and probably more passionate if I were in their proximity to the Masons. I think what I've discovered in just kind of listening to staff and listening to the interaction back and forth, the use of this as you just pointed out has morphed from a fraternal organization who's using the facility probably a majority of the percentage of time to a semi-public venue now where they have outside groups using the facility and majority of the time or at least an equal amount of time. I think the other thing I found interesting was the number of sheds on the property and they are not in the best condition. I think the result of those sheds being there is the lease agreement or rental agreement that they have with the catering company to use their commercial kitchen and yes they do obviously cater events off-site, but they're there a good percentage of the time using that kitchen which is kind of to me, you're splitting hairs on that use permit. Also the thing that I want to stress here

is, it seems to me we have a loophole that once you get your initial use permit under a certain set of conditions under a certain precedent, you can kind of move away from that and start to loosely interpret that use permit as we're seeing here. So again, you start off with a fraternal organization or place of assembly for a religious body or what have you, and while because we can use it for that, I'm going to use it for this. I'm going to rent out our kitchen and I'm going to have vans sitting in the parking lot that are mechanically unsound for months at a time, so it kind of grows and grows and grows and now we have the issue that we have. And, you know, I don't envy your position. I don't envy the Miller's position. This is truly the definition of a quandary. What do we do and what precedent do we set for the rest of the City where we might have similar conflicts. I can only go back to what I would support personally and that would be a substantial re-working of this use permit, perhaps not a revocation outright at this point but something much different than it was in 1977 and much different than what staff is proposing now. Thank you.

Commissioner Nagler: When you say much different, what then?

Broome: I think the definitions need to be tightened up. I think the uses need to be tightened up. I think that perhaps a solution would be that the organization to whom it's issued to have to use it a majority of the time and that percentage is fixed. Let's say they have to use it 75 percent of the time for their meetings or their related events, ancillary uses per se, and then any outside uses or rentals or what have you would be a smaller percentage of that. So that change would allow for that organization to grow and contract and grow and contract over time. It would also define something. Right now we have a big, wide birth and it's up to interpretation as we've heard from staff, as we've heard from their attorney. It's defined but it's not defined, so that would be my suggestion.

Commissioner Nagler: Thank you.

Jann Bartow: I also live in Valley Trails and I'm a board member of the Valley Trails HOA, also known now as coalitions. This is a letter that was submitted back in 2014 just going through restated in regards to the board members' support for the Millers. It's dated September 14, 2014 and there was a meeting held by the Valley Trails volunteers HOA and there were approximately 60 people at that time that attended, which are primarily all residents. It says, "Ms. Miller presented to our volunteer Valley Trails HOA meeting on September 14th and explained to us the current situation at the Masonic Lodge building located at 3370 Hopyard Road. Attached are both the Miller's letters and their attorney's letters. Our members are very concerned about the intrusion of the commercial activities into the residential area in the guise of accessory uses. The City needs to protect, not destroy, the peace and the tranquility of our residential neighborhoods. The Valley Trails HOA agrees with the Millers that these commercial activities and the associated noise nuisance should not be occurring in a residential neighborhood. We also agree that the Planning Department's justifications of the commercial activities via the accessory use provision in the zoning code are not appropriate." So as board members, we support the Miller's request to remove whatever you can out of this situation. Thank you.

Nancy Hecht: Good evening. Thank you for listening to all of us. I'm a 19 year resident of Bryce Canyon Court. I live on the farthest end of Bryce Canyon Court and I can hear when the parties go on at the lodge. At my house there's a joke because we can hear whenever there's a home run at the softball complex and somebody will say "home run!" I've got nothing against softball. It's much louder from the lodge, and yes it has subsided, but I think that's to Darlene and Mike's credit because they've kept after it. So I would like the Commission to enforce the current CUP and keep the activity inside. I just wanted to comment, the gentleman who touched on St. Claire's and their activities. I do not attend St. Claire's Church. In my 19 year observation, St. Claire's has many activities and they are always on the south side of the building. They have it locked on the north side of their church and they do not use that lot for their activities. If they did, everybody on Bryce Canyon and Big Bend and Sequoia and the other courts in the immediate area would hear it. I do know when the lodge had their BBQ and their dunking booth, my observation and recollection was that it was not in the back opposite the Millers. It was on the side of the building and the BBQ that was hauled by the truck parks out front. So I certainly believe the Masons should be able to have BBQs with their group and members, but not in the back and so I appreciate your time in listening to all of us.

David Pastor: Thank you for having me. First you mentioned 120 square feet for one of those structures. When they get five of them which we have out there? Okay. And for the planning group over here, this thing's been happening since 2008. What has taken eight years to take care of this? And, if we provide all of this new stuff with option 3, how many years before we start working to make that work? I mean I've been living in Valley Trails more than any of you probably and it's going to just take forever. Julie, you made some comments about these things about bar mitzvahs and confirmations and things like that. That stopped, except if they rent the building. We're talking about individuals within the congregation, who are putting these on, and there are not hundreds and hundreds of people and they're not renting. They're not a commercial operation. In any case, third parties do make that a wrinkle. Eight years of a nuisance and they've still got room inside that building. I've been in there for the voting booths on several occasions. They don't have to do everything outside. And again, before they put that beautiful door in there, and by the way, how would you like to have a patio that's within 15 feet of your backyard? That's absolutely idiotic to allow that to happen in the first place. Anyway, you heard my point of this whole thing and that's all I'll really say is for it's been eight years now and we've been playing with this for eight years now. Everybody is mille-mouthing about and what things could we do. When you've had it and you've had it since 1977, please follow the rules. Thank you.

David Jenkins: Welcome. My name is David Jenkins. My wife and I've been residents of Pleasanton for about five years now. As a concerned citizen, I was surprised when I learned of what the Masonic Lodge was doing to the residents of the Valley Trails community by renting out their facility for loud parties. I was really set back when I found out that the City of Pleasanton did nothing to stop such activities from occurring. In fact, you gave them a permit to modify the original building which allowed the activities to spill out into the back parking lot. By allowing this, the City has opened up a dangerous precedent to allow other such activities in other neighborhoods. I do not want this to take place in my part of town. It is your obligation to preserve the peace and tranquility of our residential neighborhoods by enforcing City ordinances. This is an election year

so many the residents of Pleasanton should take a closer look at who they vote into office. Please consider the destruction of lives in the Valley Trail community and do not allow these activities to continue outside of the Masonic building. The Masons have a responsibility to their neighbors too. Private citizen's would not be allowed to disrupt the lives of their neighbors so the commercial neighbors should not be allowed to do so either. Pleasanton has a reputation of being one of the best cities in the Bay Area to live. Let's keep it that way. I suggest that you start enforcing your ordinances that you guys set up instead of letting it get to this point, seriously.

Stephen Voyne: I had a question. Is the Masonic Lodge in the residential area? Is it zoned residential?

Chair Ritter: We'll kind of go through that afterwards.

Voyne: The only reason it was significant to me was that if it's zoned residential, why would it be considered a buffer zone? So we have the Millers that own a house that was in a certain condition in regard to noise levels. The Masonic Temple was used at a certain level and that changed. I would ask you to put yourself in their position both from an economic standpoint; the value of their home, but more so on a quality of life issue. Pleasanton has enjoyed a high status nationally as a place to raise children, education, a great place to have a family and we owe past Planning Commissions, Mayor, City Council people gratitude for that, and it's a constant nudge in that direction and I would ask that you consider continuing in that direction by protecting the neighborhood rather than a commercial interest. Thank you.

Bhaskar Maddi: Good evening everyone, City, Planning Commission and staff. Thanks for hearing me. I was living here 15 years here in Monterey, and the City was so quaint, but unfortunately, my job has moved to the south Bay and I moved to Santa Clara. Everyone knows Santa Clara is so crowded and my dream City was not that design. Still I'm working in the South Bay in San Jose, but I found that my dream city is Pleasanton. So then I moved to Pleasanton in 2011. Still I'm working in San Jose and drive everyday two hours at least to live a peaceful life in the City of Pleasanton. Recently Hollywood actor, Tom Cruise, said Pleasanton is an honest and very nice City and he came here a couple of times and that was a powerful statement. In the statement he said that the people of Pleasanton are caring about their city. So that was powerful to me and I don't consider my two hour drive every day. But all of a sudden this kind of noise coming and getting the commercialized parties and all, it seems City people are caring about it but I would ask them to reconsider and go for option 1 and not option 3. I live on Bryce Canyon Court and for five years I've liked the city and it was my dream to be living here and enjoy the good parts of Pleasanton. I had to think about all of these things and I really appreciate if you guys would consider option 1 to keep it the way it was before. I don't like option 3 and thank you for considering this.

