



PLANNING COMMISSION MEETING MINUTES

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

APPROVED

Special Meeting
Wednesday, November 30, 2011

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

CALL TO ORDER

The Special Planning Commission Meeting of November 30, 2011, was called to order at 7:00 p.m. by Chair Kathy Narum.

PLEDGE OF ALLEGIANCE: The Pledge of Allegiance was led by Chair Narum.

1. ROLL CALL

Staff Members Present: Brian Dolan, Community Development Director; Julie Harryman, Assistant City Attorney; Steve Otto, Senior Planner; Natalie Amos, Associate Planner; Jenny Soo, Associate Planner; and Terry Snyder, Recording Secretary

Commissioners Present: Chair Kathy Narum, and Commissioners Phil Blank, Greg O'Connor, Arne Olson; Jennifer Pearce, and Jerry Pentin

Commissioners Absent: None

2. APPROVAL OF MINUTES

a. October 17, 2011

Commissioner Pentin moved to approve the Minutes of the October 17, 2011 meeting, as submitted.

Commissioner Pearce seconded the motion.

ROLL CALL VOTE:

AYES: Commissioners Blank, Narum, Olson, Pearce, and Pentin
NOES: None
ABSTAIN: None
RECUSED: None
ABSENT: None

The Minutes of the October 17, 2011 meeting were approved, as submitted.

b. October 26, 2011

Commissioner Pearce moved to approve the Minutes of the October 26, 2011 meeting, as submitted.

Commissioner Blank seconded the motion.

ROLL CALL VOTE:

AYES: Commissioners Blank, Narum, Olson, Pearce, and Pentin
NOES: None
ABSTAIN: None
RECUSED: None
ABSENT: None

The Minutes of the October 26, 2011 meeting were approved, as submitted.

c. November 9, 2011

Commissioner Olson moved to approve the Minutes of the November 9, 2011 meeting, as submitted.

Commissioner Pentin seconded the motion.

ROLL CALL VOTE:

AYES: Commissioners Narum, O'Connor, Olson, Pearce, and Pentin
NOES: None
ABSTAIN: Commissioner Blank
RECUSED: None
ABSENT: None

The Minutes of the November 9, 2011 meeting were approved, as submitted.

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

There were no members of the audience wishing to address the Planning Commission.

4. **CONSENT CALENDAR**

a. **P11-0836, CTR Motors**

Application for a Conditional Use Permit to operate an automobile warehouse for wholesale and internet sales at 2118 Rheem Drive. Zoning for the property is PUD-I (Planned Unit Development – Industrial) District.

The application was withdrawn.

5. **PUBLIC HEARINGS AND OTHER MATTERS**

a. **P11-0709/P11-0707; Dave Cunningham**

Applications for Design Review approval to replace the approximately 482-square-foot single-story house located at 205 Neal Street with an approximately 1,844-square-foot two-story residence; and for Variances from the Pleasanton Municipal Code to: (1) reduce the front yard setback from the required 23 feet to 20 feet to accommodate the new house; (2) allow one required off-street parking space to be located in the required front yard setback; and (3) allow tandem parking. Zoning for the property is R-1-6,500 (One-Family Residential) District.

This item was continued from the November 9, 2011 meeting.

Commissioner O'Connor recused himself due to a conflict of interest.

Natalie Amos presented the staff report and described the scope, layout, and key elements of the proposal.

Commissioner Blank inquired if staff had a recommendation.

Mr. Dolan replied that the subsequent memorandum did not make any change to staff's recommendation because staff received the revised plans two days before the packet was to be distributed, and staff wanted to spend a few days prior to tonight's meeting to digest and analyze the changes to determine whether or not the changes merited a change in staff's recommendation. He indicated that staff would not typically change its recommendation unless there was some change in circumstance. He noted that at the November 9th meeting, there was a discussion about the floor area ratio (FAR) on the lower lot as it were a separate lot, although everyone knows it is not, and the crude measuring stick was whether or not the applicant was trying to put too much house on this area.