Karthikeyan Radhakrishnan: I'm a new house owner and I believe I share boundaries with them, but I haven't exactly measured them. So I could vouch for what these guys told you that the expectation from you is very high. I work for a company in Menlo Park called Facebook and I commute, but I still decided to come here because I really thought my two-year-old son would have a good life here. The schools are great. The neighborhood is great and my neighbors are great. I'm so disappointed to see that you

guys sat on something like this for eight years just talking codes. Codes are governed by spirit and not really by words. It is the words that guide you, so one of the things that people keep saying is this noise stuff. Human voices aren't noise. It is when people sing together, and somebody there said they never sang in a year and that's completely not true. I've been here for five months and I've heard groups of people singing. So I think that is not a good estimation. I mean I did see some very insight focus come from you guys in following this thought, but let me just share what my thoughts are. So noise is one. The second thing is, so as Masons as free Masons as a concept as a society is very honorable, is something you admire in concept, but they have to act to what they stand for and what their mission is. Renting out is not the mission, right? A church operating a preschool is very much in alignment with their mission. You're offering a service that complements the people around you, right? So if they need to make money, I would actually argue that you should run a service that complements the community around you, right? And in no way renting out complements, it actually goes the other way. Because you're renting to people you completely do not know which is exactly the Airbnb problem, anyway they come to your homes soon, it's just an amplified version of it because of 600 people here and I'm clearly concerned about the security, right? When I got my house it had this beautiful landscape around it. Now I figured out why the landscape is there. It's to hide this stuff. So I would say, focus on the security. It's a very slippery slope. I am told that people found booze and condoms and stuff on this beautiful landscape just a few yards from my fence. I mean, this is something to be considered when you bring in random people, random parties that sign up with whom you haven't vetted. I can pretty much say that since they didn't know there were people singing in the back yard, I question whether it's even monitored. So I would really worry about the safety of the place. That would be my bigger concern. I do understand it's not an easy life being a non-profit. I would highly say you should do what is consistent with your mission, so pick something that is consistent with your mission and that complements people around you. Provide a service, because you're an honorable society and I don't want to say anything bad as I actually like them, but I would like to see them offer a service that complements the people around them and make the amount of money which is required to run the place. Renting out is dangerous. So I would say the rule of thumb is that you can always argue the code, argue the finer points about what's been followed. The simple rule, as a leadership rule, I would say you should never ask a guy to do something you would not do, right? So I would urge you guys to ask yourself, would you permit it in your backyard live right up next to it, because it's happening. The codes are not written to be there forever, and that's the philosophy of law. It's meant to evolve, so I would highly recommend considering not paying so much attention to the words of the code but rather the spirit of the code.

THE PUBLIC HEARING WAS CLOSED

Chair Ritter: First of all I want to say thank you. You guys were complimenting both sides and you've given us some great feedback. That was very awesome. So what we'll do now is close it. We're going to take a quick break and bring it back and then we'll discuss it and hopefully come up with a vote.

BREAK

The Planning Commission took a break at 9:05 p.m. and thereafter reconvened the regular meeting at 9:10 p.m.

Chair Ritter: So I'll just recap. We just closed the public hearing so that means basically that we're not accepting any more comments from residents or anybody else and we're just going to discuss with staff what the process is and to try and get a resolution and possibly to vote on an option. I guess we'll bring it to the Commission. Anybody want to go first?

Commissioner Allen: I have a question. It also gives it a little bit of my position but this is a staff question. I'm looking for process-wise how you suggest we would look at our options. I am open to supporting the Mason's core operation and essentially I believe the spirit of the original conditions of approval for this project and how it was operating prior to 2008, so I'm open to that. It seemed like it was co-existing in a positive way, but what that would mean is that there wouldn't be outdoor use in the future for non-Mason events and even for Mason events, we want to make sure it's manageable and BBQs are fine. So with that kind of positioning, I think about the findings and all, I can say I can support some of the findings with that kind of position, but if it wasn't for that, I could not support some of the findings.

So in terms of alternatives, how would you--I don't know how my fellow Commissioners feel, but if that was something people were leaning toward, how would you direct us to approach looking at options? And then, we can all talk about it.

Weinstein: Well, these conditions—let's sort of go back one step and give you some background as to how we crafted these. It was made clear hopefully in the presentation, but these conditions represent our, staff's attempt at coming up with a reasonable set of conditions that is sensitive to the history of this dispute, which again, as many people have mentioned, has happened over the course of many, many years. So it is sensitive to that but it is also cognizant of the fact that we're essentially creating, or what staff's recommendation is that essentially creating a whole new CUP or a substantially changed CUP with lots of new conditions. After 40 years of having this CUP, it's a reasonable expectation that major changes would be made to the CUP.

Commissioner Allen, in regards to your point, a good starting point would be to literally go through these conditions and adjust them according to the will of the Commission. These are our first attempt at what we think is a reasonable set of conditions, but there's no reason those couldn't be changed to reflect a prohibition on outdoor uses, Masonic uses or further limitations on the use of the outdoor area for Masonic uses even, and with those changes it seems like, as you suggested, the findings that we recommended can be adopted but if you also have changes to the findings that reflect your understanding of these conditions and how they address the impact, we can make changes to those as well.

Commissioner Balch: I was going to suggest maybe we take a straw poll up here first.

Chair Ritter: I want to ask one other question. My first question was originally did staff meet together with the Masons and the Millers and come up with these conditions of approval list? And it doesn't sound like the answer's yes.

Weinstein: We've had lots of independent conversations over the course of the last several years especially with the Millers and the Masons, lots of face-to-face meetings. I'm not sure when the last time there was one where the Millers, the Masons and the City staff were in the room together to discuss these things. I think the vast majority of all of the conversations happened independently. But we talked to both parties many, many times and reviewed lots and lots of correspondence from both so I know we can say these conditions have been crafted based on input from both parties.

Chair Ritter: Yes, independently you've been doing that. You just never got together and said, let's make a deal. There's an option that we continue this and we say you guys go back and sit down in a room and figure it out for 30 days and then come back to us as an option. I don't know. It's just amazing that it's taken this long to get to this; but anyway, you were going to ask a question.

Commissioner Balch: Well, that kind of threw me off. That approach if I may Chair Ritter, wasn't that the 2009 Planning Commission approach? The "go work it out in a room"?

Weinstein: Yes, I mean we've tried lots of different ways of getting to the end of this problem or even the bottom of it, and yes, we tried face-to-face meetings at one point. The Planning Commission back in 2009 sent the issue back for further discussion and negotiation. All levels of City staff have been involved, from Planning staff and others in Community Development, all the way up to the City Manager's Office. Elected officials were involved a couple of years ago and no resolution was crafted or reached, so I don't know how successful a similar endeavor would be where we could get all of the parties together in one room and work out a solution. I'm not confident that would work.

Commissioner Balch: So to go back to my initial question, I don't know how everyone feels but I think we could maybe talk through a few issues and just get a quick read on where we're at. So I guess I'll start with something as the easiest in my opinion. So the ancillary structures—are we supportive of them staying or are we thinking they should go? I'll just go first and I just think they should go.

Commissioner Nagler: I'm not going to be cooperative to your approach, I'm sorry.

Commissioner Balch: Okay, the straw poll?

Commissioner Nagler: The straw poll. This conversation has been so difficult that it's gone on for so long that I'm not convinced, I'm sorry to say, that today is the day it ought to get solved when the property is in escrow to be sold and there's a chance that it's less about the actual number of days an outside party could use the backyard or...it may be less about that than there is clearly absolutely no trust between the two parties to this conversation. And it could be that a conversation between the Millers and other neighbors and Chabad, just because there's no reason to distrust one another, could achieve a different result. And I do believe just to say directly, I do believe that if we were to continue this conversation which is a totally reasonable way to approach it, that we would be establishing parameters for a conversation that ought to occur privately and not have the size of the sandbox that binds the public if it's possible. And in the

end, it may not be possible. But if we were to proceed and sort of ordain in what the new use permit ought to look like, assuming we would adopt a different use permit, I believe then we would be setting—I'm not sure what it would be—either the minimum or the maximum for the results of the conversation between the new owner and the neighbors. And I just don't know that that's fair to their conversation or productive, nor get them to adopt them or not.

Put it differently, I believe what we would be doing is imposing the unfortunate dynamic of a many year conversation to two new parties because we're trying to respond to some arbitrated settlement between various ideas and options and discussions that have been going on for years as opposed to a straight up new conversation and I don't know that the new owner ought to be either aided or sidled by, depending upon one's point of view, us taking action today after all these years.

Commissioner O'Connor: I'd like to comment on that. So first of all, if there was a new buyer, that's going to be a new CUP. This one's not going to pertain to the new buyer. But given that, after nine years these two parties have not been able to agree and I think turning them away tonight to go away and work this out themselves is the wrong thing to do. The last time we did that it took us too many years to get back here. They're looking for an answer tonight.

Chair Ritter: Weren't you here nine years ago?

Commissioner O'Connor: So the first private residence dispute visit to a home I had was to the Millers about 10 years ago. But aside from that, right or wrong, I think it's our job to finally decide something that they can't decide between themselves. The escrow—I don't know if staff knows it's been in escrow, but it could have been in or out of escrow with Chabad for quite some time. I'm not sure it's ever going to close. It could close next week. It could close in five years. It could be a different buyer, so I don't think we should kick the can down the road. I really do think we should come to finality here and then if it does sell and there's a new user coming in, then it's a whole new ball game we do again.

Commissioner Nagler: I appreciate that. Just to be clear, I am absolutely not suggesting that these parties try and go figure it out. I'm clearly not suggesting that. What I was suggesting is that discussion is about to occur between two new parties, one being sort of the Millers....

Commissioner O'Connor: But again, that could be years of agony down the road again if we don't resolve something here tonight. I think after all this time of finally getting it back here, we need to come to some resolution going forward, and I think what I heard from Nancy is, and I'm kind of on board with Nancy, I'd like to go back to what wasn't a problem and that's the original CUP. But I think that the original CUP as staff pointed out is problematic in that I guess it could be interpreted because the CUP doesn't say everything that the staff report said, so there are a lot of implications in the staff report that should have been guiding the CUP but they didn't itemize everything in the CUP according to what the concerns were in the staff report. So I think we do need to go back and maybe add some language to the current CUP that gives us the result that we had for the first 20 years and essentially my concern is that I don't think there should be

any activity in the back yard. I thought it was absolutely clear from the staff reports of that Planning Commission that there was supposed to be no activity in the buffer zone and that was their concern all along—was that they were too close to the houses. They wanted to move it further south but they're out of room. If they want to do parties in the parking lot and BBQs in the parking lot, if they want to have parties inside the building where noise doesn't escape; unfortunately these French doors might be a problem, but we didn't have any problem for over 20 years. It's been the last in the 10 years so that's where I'm at personally.

Commissioner Balch: I'm going to back you on a portion of it, but I don't believe I'd be with you on everything, but in terms of the "hear it now or kick it later down", I have to agree. In my opinion, we've got to hear this. It's a CUP that a body, where I wasn't around during the time, put forth and the conditions they've lived under for many years so those are the issues. I was adamant to get this back because it is something this body issued as a condition to build the building and we're tweaking that. And frankly, if we don't in my opinion, we reduce our credibility when we say to people if there's a problem with the CUP it comes back to this body. We say it every time. It will come back and we need to show when it comes back, we will do something with it. There's something with it may be doing nothing but at least it is here now.

I'd also want to argue that waiting for an escrow to close as a developer, which is a bad word in Pleasanton, but as a developer I'm in six escrows now. None of them ever seem to close at the exact same time or the time you expect. There's always something. If they close on time, I could predict my life better, but there always could be something. They could assign it to a new buyer potentially upon close. We don't know what the purchase and sale agreement dictates or the terms of it. We don't know if there are additional contingencies or conditions and from my perspective, that is a moot point. I'm looking at the issue ahead of us and saying, well at least since 2006 or 2008 or whatever year we want to call it, until now we've got a problem.

While I have the floor I do want to maybe point out to the audience the government process takes time, so while staff has technically had the issue for nine years or eight years or however you'd like to count it, if you've looked at the tedium of documents they've provided, many times it appeared they thought the issue was resolved and later found out it was not so I'm coming to their defense slightly to say that. I'm slightly still appalled that it's been this much time but I don't put the blame on staff and I just want to say that real fast. So I'd like to move on.

Commissioner Allen: I'd like to hear it as well.

Chair Ritter: Maybe the things we pick and we just go through the conditions of approval and say the things we agree on first.

Commissioner Nagler: Is it option 3 you want to go through?

Chair Ritter: Well, that's the question. It sounds like none of us....

Commissioner Allen: What if we just go through the text. That's one way to start. We're not approving option 3, but a way to go through those points and just say what we think. That's a place to start and then we could add on additional things.

Commissioner Balch: I think we're going to need to do that, but from my view I think we need to figure out if we're all for or not for backyard use, for Mason use or not, things like that.

Commissioner Allen: Yes.

Commissioner O'Connor: There are really three or four issues.

Commissioner Allen: Yes, and then we can get into the details.

Commissioner Balch: So I guess the first question is, is anyone support staying with the 77 CUP as currently written? Option 1? Does anyone support staying with option 1 as stated by staff?

Commissioner Balch, Chair Ritter, Commissioner Allen, Commissioner Nagler: No.

Commissioner O'Connor: Do you mean without clarifying?

Commissioner Balch: Yes, without clarifying any changes. Okay, does anyone support revocation? Option 2?

All: No.

Commissioner Balch: We're all on the period of some modification presumably to the 77 CUP, okay, I'll just keep driving a little bit. So the next question then in my mind, I was going to go with the building but let me go with something else. It sounds like the backyard use by any party is of question, and I also think we could bifurcate it down to Mason Lodge use versus non-Mason Lodge use similar to how staff has done so within the staff report. Correct me if I'm wrong at any time please. So why don't we just start with Mason Lodge use of the yard? I heard you say initially that you would be okay with that provided there were some conditions that it didn't go out of hand.

Commissioner Allen: Yes, as long as we put limits on the number of times, etc.

Commissioner Nagler: Would you mind framing it a little different?

Commissioner Balch: Sure.

Commissioner Nagler: Which is, do we support the use of the backyard for any use at all other than a buffer?

Commissioner Allen: Before I answer, could I just say, would that include five people from the Mason's having lunch outside on the patio?

Commissioner Nagler: That would be a use other than as a buffer, yes.

Commissioner O'Connor: I would not support that.

Commissioner Balch: Yes, I don't think I would either. A strict prohibition.

Commissioner Allen: Greg, what are you saying, no use in the backyard? It doesn't matter, even if there are five people having lunch there?

Commissioner O'Connor: No, it's a buffer.

Commissioner Balch: Quick question to staff. What's the distance between the buildings to the fence?

Weinstein: Let us check and we'll report back.

Chair Ritter: Part of me just wants to go through line by line because then we'll have a result after this to make a motion on it.

Commissioner Nagler: But people are expressing that they don't want to do that; that it doesn't matter about the details about it.

Commissioner Balch: If you're talking about the use of the backyard, you're talking about the hours, the operations, all that comes in in my opinion, right?

Commissioner Allen: Yes, sound attenuation and different things.

Commissioner Nagler: So if you don't want the backyard used at all, you don't have to have that conversation, right?

Commissioner Allen: Correct, so Greg you come out that you don't want it used at all, right?

Commissioner O'Connor: I think the original Planning Commission was clear.

Commissioner Allen: So I come out that it could be used for five people of the Masons having lunch. With the right restrictions, I could see some use and the reason is that if this was a home, a residence instead of the Masons, a residence would have a backyard. It would be reasonable to say they could have five visitors and their friends and sit outside and have lunch.