Mr. Dolan stated that the numbers have changed due to some disagreements between the architect and staff regarding what is measured when FARs are calculated, staff is very confident in the numbers being presented this evening. He added that ultimately, the quarrels over the square footage do not change the percentage of the true FAR or the representative FAR on the lower pad very much. He noted that originally, the FAR for the lower pad if it were its own lot would have been about 68 percent, and now it is down closer to 60 percent, which is still substantially above the 40 percent it would have to be as a separate lot.

Mr. Dolan stated that FAR is a very crude way of measurement as one can design a house with a 40 percent FAR that looks overly massive, and another can design a house with a 60 percent FAR that does not look as massive as the first. He indicated that the design changes the architect made are quite effective in reducing how the proposed house would look from the street.

Mr. Dolan stated that staff's recommendation at the last meeting was a difficult decision to make. He indicated that it was very close, and staff had withheld making a decision until the last minute before the staff report went out, to the frustration of both the applicant and the concerned neighbors. He pointed out that staff ultimately decided that the house was too big; it showed too bulky in front, and staff thought that people walking by the house would say that is too big. He noted that this was not staff's overwhelming conclusion; it was simply a conclusion arrived at after weighing all the issues. He added that the changes made to the design are just enough to change staff's recommendation, and staff no longer thinks that with the revised design, the house would appear overpowering from the street.

Commissioner Blank inquired if staff is recommending approval with the revised changes.

Mr. Dolan said yes, subject to the Conditions of Approval included in the staff report.

THE PUBLIC HEARING WAS OPENED.

Dave Cunningham, Applicant, thanked staff and the Commissioner for bringing his item back on the calendar this quickly and not having him wait so long. He indicated that his architect, Mr. Huff, and he met with the two Commissioners, Chair Narum and Commissioner Pearce, who were concerned with the massing, and they put significant time and thought into the modifications. He displayed the old second-floor plans to show what was removed, eliminating about 40 percent of the front balcony which increased the distance between the second floor and the house on Second Street from 39 feet to 49 feet; reducing the roofline over the master bedroom which reduced the height from 24 feet 6 inches to 23 feet; and moving the plane of the roof over two feet farther away from the house on Second Street, dropping it down by two feet and moving it over by two feet farther behind the palm tree which shields the house from the street. He displayed the rest of the plans and briefly explained how it visually retreats the

house nicely from the street, with a loft above the first-floor living room downstairs with an average height of six feet and would not qualify for habitable square footage because its height is less than seven feet.

Commissioner Blank thanked Mr. Cunningham for leaving story poles up as long as they did.

Debbie Ayres stated that her backyard and that of the proposed home are adjacent to each other. She indicated that the first proposal had a balcony and a window looking into her backyard and bedroom, which were removed, and the master bedroom and bathroom had a high window for light to get into the bedroom. She noted that the revised plans now show a study/loft with windows looking into her backyard and into her bedroom area. She stated that she opposed the project because of the size of the building as well as the windows that look into her yard. She expressed concern that the window on the west side of the house looks right into the window of the rental home, and with only about ten feet between the two houses, there could be privacy issues in the future.

Ms. Ayres that she was at the last meeting but did not speak, and watching the process, she was surprised that the architect was allowed to speak a second time. She noted that it appeared those who have more power and prestige and money are given preferential treatment and suggested that the Commission make decisions based on the facts and the law and ordinances in place rather than on who is friends with whom.

Christine Bourg stated that she would like to present a few remarks highlighting the reasons why she is asking the Commission to deny the application. She noted that her house is 35 feet from the proposed structure and not 39 feet as stated several times by the applicant and the architect. She displayed a picture of the story poles taken from her kitchen window, stating that a similar photograph could be taken from three other points in their house which look down at the project. She indicated that her art studio, which is not a garage or shed and which she considers part of her compound and buildings on her lot, and where she spends a lot of time, is only 7.5 feet from the proposed structure. She added that the shade study requested by the Commission at the April 13th meeting, which she understood was to be completed by a professional, was done by Mr. Cunningham who is not a professional.

With respect to “remodel” versus “demolition,” Ms. Bourg stated that all the documents from Mr. Huff regarding the proposal from 2009 to the present refer to this proposal as a “remodel” based on saving one small wall, while staff has considered it a “demolition” or a “take-down” in all of its reports. She noted that the Downtown Design Guidelines (DTDG) states on page 10 that “Remodeling retains the essential floor area, roof, and walls of the existing structure while making changes to the interior and/or exterior.” She pointed out that a “remodel” is not turning a 480-square-foot cottage into a 1,700-square-foot house, leaving no visible sign of the old dwelling. She added that the only reason it is before the Planning Commission is because it is a non-conforming lot; but if the cottage is demolished and replaced with new construction, the new structure

would lose its non-conforming status and should meet current zoning laws. She also cited several sections in the DTDG referring to massing and scale as issues in historic neighborhoods, which was Mr. Dolan's reason for not recommending approval of this project at the last meeting. She concluded that the proposal is 1,700 square feet no matter how the parts are taken apart and put back together.

Brian Bourg reiterated that they live 35 feet at the nearest point of the house and not 39 feet from the proposed project. He stated that he received a memo two days ago from Planning staff indicating that Mr. Huff had revised his plans and now the house, excluding the garage, was substantially smaller at 1,518 square feet. He indicated that this did not match his calculation of the house as over 1,700 square feet, which staff now states it is 1,710 square feet. He added that Mr. Huff now has submitted a revised figure of 1,680 square feet, which is more in line with the real size of the house. He expressed frustration that he could not get consistently accurate data. He noted that the new plan is exactly the same size as the last one; the rooms and windows have simply been rearranged, but it is basically the same size and still too big a house on too small a site. He added that the Planning Commission should be able to see that it does not fit within their historic neighborhood.

Mr. Bourg then displayed a picture that shows the retaining wall, which defines the site where the house has to sit and which substantially limits the house and how much of the lot it covers. He noted that without the porch, the house covers 42 percent of the lot; with the porch, 47 percent or nearly half of lot. He added that the site has three variances because the house is too big for the site. He expressed disappointment that staff is now approving the plan because the applicant did not really make changes to the site; the project has a FAR of over 60 percent, which is much larger than 74 homes in the neighborhood, which were at 25% FAR.

Charles Huff, project architect, stated that Mr. Cunningham and he tried to work with staff's and the Commissioners' comments and have recessed back the second floor in certain areas. He noted that Mr. Bourg's comment that they have not changed anything in square footage is inaccurate as they have taken quite a bit of square footage away from the front of the house and moved it to the back underneath the roof, basically not increasing the mass of the project. He referred to the graphic presented and explained it in terms of the footprint of the deck and the house along with everything else with it. He indicated that he believes they have come up with a high-quality project that follows the Downtown Design Guidelines, making many concessions in terms of what Mr. Cunningham wanted for a house. He added that it complements the two historic homes on the street and will be a good asset for the community.

Mr. Cunningham stated that the windows Ms. Ayres referred to are skylights; and the windows on the loft are way down which will be almost impossible to look through; hence there would be no privacy issues. With respect to the windows on the other side that looks into the windows of the rental property, he noted that staff has indicated that the lot cannot be split in the future and, he confirmed that he would not split the lot and that the two homes will always be under the same ownership.