Commissioner Nagler: Okay, but the first incremental answer is, yes, there is some use that would be okay.

Commissioner Allen: Yes.

Chair Ritter: I agree with Commissioner Allen that there could be some use.

Commissioner O'Connor: So my problem with it is, we don't know if it's a Mason use or a non-Mason use. If they're being too loud and it's going over the noise ordinance, but

we're not going to count voices, I have a real problem. What if it's 10 and they're loud? No use of the buffer zone.

Commissioner Balch: So if I may, I mentioned earlier in my comments that I'm familiar with buffer zones specifically in the City of Pleasanton unfortunately and it seems from the buffer zone that I'm familiar with that basically the use can be things like a parking lot frankly. Buffer zones can be used for true, let's call them "passive activities", and I don't know if staff wants to weigh in, but that's why I have difficulty with a strict prohibition.

Commissioner O'Connor: This one actually said that it could be used for a future parking lot.

Commissioner Balch: I thought I saw that somewhere.

Commissioner O'Connor: But not for human use. They're not going to have a gathering in their courtyard.

Commissioner Balch: Well, I think that's maybe where I'm hesitant to where we're going because I'm trying to say that I could foresee a use that could be potentially a parking lot, could be a passive use. I'll call it a passive use. So I could support a passive use and not a, you know....

Commissioner Nagler: And I could support the use as a gathering place of human beings under some conditions.

Commissioner Balch: Have we heard from Herb?

Chair Ritter: I said I agree with Commissioner Allen and Commissioner Nagler.

Commissioner Nagler: Okay, so now the question is how do you enforce it?

Commissioner O'Connor: We haven't been enforcing the current CUP.

Chair Ritter: It seems like the door caused a big issue to start the backyard and maybe we say that the door is an exit only door.

Commissioner Balch: So the door has a couple of options. The first was changing the glass to sound proof glass. The second option raised by someone was changing it to a solid door and separate from those issues, the third was the exit-only access. I'm fine with that exit-only access.

Commissioner O'Connor: And I think the glass was one of those attractive nuisances. If it's not attractive to walk out there and you're kind of isolated, it's not as desirable to go, but we created that by putting in a glass door. So I agree it should be emergency only/exit only.

Chair Ritter: That eliminates people going in and out of that door which creates the zone to an open court a little bit.

Commissioner Balch: So to summarize it, it sounds like we're all basically agreeing that the 77 CUP; that this is a buffer zone in some capacity and now we're just kind of nuancing the buffer zone that way, right? So let me ask this. Are we okay with changing the doors to the solid door to that extent or are we still okay with staff's recommendation of just the sound glass doors.

Commissioner Allen: I think solid door.

Commissioner O'Connor: I do too.

Commissioner Nagler: That's exit only.

Commissioner Balch: Okay, so we're all there. We're all on the solid door. Let's start there. Okay, so now we're a solid door so what's the point of going outside and having a small gathering of people eating and drinking?

Chair Ritter: Well, it's like they did before. They came around on the side where they could back their truck up. It's on the side so their gathering will be more on the south side.

Commissioner O'Connor: Would you back up a truck with a big BBQ for five people?

Chair Ritter: That's where the BBQ would happen, on the south or southwest side of the building not on the north side of the building.

Commissioner O'Connor: I'm more concerned with how do we enforce it. How would you control whether it's a Mason party or non-Mason party with people with their noise levels? I think we get ourselves back to the same slippery slope we're in now. Code enforcement, police action....

Commissioner Balch: It sounds like we're all in favor of enforcing the buffer zone and we're all in favor of the requirement and the condition that the doors change to a solid door and fire exit only. The next thing is enforceability. I would recommend as a way to resolve that element is that similar to what Ms. Harryman said earlier, you know, we condition based on what we would want; Mason events only and that you know, if it walks like a duck, talks like a duck, acts like a duck, code enforcement can make that judgment, but I don't see how at this point on this dais we're going to get much better than that personally and I think taking time to try to do that would be a fault. So I'm willing to condition it and I think it's enforceable. I do, so that's why I think I can go that route, but in the interest of doing it, that's what I'm thinking.

Commissioner Allen: So the thing I'd add is Mason only and then a number of times because a number of times is more enforceable. Like if we said a maximum of one per month if we wanted to start off conservative or something like that.

Commissioner Nagler: Are you talking about the backyard?

Commissioner Allen: The backyard. I'm talking about the Mason's use of the backyard.

Commissioner Balch: Are you preserving that it's a buffer zone still? I ask because it seems to be exclusive to me.

Commissioner Nagler: Well, that's why I'm confused when you say it's a buffer zone. Is it still a buffer zone if we allow up to 10 people in the backyard?

Commissioner Balch: I wasn't in that majority so I'm not going to argue your case.

Commissioner Allen: And that's where I was. I was that it was still a buffer zone with 10 people that are Masons in the backyard if I was making up once per month that I'd say they should have a right to have 10 people in the backyard for lunch and not at 9PM.

Commissioner Nagler: May I respond? To use your analogy which I think is an excellent one because the Millers and others are arguing that we're in a neighborhood and therefore it ought to be considered as if it was another neighborhood property, we wouldn't think to say, resident 'x', you can only use your backyard once a month. So if for example we say there could be no more than 5 people in the backyard at any one time, then it sort of doesn't matter how often they are back there.

Commissioner Allen: I get your point.

Commissioner Balch: So to Commissioner O'Connor's point, if you're a strict prohibition of a backyard, you've solved a lot of problems.

Commissioner Allen: You have.

Commissioner O'Connor: You've solved almost every problem because I don't even think you have to have a conversation over Mason function and something commercial going on if no one's using the backyard. They did commercial before and there was no problem.

Commissioner Balch: Could I suggest a possible out? Could we do that but allow an exception at the Director of Community Development? So for example, if the Masons wanted to have a Mason event that staff felt was appropriate, they could petition for it and it doesn't have to be a CUP amendment.

Commissioner Allen: I'm fine with that because I do see an enforcement issue of getting into these little, you know, allowing a little bit.

Commissioner O'Connor: If you want solid doors I don't know what the attraction's going to be, but I'd hate to put someone like Gerry on the spot here tonight because the people who hold his position change. We've had several since I've been here and I might put all of my confidence in Gerry, but what about his replacement someday—sorry, but I mean I've known another Jerry, this Gerry, Brian and...

Commissioner Balch: But my argument would be similar to a special event permit for example. I'm assuming the City has a process for evaluating special permits.

Beaudin: We were just talking about that. So there's a temporary use permit process. It requires some lead time so if you know about the event and went through a regular check and that is still approved by me, but there's an application process and it's considered an event permit.

Commissioner Balch: So conceivably, if the Masons wanted to have an event in their backyard which has a prohibition since it's a buffer but its advanced planning and thought of, it could go through a process. I like that.

Commissioner Allen: I like that too.

Commissioner Nagler: So are we saying that if the Masons want to have a yoga class for themselves and eight people sign up for the yoga class and they would like to have the yoga class in the fresh air in the privacy of the piece of property away from the street in the backyard, in the buffer zone....

Commissioner Balch: They would have to get a temporary use permit. Yes, we are saying that.

Commissioner Nagler: For an eight person yoga class?

Commissioner Balch: Yes. Because the premise is that it's a landscape area of some sort and frankly, the condition was an accepted condition to build the building. If you didn't like it, don't build the building frankly. That's my opinion. It was a stated condition. This is a buffer zone originally in 1977 and they chose to build it which meant, hey, you're in until you destroy the building in my opinion because you agreed by getting a building permit, pulling it, getting it, finaling it and building the building.

Commissioner Nagler: Speaking about things changing, if it turns out by chance escrow closes and there's a new owner and the owner comes to the City and says "we want to tear down the buildings there; that we only did this whole thing because we want the piece of the property". We're going to tear down the building or double the size of the building and the only way to double the size of the building is to go into this buffer zone, are we in any way suggesting by this action that we're creating some notion that the buffer zone has to be of some distance, some size?

Chair Ritter: It all starts over.

Commissioner O'Connor: It all starts over.

Commissioner Balch: Yes, it all starts over, and frankly, it will depend on the design of that building, concept.

Commissioner O'Connor: It's a clean slate.

Chair Ritter: It comes to us anyway as a clean slate.