With respect to Ms. Bourg's comment on her art studio, Mr. Cunningham pointed out that the Bourgs have three garages on their lot which is a lot of massing on the street. He noted that the Bourgs' house is totally shaded in the morning because they have installed a second-story addition above one garage, and they have a window that looks into every window in Ms. Ayres house. He added that the Bourgs' front-yard setback from the street is 10.5 feet while his is 12 feet, and the setback to their house on the north side is 12 feet where his is 20 feet. He indicated that the house right next door is bigger than his. Regarding Neal Street being a historic district, he noted that standing at Neal Street with Second Street behind him, the first 15 homes were built in the 1960's, and the convalescent hospital was built in 1974. He further noted that this part of Neal Street is not in the Downtown Specific Plan area and is not a historic district. He added that there are only four homes that qualify on that street: 206, 215, 303 and 309 Neal Street. He concluded that he believes he is bringing more to the street than what is already there.

THE PUBLIC HEARING WAS CLOSED.

Commissioner Blank stated that this project reminds him of a proposal where someone came to the Commission with a two-story home in an area where only one-story homes were permitted, but the proposed two-story house actually had a lower roofline than the single-story homes in the area. He indicated that he is sensitive to the argument that it is not just the square footage, as some single-story homes are massive and should never have been built, while some two-story homes look less massive than some one-story homes. He added that he did not think a home should be disqualified simply because it is different than the homes around it; one must look at the massing as well as how the home fits in with the street architecture.

Commissioner Blank stated that because he was not present at the Work Session and the first public hearing, he has not seen all of the changes in detail; however, looking at what was before and what was done afterwards, it appeared to him that the perceived massing of the home has been significantly reduced. He indicated that he is inclined to approve the project.

Commissioner Pentin applauded everybody's efforts, including those of staff and the Commissioners, for working on the project and in reducing the perception of the massing. He stated that he believes the Cunninghams have brought a project to the Commission that complies with everything the City and the Commission asked them to do at an earlier workshop. He indicated that he still feels the same as he did the last time and voiced support and approval of the project.

Commissioner Olson stated that he totally agrees with Commissioners Blank and Pentin and indicated that he will not change his vote.

Commissioner Pearce stated that she very much appreciates the Cunninghams' willingness and good faith effort to meet with her and Chair Narum last week. She

noted that it took a lot of time, and the Cunninghams have taken the time to make many changes to the house. She indicated that she thinks they are moving in the right direction but believes the house still does not meet Policy 17 of the Downtown Specific Plan, which refers to perception and excessive lot coverage concerns, which she feels are still present as demonstrated, however crudely, by the perceived FAR of the lower lot. She stated that, given that she still has concerns about the massing, she would not support the project.

Chair Narum stated that this is a tough one but appreciates the Cunninghams' efforts in meeting with Commissioner Pearce and herself and in coming up with some proposed changes based on their comments, and then making further changes based on comments made at a subsequent meeting. She noted that her comments three weeks ago had to do with the appearance from the street and the relationship to the buildings, and believes that with the changes now, she can support the project and make the findings. She stated that if this project goes forward, she hopes for harmony in the neighborhood at some point as well.

Commissioner Blank agreed that this is always very tough, and people need to heal when this is all over.

Commissioner Blank moved to make the Variance findings listed in the November 9, 2011 staff report and to approve Cases P11-0709 and P11-0707, subject to the conditions of approval shown in Exhibit A of the November 9, 2011 staff report, with the additional condition in the November 30, 2011 staff memorandum.

Commissioner Pentin seconded the motion.

Chair Narum stated that she wanted to make it absolutely certain that with this approval, there cannot be a lot split between the Hall house and this house at any future time.

Mr. Dolan replied that a lot split would require another variance.

Commissioner Blank inquired if that would automatically come back to the Commission.

Mr. Dolan said yes.

Commissioner Blank inquired if it is not necessary then to include that in the motion.

Mr. Dolan replied that the Commission can make it very clear in its motion that the Commission's intent is not to allow a lot split to happen; however, a subsequent Commission could overrule that.