Commissioner O'Connor: So I'm hearing that if that's the direction you're going; that the buffer zone is prohibited without a special permit, I could be on board with that again because we limit it to so many for the year. I don't want somebody bugging Gerry every month for a special event. If we did it once a quarter or 4 times a year, I could be on board with that, but not that it's open anytime someone wants a special event.

Commissioner Balch: Do you want to throw a number out?

Commissioner O'Connor: Four. Once a quarter.

Commissioner Nagler: And an hour event is the same as an all-day event?

Commissioner O'Connor: So pick your event carefully. Don't ask for one hour.

Commissioner Nagler: And an eight participant yoga class is the same as an all day event?

Commissioner O'Connor: So you wouldn't pick that would you? You'd hold it inside.

Commissioner Balch: I think the premise of what the four of us are on is that hey, this is a landscaped buffer and if you want to use it, it is on a high bar because its intention is to buffer from the neighborhood. Frankly, after hearing from the neighbors tonight, it's a bigger problem than I initially anticipated with it only being a Miller problem, and it's a residential area. They built a commercial building in a residential area. What do you want from me? There are conditions there and you've got to play in the sandbox. That's how I see it.

Commissioner Nagler: Okay, and I completely get it and if somebody makes a motion to this regard, I'm absolutely going to support it, but I also think just for the record, we need to as a Planning Commission say that any future use of this piece of property we are going to maintain an interest that we remain cognizant of the need to protect the neighbors of noise generation.

Chair Ritter: We just did that by this whole discussion honestly. I think we've communicated to staff that's the way we feel; I don't think that needs to be part of the CUP.

Commissioner Balch: Well, my argument would be what if it becomes homes in the future frankly, so....it could be. They could easily pull a demolition permit and build houses. So going to the context, I don't think the matter before us we have the authority to find the property zoning conditions like that because this is a CUP not a zoning, but expressing the sentiment of the conditions.

Chair Ritter: Exactly, and I'm sure the residents would make sure they see that.

Commissioner Balch: I think we're moving through this pretty quick now actually.

Chair Ritter: Do we want to go through these or....?

Commissioner Balch: Does anyone have any other big brush strokes or should we go through the topics?

Chair Ritter: That was probably the biggest one. Let's just start number one.

Commissioner Nagler: Well, why wouldn't we prohibit any use to assign the building?

Commissioner Balch: Because the uses can't be a massage parlor, correct?

Commissioner Nagler: I don't mean that, just in the context...

Commissioner O'Connor: So number 1 says use is allowed at the Masonic Lodge that includes inside and outside. The uses I don't think are an issue, it's where it's used and how often. I'm looking at page 11, the uses.

Commissioner Balch: Are you looking at the Conditions or Staff Report?

Commissioner O'Connor: I'm in the Staff Report.

Commissioner Nagler: That's my point. There are permitted uses by virtue of how the property is zoned, right? So I'm not sure beyond that.

Commissioner O'Connor: I'm not finding one. As long as you don't use the outside more than once a quarter, what is egregious in here? I haven't seen anything yet, events, birthdays, retirements?

Commissioner Balch: Can I ask about the catering element brought up several times under D, under ancillary uses.

Commissioner O'Connor: Up to one catering business at any given time with no more than 5 staff members. I don't think in the past that we've had a problem with the catering operation, whether it was used for the Masons or not. I don't think there was a problem, and someone might yell at me, but I don't think we had a problem until the outside started to be used; that buffer zone.

Commissioner Balch: I didn't get that impression personally. I got the impression that the catering business and the five ancillary structures or however many that there are became a problem because of preparing food for external sites.

Commissioner O'Connor: I heard that from other neighbors tonight and I don't see that as a Miller vs. Mason issue I don't think but I could be wrong. But I heard that from other residents in the neighborhood, so I think other people had some issues with it.

Commissioner Balch: So maybe staff can weigh in on that. Was the catering business part of the CUP concern with the ancillary uses I guess?

Weinstein: My impression is that concerns regarding the catering use were mainly a function of the fact that occasionally catering employees were going outside and smoking, so again, that's something that could be restricted. I mean obviously there are

some options there, right? You can get rid of catering completely as a use that's allowed on the site. You could restrict it further, but my impression was that the concern about catering was primarily in regards to employees going outside.

Commissioner Balch: I guess it had some impact on the outside buildings.

Commissioner O'Connor: I think those are storage buildings for the caterers.

Commissioner Allen: They are. I just went by it. Two of them are, yes, they have catering materials there.

Chair Ritter: So Item D is okay?

Commissioner Balch: I think the concept that we're trying to figure out is that from my view, if they're cooking inside the building and exiting through the building from the southern portion to go elsewhere, I can see that as an ancillary use. I'm not having a problem. Where I don't understand and what I don't know with the site is, as you mentioned, due to the exterior use of the backyard, that northern side....

Commissioner O'Connor: The only other thing I can see is there could be some other issues from events going off the roof. I don't know or think they incurred any problems.

Commissioner Nagler: I'm fine with the catering business that's relatively small. So you can define it by the number of employees....

Commissioner O'Connor: So I know we closed the public hearing, but I see a few people shaking heads like maybe the catering is an issue. I'm not sure if we....

Commissioner Nagler: I think at this point we're trying to decide. Let's keep going.

Chair Ritter: Hours of operation?

Commissioner Balch: So this is important because this is inside the building, right? If they use the patio and doors, the portion becomes moot so we just say that's out. Part 2. I'm on number 2 on page 2; Use of the Mason Lodge building inside, use of the patio and outdoor areas. I'm fine with staff's recommendation on the inside and we'll move on.

Commissioner O'Connor: Yes, so if it's inside, I don't think we'll have a problem. Again, it would come down to a noise ordinance issue if it was a problem. With solid doors if the noise got so loud, it's got to be amplified.

Commissioner Allen: I'm good with that.

Chair Ritter: All we do is cross out "use of the patio and outdoor area".

Commissioner Balch: Could we go a little further? I just wanted to point out that I did ask staff....so the catering is inside and on Masonic activities timeframe here, and from my

understanding; they have to be locked up by 5:00 p.m.; 5:00 p.m. is the end time. It's not close operations at 5:00 p.m. and then clean up. It's 5 and they're out the door.

Commissioner Allen: So this would mean the event would end sooner. That's the intent of this I assume.

Chair Ritter: Okay.

Commissioner Balch: Okay, "rental activity control". I'm okay with it personally.

Chair Ritter: Its working.

Commissioner Balch: Yes, I would agree. Building occupancy, agreed? Maximum inside—I'm fine with that. Noise control—I'm okay with that. No music outside. Live or prerecorded inside with doors closed, kitchen shall be closed and not locked; that's an emergency exit issue.

Commissioner O'Connor: Did you go really quickly over D and E? Operations, uses, activities.....I'd like to somehow get it that we're including human voices. We're up to 150 people that can use this as an...

Chair Ritter: ...but we're inside.

Commissioner O'Connor: I know.

Commissioner Balch: I don't want to cross that bridge. I see that with broad implications.

Chair Ritter: Let's keep it just to the City's noise ordinance.

Commissioner Allen: It's a separate issue that probably should be looked at, but I don't think this is the place to deal with it.

Commissioner O'Connor: I just want to close off the argument down the road about the ordinance.

Chair Ritter: We're getting closer. So we're good on noise control.

Commissioner Nagler: Is an STC rated door covered?

Commissioner Balch: That's out. So that's the "I" that's changing over. Lights spillover—I agree with staff's recommendation. I'm not sure on the timer element. Oh yes, good point, J's irrelevant and the timer on K?

Soo: We'll do 9 o'clock?

Commissioner Nagler: Well, later than that because you don't want the lights to go off when people are leaving.

Commissioner Balch: How about dusk to dawn?

Beaudin: For the light timer, can we just make it a 10 p.m. turnoff and say that there's a motion sensor on it for safety. I think the building code will allow that.

Commissioner O'Connor: Great, so to go off at 10 p.m. but it's still going to be shielded.

Chair Ritter: Then schedule control?

Commissioner Balch: I'm fine with that.

Chair Ritter: We went over that.

Commissioner Balch: So the landscaping, I will have to tell you that I'm okay with that not being a requirement because I think we're taking a lot of other issues away. I think the need for it is diminished by the action we're taking above.

Commissioner Allen: I agree with that.

Commissioner O'Connor: Yes, I don't think it's necessary.

Commissioner Balch: Are we okay staff? Are we doing okay over there?

Commissioner Allen: Could I just add one item on events. Scheduling—we passed through that really quickly and that would just to be to post at least a month in advance on Item M; to post the schedule a month in advance?

Commissioner Nagler: Do they know about these in advance?

Commissioner Allen: Well, it was mainly because May 4th was the last date it was on there so I can't imagine that no one's....

Commissioner Nagler: They testified they haven't had any events.

Chair Ritter: We haven't had any problems, it didn't sound like it.

Commissioner Nagler: I'd like to stay out of their business as much as possible.

Commissioner O'Connor: We did have one conflict when the church and the Masons were planning to have events at the same time, so we don't want to have two events that are too big for the parking lot at the same time.

Commissioner Balch: I think the spirit of what this is saying...

Commissioner O'Connor: The first one that posts...

Commissioner Allen: Then I'm okay with that.

Chair Ritter: It maintains the spirit of it. Okay.

Weinstein: Are you proposing no change to the scheduling provision?

Commissioner Allen: Correct.

Commissioner O'Connor: We don't want to have two large events.

Commissioner Allen: The spirit is that it will be posted in advance if they're doing an event so there are no surprises. That's the spirit.

Weinstein: Right.

Commissioner O'Connor: Now, if each one comes up with a 10 person event, one of them is going to have a problem...

Commissioner Balch: I think the next question is the draft modifications of approval. I happen to notice that the things we just edited are beginning on Condition 21 and they continue there through, it looks like....oh, we're going to have to change a lot of these actually.

Commissioner Nagler: Can we just adopt a motion to give direction?

Chair Ritter: We just kind of went through...

Commissioner O'Connor: I don't want to have to go through six pages of text.

Weinstein: I'm hoping that we can just go through your list of conditions to make sure that our understanding conforms to yours?

Chair Ritter: Sure.

Weinstein: One of the things I missed, did you end up establishing a maximum number of people in the backyard that would be allowed without a special use permit?

Commissioner Balch: We didn't exactly. We said no people in the backyard.

Commissioner O'Connor: We said with a special permit.

Commissioner Nagler: Having one person out back smoking requires a special temporary use permit.

Commissioner O'Connor: What's the maximum number of people?

Beaudin: You all said four events, one per quarter and you guys were going to talk about this. We didn't go through the size of those events.

Commissioner O'Connor: In here it says 150 and I think we went by....it was for a non-Mason event.

Commissioner Balch: So staff had a recommendation on the total occupancy outside in the staff report at some point?

Soo: It's not outside, it's a total.

Commissioner Balch: It was a combined total; do you remember what that number was?

Soo: It was a combined total of 150.

Commissioner Allen: And that's combined indoor and outdoor?

Soo: Yes, guests and staff, everybody.

Commissioner Allen: Is that Fire Code?

Soo: No.

Commissioner Allen: That's just expectation?

Soo: Yes

Commissioner Balch: I could go to that.

Commissioner Allen: I could too. It keeps it easy. Its one quarter that you could have a BBQ.

Commissioner Balch: So if I may, let's start on page 11 and we'll just make sure we have it down.

Chair Ritter: I have a question about once a quarter. Summertime is the....

Commissioner Balch: I'm okay with not having "once a quarter". I could keep it four times a year.

Chari Ritter: Yes, because you want to have two in the summer and none in the spring, and this way we can give some lenience. Okay, four a year.

Commissioner Balch: Okay, so starting on page 11, staff, we're going to try again and I apologize if I've summarized incorrectly. Please let me know.

Weinstein: Can we go through the actual conditions instead? I think it will be a little clearer if we actually use the conditions themselves because they're a little more specific than what is in the staff report. I know it's a little painstaking, but I think it will be helpful in the long run.

Commissioner Balch: I know why you ask but I also know why I avoid it....

Chair Ritter: I've got an idea. Adam, why don't you lead us through that and we'll correct you if you're wrong.

Weinstein: Okay, that sounds good. So no changes to 1, 2, 3, 4, 5, 6. I'm on page 2 of 6 of all the strike-outs are fine. 16 there's some added language, that's fine. Number 20; the Masonic Lodge shall maintain existing landscaping, that goes away.

Commissioner Balch: Wait, "shall maintain the existing landscaping" is fine. Period. "Install required additional landscaping" is stricken.

Commissioner Nagler: And "No additional structure shall be constructed between the area between the lodge building nor the property behind without prior City approval" should stay.

Weinstein: Okay. "Permitted uses and activities not directly associated with the Mason Lodge".

Commissioner Balch: So we're good on those and we come down to 22? Hours of operation, page 4, top of 4, we're talking about the use of patio.

Commissioner Nagler: So could I ask a question? Of those four events that can be requested...

Commissioner Balch: Do they have to comply with the time?

Commissioner Nagler: Can they be non-Mason events?

Commissioner O'Connor: The four? Yes.

Chair Ritter: If they get a permit.

Commissioner O'Connor: If they get a special permit.

Commissioner Nagler: As long as they're A through F.

Commissioner O'Connor: Well, if you look at A, it doesn't say it has to be a Mason event. "Private events and functions such as weddings, birthdays..." It doesn't say it has to be a Mason event.

Commissioner Balch: They do not charge admission though.

Commissioner O'Connor: So if it complies with A-F yes.

Commissioner Balch: So staff, I think what we're also doing then is that "the use of outdoor patio areas", are we going to restrict the hours of the events during the four times a year or are we going to leave that in the permitting process that staff's allowed.

Commissioner Nagler: You're limited to the overall operational hours, but within those hours, they have to seek specific hours for the event as part of the permit process.

Commissioner Balch: So going back to condition 21 on page 3, ancillary uses, I don't know how you're going to craft it.

Commissioner O'Connor: If you look at number 22, it gives a list of what they have proposed for Mason and non-Mason events and I don't know if we want to change any of that, but if there's only four a year, are those okay? So Monday through Friday for non-Mason events, it's 9:00 a.m. to 5:00 p.m. but weekends, it's 9:00 a.m. to 9:00 p.m.

Chair Ritter: But that's indoors, right?

Commissioner O'Connor: It says patio and outdoor areas, the top of page 4.

Commissioner Balch: Okay, so we'll just say use of the outdoor and patio areas upon receipt of a special events permit.

Beaudin: Can we change the approach a little bit and just use the framework that's in the report tonight; the conditions of approval that are in the report rather than having to submit an application? If they comply, they can notify us of the event and then we'll track it that way, but it's a notification to staff rather than a formal approval process. Because the framework that you're setting up here is essentially what I'll keep in a folder and check the check boxes for. So with the CUP, you'll be allowing just four.

Commissioner Balch: I'm not sure I'm there with you because if I may, maybe you can explain the process of a special event to us because I'm thinking....

Commissioner O'Connor: I'm thinking I want to leave it just as a unilateral decision.

Beaudin: That was my question. If there are standards that we would have in the CUP that we would literally check boxes rather than taking staff time to submit that application and process it, we would simply let them go forward with the four per year and say if there are issues with the CUP, we're here to refine those conditions or if its minor modifications, then I would make those.

Commissioner O'Connor: But when they notify you they're going to have a special event, they still have to hear back from you and check all the boxes saying you approve it?

Beaudin: The provision would be that they would have to comply—not more than 150 people, within the hours of operation consistent with the uses that are here, and when they notify me I'd send an email over to the Police Chief or the Police Department and I would say "we're expecting an event on this night." This is just an FYI and that would be how I would handle it.

Chair Ritter: That's okay.

Commissioner Allen: I'm fine with that.

Beaudin: If there are specific things you want in addition, maybe we could add them here tonight or if it becomes a problem, you could say, there's a problem and we'll address it.

Commissioner Balch: I think we're there.

Commissioner O'Connor: I'm trying to think who tracks that? Does that put the onerous on your or your staff?

Beaudin: Any way we do it, we'll have to track it.

Commissioner O'Connor: Will there be any notification to the neighborhood so they would know to expect there would be a special event?