**Commissioner Blank amended his original motion to include that the Commission strongly recommends that the lot never be split.
Commissioner Pentin accepted the amended motion.**

ROLL CALL VOTE:

AYES: Commissioners Blank, Narum, Olson, and Pentin
NOES: Commissioner Pearce
ABSTAIN: None
RECUSED: Commissioner O'Connor
ABSENT: None

Resolutions Nos. PC-2011-43 approving the Case P11-0709 (Design Review) and PC-2011-44 approving Case P11-0707 (Variances) were entered and approved as motioned.

Chair Narum called for a brief break at 7:43 p.m., and thereafter, reconvened the regular meeting at 7:53 p.m.

b. P11-0458, Ron Panich

Application for Design Review approval to demolish an existing duplex structure located on the west side of the property located at 446 Sycamore Road and to construct an approximately 2,739-square-foot addition to the existing residence and related site improvements. Zoning for the property is PUD-LDR (Planned Unit Development – Low Density Residential) District. *(Note: The residence will be used as a congregate living health facility. Such facilities are permitted by State Law, and the City has no land use authority over them.)*

This item was continued from the October 26, 2011 meeting.

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

Ms. Harryman noted that at the last meeting the applicants stated their intent to have six Category A beds and six Category C beds, and a resident raised a question about the Health and Safety Code and whether or not a Conditional Use Permit (CUP) would be required. She stated that the City's legal staff researched this issue and while the statute was unclear, she determined that any more than six beds under the B or C Category would require a CUP. She added that the applicants considered whether a 12-bed facility under Category A would work for them and determined that it would.

Ms. Harryman then went over the applicable Health and Safety Code sections regarding Categories A, B, and C. She stated that Section 1250(i) allows congregate living health facilities to have up to 12 beds and to serve three categories of persons:

1. Category A is for persons who are mentally alert, physically disabled, and who may be ventilator-dependent. The current proposal is for 12 Category A beds.
2. Category B is for persons who have a diagnosis of terminal illness, life-threatening illness, or both.

3. Category C is for persons who are catastrophically and severely disabled.

Ms. Harryman continued that Health and Safety Code Section 1267.8 states again and again that congregate living health facilities shall be considered and treated as a residential use; hence, they would need only what would be required of a single-family residence and no Conditional Use Permits or Variances. She noted that in this case, the application triggers only a Design Review approval.

Ms. Harryman then stated that the section that came up at the last time regarding a split of six beds in Category C and six beds in Category A is Health and Safety Code Section 1267.16(c), which states that cities or counties where the applicant seeks to place more than six beds of Category B or C beds in a facility can require a CUP. She noted that this issue is now moot as the applicants will go with 12 beds under Category A. She added that if the Commission wishes, staff can discuss either now or at a later date how this may change in the future.

Commissioner Pentin stated that he would like to hold this discussion.

Ms. Harryman stated that should the Planning Commission approve this application for 12 Category A beds, and the applicants later change their mind and say they want to have some other mix, State law says that if six or more Category C or Category B beds go in, the applicants will need to return to the City for a CUP. She explained, however, that if they want to change the make-up to something less than six Category B or C beds, for example, eight Category A and 4 Category B or C, they would not need to return for a CUP. She added that again, State law says the City must treat them as a single-family residence, and Design Review is all that is triggered.

Ms. Harryman stated that the Commission can add a condition stating that if the applicant wants to put in six or more Category B or Category C beds in the future, they must return for a CUP. She noted, however, that this is not necessary as there would be a trigger to have this happen, but the Commission can add it to make things absolutely clear.

Commissioner Blank inquired if the requirement is for six or more or for more than six Category B or Category C beds.

Ms. Harryman replied that it is for six or more.

Commissioner Blank requested confirmation that the applicant could then have seven Category A beds and five Category B or Category C beds and will not have to return to the Commission.

Ms. Harryman said yes. She stated that she believed the reason behind the CUP allowance by the State is that Category A persons who are mentally alert and higher

functioning do not need the same amount of nurses or resources that Category B or Category C persons would need.