Commissioner Balch: You could say that it would have to be 10 days prior to the event.

Beaudin: Yes, I was going to say we could make that a requirement of this group to post it on their website or on this joint website.

Commissioner Allen: On the calendar.

Commissioner O'Connor: We couldn't tell the homeowner's association?

Beaudin: We could have the Masonic Lodge be responsible for that as part of their CUP.

Commissioner Allen: How about post it on the website like the other events and keep it standard.

Chair Ritter: I agree.

Commissioner Balch: Okay, to continue on that route, based on Commissioner O'Connor's judgment, the top of 4 we're changing it as suggested, "Use of outdoor patio and areas up to four times per year...." "Less than 150 people for ancillary uses listed A through F" and on "the hours listed below" correct?

Commissioner O'Connor: For both Masonic and non-Masonic.

Commissioner Balch: Yes. Okay on the top of 4, all I'm striking is the March through May, September through October, all of that stuff and I'm slightly replacing it to say "Use of outdoor patio and outdoor areas 4 times a year, less than 150 people, ancillary uses A through F."

Commissioner Nagler: Not really because don't we want to allow a Masonic Lodge member meeting potentially be big enough if they want the outdoors and that's what they're for?

Commissioner Balch: Primary or ancillary—good point. Primary or ancillary uses as listed on just slightly above.

Commissioner O'Connor: Any use in the buffer zone?

Commissioner Balch: Well, I think what he's pointing out is it could be a Mason event, but what I'm trying to prevent is a non-ancillary use event, non-Mason event, you know, some other third party event that comes in that's going to rent it and charge admission and have a true event. So we're doing a primary and ancillary event four times a year, no more than 150 people but also with an hour's restriction.

Weinstein: So what I'm hearing is 4 times a year, no more than 150 people, Masonic or non-Masonic organization can do it, and I know you want it posted on the website in advance.

Commissioner O'Connor: But it just needs to be coordinated by the Masons. It can't be a third party coming in and doing it.

Weinstein: Yes, so that's a separate condition 26. The no use of patio and outdoor areas from November to February—do you want to get rid of that?

Commissioner Balch: Yes.

Chair Ritter: Yes.

Weinstein: Okay, we're good on that one.

Commissioner Balch: 23? That looks good. 24.

Chair Ritter: Looks good.

Commissioner O'Connor: This is asking for something different from the hours that are posted. It gives the Director of Community Development some approval to go outside these hours. I think we should stay firm on the hours.

Commissioner Nagler: What happens if there's a high school graduation type of event?

Commissioner O'Connor: I don't want it going to midnight.

Commissioner Balch: But it's at the direction of the Director of Community Development.

Commissioner O'Connor: He's the one who says the party takes place, but I think they need to be firm on the time. I think it should be firm on the hours.

Commissioner Balch: I'm not there with you.

Chair Ritter: We need to be clear.

Commissioner Nagler: I agree with you.

Commissioner Balch: I think it's conceivable that on a summer night, on the 4th of July fireworks night that it could go beyond 9 o'clock. Yes, I think it could.

Commissioner Nagler: I just want to allow for it. I don't want us to believe we can see it all.

Commissioner Balch: Okay, a minimum of two Lodge members on site. I agree. I would like to say I'm not so sure we need the sound decibel reading element. I'll leave it if you guys would like.

Commissioner Nagler: I'd put a period after "outdoor areas."

Commissioner Balch: Are we okay with that?

Commissioner Allen: I'm okay with that.

Commissioner O'Connor: It's after hours so it's not going to be a code enforcement issue. It could be daytime, but if it's nighttime it's going to be a PD issue.

Commissioner Balch: So on 25 might I just add....rental agreements, I agree with that. Kitchen? Closed, not locked—fine with that. 27? Okay, we're onto 28. 28 shall now be changed to say "shall be replaced by a solid door." Sorry Adam, I realized I am driving again. Do you want to take over?

Weinstein: No, that's fine.

Commissioner Balch: I think the rest of it goes away, right?

Commissioner Nagler: No, no, no. "The applicant shall consult in selecting the door." Maybe that goes away but it has to be submitted for review and approval.

Commissioner Balch: Well, it's got to be a fire-rated door because it's an exterior door.

Weinstein: We probably can get away without the STC rating. It's a solid door. It's going to have pretty great sound attenuation features if it's solid and not a glass door.

Commissioner Balch: Why don't we just leave it in there and that way you guys can figure it out.

Commissioner Nagler: Just leave 28 as it is.

Commissioner Balch: except change it from an STC rated door, a solid door.

Chair Ritter: Call it an exit door?

Weinstein: It seems it's going a little too far for a solid door to get an acoustic consultant.

Commissioner Balch: We're asking. We're trying to figure that out.

Weinstein: We would suggest changing the first sentence to say “existing French double door shall be replaced by a solid door.” And just leaving it as that, but retaining part of the last sentence that says that “the solid door shall be installed within 30 days from this date.”

All: Okay.

Commissioner Balch: “Shall remain closed while not in use”, ingress/egress, applicant shall install self-closing” I think we’re all good with that. Yes. Sign saying, blah blah blah.

Commissioner Nagler: Where does it say “exit only”?

Commissioner O’Connor: On number 28 it should say “exit only” or emergency only.

Chair Ritter: Did you get that Adam? We talked about that earlier.

Weinstein: Yes. Exit only.

Commissioner O’Connor: Well I think that should apply to the kitchen door because it’s on the north side as well.

Weinstein: Okay we’ll add that to 27 as well.

Commissioner Balch: So now we go to page 5; “Building occupancy shall be posted.” I think we’re okay with that. Total number of persons is 150. All exterior lights shielded. 33’s the change. Everything comes out, the whole of 33. I love that—“All activities of the lodge shall conform with the Municipal Code.” Shouldn’t every business in the City comply with the Municipal Code? I just wanted to ask. “No music shall be allowed outside the building”—no change there. “Live and prerecorded music inside”—we’re still there. The question of amplified I asked earlier didn’t need to be mentioned, correct?

Soo: True.

Commissioner Balch: Sample window shades not applicable so 37’s out. 38 are out. The timer with the hours of 10:00 p.m. with motion sensor shall be installed as an extra light on the north side.” “Exterior doors shall be closed.....” is that a repeat?

Commissioner O’Connor: Well, it’s only talking about the door on the south side because the others are emergency only so it’s really the front door of the facility.

Commissioner Balch: I don’t think we need to dictate that personally but....

Commissioner O’Connor: We don’t want to imply that all doors are ingress and egress, right? The two on the back....

Commissioner Balch: That’s a good point. So this is 41: “If operation occurs....” I’m okay with that. 42—“signage from the catering business shall be removed.” I guess there’s some exterior signage. I didn’t see when I went by.

Soo: It used to be, but today I went there and it's not there so we can strike that (42).

Commissioner Balch: On 43, I had a quick question. So we all know we can change the outside of our house ground floor or cannot without a permit because of the new thing, so this is a standard requirement, is it not for one-story buildings? Typically, with a one story, if you're going to modify the first story in Pleasanton you need a building permit or design review?

Soo: This is a commercial building, so any change needs design review.

Commissioner O'Connor: So number 44; clean and orderly. Do we want to address storage things at this time?

Commissioner Balch: Exterior ancillary buildings?

Commissioner O'Connor: I don't have a problem with having something or some type of storage out there but something that is a single unit that's large enough to hold it, that's approved, that meets all the standards. Having 10 little things that could look unsightly...

Commissioner Nagler: What do we care? It's in the backyard.

Commissioner O'Connor: No, it's in the side yard where it is visible.

Commissioner Balch: Isn't the backyard a landscaped buffer zone?

Commissioner O'Connor: This one side is visible. You can see it from the roadways. So imagine your neighbors putting a couple of ancillary buildings on the side of their house that fronts onto your street, a corner lot or something.

Chair Ritter: But that's what that question says.

Commissioner Nagler: How about this—"Any exterior ancillary structure needs to be approved by the City." So basically you eliminate that "over 150 feet" or whatever it is...."

Commissioner Balch: In theory, what if they want to build a dog house?

Commissioner Nagler: So it would just eliminate the minimum; that we would impose a condition that "any exterior structure intended to be permanent requires a permit or approval."