Commissioner Pentin inquired who monitors this and what would trigger a notification to the City that the applicants may now have six or more of Category B or Category C persons.

Ms. Harryman replied that this is a State function and that the State of California certifies and licenses such facilities. She indicated that she did not know of any way other than asking the operators to provide copies of their change in certification, but unless they opt for six or more of Category B or Category C, the City has no authority in any change because it would not require a CUP.

Chair Narum inquired if they would need a business license.

Ms. Harryman said yes, but the City's business license does not get into the level of detail that would identify the type of beds but simply the type of business and the fee.

Mr. Dolan stated that he wanted to refresh the memory of the Commission with reference to what the scope of the Design Review entails. He noted that there were a lot of questions at the last meeting regarding things that fall outside the Design Review process, such as off-site impacts or if what is being considered is a CEQA document. He explained that Design Review addresses the function of the property and its appearance, as stated in Section 18.20.030, which provides a list of nine areas that can be reviewed such as natural beauty, relationship of the building to site and surroundings, landscaping, lighting, architectural style, signs, and designs of accessory structures. He noted that in that regard, the scope of the Commission's review on this application is somewhat limited and does not deal with off-site traffic impacts and similar things that might be addressed on a different kind of application.

Ms. Harryman added that staff has received emails indicating that the facility is like a ten-bedroom house. She clarified that the function of the Planning Commission and Design Review is to look at the design of the house and not what is inside. She indicated that someone could have a one-bedroom, one-bath home with a gigantic kitchen or media room, or a family could have 15 children with 15 bedrooms. She stated that Design Review is explicit to the exterior of the house and the function and layout of the lot, and not what is in the interior of the house.

Chair Narum requested staff to comment on an email that refers to terminating the easement.

Ms. Harryman stated that staff received an email this afternoon from one of the owners living on Sycamore Terrace stating that he is inclined to terminate the easement based on the use by the applicant. She noted that this is similar to the recent application of the Summertime Learning Center where the business association had CC&R's and the owners were saying that the proposed use is contrary to the CC&R's. She indicated

that in the case at hand, the applicant has an easement over that property and can use Sycamore Terrace.

Ms. Harryman explained that what the City is looking at here is the Design Review, and it does not look at the easement or the lease. She noted that if the private parties have an issue on this, that is for them to litigate; they could completely change the access if they wish, but they would litigate to have to do that. She added that it is not the City's role to be judge and jury over what the private agreements between the parties or the CC&Rs state.

Commissioner Blank inquired what staff's specific recommendation is.

Mr. Dolan replied that staff's recommendation has not changed from the last time, which is for approval.

THE PUBLIC HEARING WAS OPENED.

Ron Panich, Applicant, stated that they have considered the staff report and the conditions of approval in great detail and that they agreed to the changes with the exception of two things:

1. The reduction of sound levels from 60 decibels to 50 decibels at the property line. He explained that 60 decibels is a very low-level conversation, and the cost to mitigate this would be approximately \$10,000. He stated that he still maintains and would like to demonstrate that 60 decibels is a very low level of sound and would not be a disturbance to anybody, particular since the conditions of approval specify that the hours of operation for generator-testing be during the day and not on weekends, so it will certainly not disturb anyone. He added that they have also relocated the generator, as recommended by staff.
2. The door to the storage. He inquired if they could have an "either/or" and be allowed either to place the door on the side at Sycamore Terrace, which is not his preference due to the narrow width from the building to the functional property line, or to screen the front and have an architectural "Craftsman-y" flavor like they did for the entrance door, and create some sort of physical screen so that the door cannot be really seen until the person penetrates or goes into the screened area. He added that Ms. Soo's suggestion to utilize stepping stones would still need to address the 20-inch elevation difference between the finished grade and the floor and would require steps or a ramp in order to be able to gain access to that room.