Chair Ritter: Do we do that already?

Beaudin: no.

Chair Ritter: Then why do we want to do that?

Commissioner Nagler: I don't care, but obviously I'm trying to respond to Greg's point.

Commissioner O'Connor: The neighborhood was concerned there were multiple buildings and they weren't very attractive. It wasn't that they put one back there and had two in the backyard. They've got multiple out there and it clutters up the look.

Chair Ritter: I see what you're saying but I don't know if I want to mandate that.

Commissioner Balch: The ancillary buildings I think are the big question. So I was initially very against the ancillary buildings and probably still am because of the concept of them being very large and several of them and all that. But, if they're simple sheds that they went and got at Home Depot that are 5 feet by 6 six or something, I'm personally not addressing that in a CUP.

Commissioner O'Connor: So if they are all 100 square feet and there are 10 of them and they look kind of unsightly?

Commissioner Balch: Look, the building code's been here long before I have been here and it addresses things like that.

Commissioner O'Connor: So let me ask staff. Under number 44, "The applicant shall maintain the site in an orderly manner at all times". I haven't been out to look at these little buildings for a long time, but if they were unsightly, would number 44 as written, would that kind of control the need or do you need something a little more prudent than that?

Beaudin: You know, unsightly is such a subjective term. What I would say is....

Commissioner O'Connor: Orderly manner-so if they've all got dry rot but they are all orderly lined up, is that okay?

Beaudin: I'm not sure that I would try and regulate the structures with this language. For me there are paint tanks and other things that have kind of been strewed about and there's outdoor storage of materials.

Commissioner Balch: Why don't we adopt something similar to that for garages?

Beaudin: What I would say is that if you're concerned about multiple buildings, then maybe set a maximum of up to three or four, or one accessory structure and then beyond that, they would need to come to the City to make sure they look consistent, are sited appropriately, there's landscape screening perhaps, so they would get a permit.

Commissioner O'Connor: So we could restate the code by saying anything over 120 square feet or any combination more than three structures need to be permitted.

Commissioner Balch: 120 square feet is already there.

Commissioner O'Connor: Yes, but you don't want to say three and they go out there and they do one that's 200. We don't want to eliminate these. I think to say, "Any

accessory structure over 120 square feet or any combination of structures more than three or four must obtain a permit.”

Commissioner Balch: May I suggest an alternate? How about no more than two ancillary structures?”

Commissioner O'Connor: Yes, but any one over 120 square feet is in the code.

Commissioner Allen: You know, I'm just feeling like we're nitpicking and I mean, to me, the propane tanks and the lighter fluid that's in the backyard is more concerning to me than these structures if they're by code. I would sort of say 44 conceptually covers it—“The applicant shall maintain the site in a clean and orderly manner.” I would request the City work with the applicant to identify where there are gaps where it's not clean and orderly and get those resolved in the next 30 days or something.

Chair Ritter: I agree.

Commissioner Balch: I'm fine with that.

Beaudin: Accessory structures I would say are different than 44. If the idea is to get things looking neat and tidy up there....

Commissioner Allen:and safe in terms of the propane tanks.

Commissioner Balch: Maybe I could do it differently—could we say no accessory structures in the buffer zone? Or are we okay with it?

Chair Ritter: That's actually a good spot to put it.

Commissioner O'Connor: That would actually say they can't have any because the west and north sides are buffer zones.

Commissioner Nagler: Just say “outdoor ancillary buildings are permitted in conformance with the code up to three. Any over three requires permission from the City.”

Chair Ritter: How many do they have right now, five?

Weinstein: Yes, something like that.

Commissioner Balch: Is there a health, safety or concern about the five that they have?

Weinstein: They just don't look that great. They're portable sheds or semi-portable and they're old. The paint is peeling and they don't look that great. I think Commissioner Nagler's idea of limiting the accessory structures to three or something like that is good and so they can consolidate what they have. Even if they are a little old looking and the paint's not that great, having three instead of five or having two instead of five would be a lot better than what it is now. So we would recommend that.

Chair Ritter: Three.

Commissioner Balch: I'm not there personally, but you guys....I can't see requiring a structure to be removed because it's old and it has chipped paint and that they did it to annoy others. It might be just fine with me frankly.

Commissioner O'Connor: But Jack, it could be approved if it was slightly and not unsightly. It could be. They just need approval.

Commissioner Balch: You don't have to get me there but I'm not there.

Commissioner Nagler: Okay Mr. Chair, what do you want to do on this?

Chair Ritter: We've just got to get it with three and move on and they need to get a permit for more and let that process happen. Number 45.

Commissioner Balch: Done, because you need that now. 46 is good and 47 as well.

Weinstein: Sorry, could I just suggest one additional condition and it was related to something that Mike Miller brought to our attention and that's that some of the accessory structures are possibly being used for cooking, so I think we just need to make clear as part of our new Condition 44.a. that the ancillary structure shall only be used for storage.

Chair Ritter: Absolutely.

Commissioner Balch: They're large enough for that?

Chair Ritter: So they're cooking inside it?

Weinstein: It's possible there is outdoor cooking of some sort. Regardless of whether it's happening or not—it's probably hard to verify but I think just clarifying that the structure should only be used for storage is probably a good thing.

Commissioner O'Connor: Because if it was being used for cooking that would require a permit anyway.

Weinstein: Yes, it's a whole different thing, so clarifying that is helpful.

Chair Ritter: So did you get enough?

Weinstein: Yes.

Chair Ritter: So shall we make a motion? Jack, since you had most of the thoughts.

Commissioner O'Connor: Just say "as amended."

Commissioner Balch moved to modify the UP-77-13 Conditions of Approval as written in Exhibit A of the Staff Report dated June 22, 2106 and with the modifications discussed by the Commission.

Commissioner Allen seconded the motion.

ROLL CALL VOTE:

AYES: Commissioners Allen, Balch, Nagler, O'Connor, and Chair Ritter

NOES: None

ABSTAIN: None

RECUSED: None

ABSENT: Commissioner Brown

Resolution No. PC-2016-18 modifying Case UP-77-13 was entered and adopted as motioned.

7. MATTERS INITIATED BY COMMISSION MEMBERS

Commissioner Nagler: May I ask a procedural question, because I was late, I had a couple of suggested changes on the minutes of the prior meeting. Is that possible?

Chair Ritter: We've already approved them, but you can state what you want for the record.

Commissioner Nagler: In the Planning Commission Minutes of May 25, 2016 on page 18 of 28, last paragraph on that page, it should read, "and so as a result I support allowing the applicant to deviate from the office requirement because it is reasonable and therefore I'm not agreeing to hold this applicant accountable to decisions made in a completely different context, and so forth."

Chair Ritter: Perfect, those are on record.

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

a. Reports from meetings attended (Committee, Task Force, etc.)

No discussion was held or action taken.

b. Future Planning Calendar

Weinstein: Just to give you a heads up for the next Planning Commission Meeting on July 13th, we've got two Conditional Use Permits which will be on Consent and the Guy Houston project on the north side of Dublin Canyon Road is coming back. The last one is the Mike Carey project that we had a workshop on a couple of weeks ago coming back as well.

Chair Ritter: Anybody going to be gone or recused for the next couple of meetings?

Commissioner Balch: I'm out for Chabad, I'm out for Tri-Valley Community Parents, I'm out for City of Pleasanton's Johnson Drive and I'm out for Irby Ranch, so all the ones you didn't mention.

c. Actions of the City Council

No discussion was held or action taken.

d. Actions of the Zoning Administrator

No discussion was held or action taken.

e. Matters for Commission's Information

Weinstein: In response to a question from one of our Commissioners, we don't want to talk about this in any detail tonight, but there's a proposed bill that's been floating out and that's being revised as we speak which relates to the by right proposal which is seeking to streamline housing approvals that include affordable housing and other requirements, including proximity to transit. The only thing I want to mention is that the City is closely tracking it. We're working on tracking it and potentially responding to it if adopted in a month or two on lots of different levels. The mayor is involved and other elected officials. I just wanted to make that clear.

9. ADJOURNMENT

Chair Ritter adjourned the meeting at 10:39 p.m.

Respectfully submitted,

Adam Weinstein
Secretary