With respect to the easement issue, Mr. Panich stated that their attorney had stated equivocally that the easement cannot be taken away and that none of the parties are empowered with that right. He added that their attorney indicated that the easement itself does not even specify residential use, although they are to be considered a

residential use of property, and, therefore, their ability to use Sycamore Terrace will stay intact.

Commissioner O'Connor noted that the new drawings show a "concrete swale" going down the driveway and inquired what that was.

Mr. Panich replied that this is a C3 requirement to channel water into the filter areas. He explained that the concrete swale is essentially a three-foot wide "V" that directs the path of the water and collects the water from surfaces into the swale; the swale then drains into a filter area which ultimately drains into the storm water system.

Jim Ashby, CareMeridian, stated that he would like to defer his comments to address any concerns the community might have. He indicated that a representative from CareMeridian would speak and present pictures of their other facilities to help alleviate and mitigate some concerns that the neighbors or the Commission might have about what the facility will look like. He added that he understands the facility has been in disrepair for some time, and notwithstanding their lack of attention to the yard work once the project was suspended, he believes the Commission will see that these are very nice homes in very nice, high-end communities that fit well into the neighborhood.

Sam Roham stated that he checked with legal counsel regarding the easement and was informed that misuse is one reason to terminate the easement. He indicated that having medical trucks, ambulances, and different medical waste trucks on that road will burden the easement and can be considered a misuse and, therefore, terminate the easement. He added that if the City allows this project, it will be contributing to the misuse of that easement and will be taking part in its dysfunctionality.

Regarding the conformity of the house, Mr. Roham stated that he thinks it is still a much bigger house and does not belong in the neighborhood. He added that a huge house in a 19,000-square-foot lot leaves nothing but a house and a driveway on the lot and does not fit the neighborhood.

John Serri stated that he feels the project and the facility layout are awkward in many dimensions, which have not been addressed. He noted that a bedroom would be located six feet from the street, and he believed that the Commission would never approve this for a normal residential application. He added that the house is lopsided and does not know how it could be considered aesthetic or beautiful.

Mr. Serri stated that he thinks there has not been any progress in analyzing traffic. He noted that he almost had an accident this evening coming out of his house, and he believes this facility would double or triple the traffic along that road. He indicated his appreciation for assurances that traffic would be reduced, but he thinks there will be inevitable traffic problems in the neighborhood. He also questioned the legality of having 12 Category A beds, stating that it could be changed to seven Category A beds with five Category B or Category C without the need for approval. He stated that this is a dubious, legal issue that is not appropriate and may need to be followed-up with the

State. Lastly, he indicated that all the homeowners in the area have put their own investments into their houses, and the impact of such a facility on real estate values has not been addressed.

Mohammed Khalila, Vice President of Operations for CareMeridian, stated that he has been with the organization for ten years. He indicated that he appreciated that this is a Design Review and does not include traffic issues, but he would like to touch on it saying that traffic will not be issue or a concern. He stated that they have operated this type of facilities for over 20 years and have facilities on smaller lots, and they have never had any issue with traffic. He then presented pictures of several of their facilities in Tustin, Gilroy, Orange County, and Garden Grove, all of which are well maintained, including landscaping. He stated that they are governed by two entities: the State of California, where a representative comes into their facilities to make sure that they are operating safely; and the Joint Commission which is the Gold Seal Standard for health care communities. He then showed a Craftsman-style home in Marin County where he has worked as an occupational therapist for ten years. He noted that it is a beautiful and well-maintained house and landscaping and adds value to the community. He added that they have not had any issues with the neighbors; they do not need to ask that the yard be cleaned up. He indicated that they maintain the trees around the area so it is safe for both the patients and the neighbors. He stated that there is a pre-school near the facility, and the patients enjoy having the children come by during Halloween and Christmas every year.

Mr. Khalila stated that CareMeridian takes care of sick people who do not belong in hospitals but cannot go home. He stated that the facility is their home, and as a clinician who is able to take care of these people, he knows that other places are not appropriate for these patients. He noted that they take pride as a company in being able to have a nice residential home that they can offer to patients, and they make sure their due diligence is done to ensure that they have an appropriate setting for the residents who live in their home.

Katherine Ferreira inquired how many of these facilities are 12 beds because she researched the facilities on line and found that not all the facilities have 12 beds, some have only six beds. She indicated that at the last hearing, she expressed her issues and concerns about the Design Review application but would like to address one additional item. She noted that the proposed plan has 6,600 square feet of parking and drive aisle area which is one-third of the site. She referred to the final development standards and guidelines for the Bach parcel, which states that the recommended pavement materials for heavy outdoor use areas include simply patterned concrete with integral color, stone pavers or flatwork, and modular concrete pavers. She inquired if the proposed materials for this area meet this standard. She expressed concern about the amount of runoff from the large area of hardscape, noting that the total square footage of the roof area and hardscape is almost 12,000 square feet. She inquired where the runoff will be directed. Lastly, she stated that at the last meeting, she had asked that construction activities not be allowed on State and Federal holidays, which

has been omitted in the proposed conditions of approval. She requested that the clause be put back on the conditions.

Mary Greene stated that she has lived in the area since 1956 and has seen a lot of changes come. She indicated that she was at the last meeting and presented a petition signed by 125 people who oppose the project. She noted that the North Sycamore Specific Plan had stipulations in it for business and home occupations, and the list does not allow hospitals, sanitariums, nursing homes, and similar businesses. She stated that this proposal should not be allowed at this location and that the existing structure should be demolished and a single-family home built in its place because of its location at bottom of the hill. She noted that for the past several years, families have purchased homes on Sycamore Terrace and have put a lot of effort into them, and now their little children are growing up and play at the bottom of the hill.

Ms. Greene stated that they have put up with a lot from the City over the years, and prior to this proposal, the North Sycamore Specific Plan came in and took a lot of the land across the front of the properties for the curvature that goes up to Sycamore Creek Way. She indicated that the neighborhood does not like changes to come that way, and she feels the project is not good for their area or the neighbors who have come in to live there.

Mr. Panich stated that he would address the issues and concerns brought up by the speakers. He indicated that they are confident that egressing onto Sycamore Terrace is not a misuse and cannot be constituted and/or considered a misuse of the easement, and, therefore, any attempt to terminate the easement due to misuse would not be successful. Regarding the size of the house, he noted that the PUD-42 subdivision specified that the floor area ratio (FAR) on the lot mandated that no structure could be in excess of 5,000 square feet and has explicit square footages and make-ups for that determinations. He added that the proposed building is under the FAR for the site and that they are 100 percent subscribing to PUD-42 in terms of lot coverage. With respect to the bedrooms that abut the street, Mr. Panich stated that the bedrooms, as they exist today and as they have always existed in that building, are about ten feet from the edge of the road. As to the runoff, he noted that they are in compliance with Alameda County's C3 requirement, and the runoff will flow in three different filter areas that subscribe to the C3 criteria before being introduced into the storm water system. Lastly, he reiterated that the proposal is considered a residential use of the property for people who do not want to be institutionalized and who want to live in a residential setting; it is not a nursing home or a hospital.

THE PUBLIC HEARING WAS CLOSED.

Commissioner Blank moved to approve Case P11-0458, subject to the conditions of approval listed in Exhibit A of the staff report, with the addition of language to Condition No. 38 prohibiting construction activities on State and Federal holidays.

Commissioner Pentin seconded the motion.

Commissioner Blank asked Ms. Harryman if the law considers single-family homes for traffic purposes regardless of number of residents in the home.

Ms. Harryman replied that a traffic impact analysis is done when considering large subdivisions but not for a single-family residence. She added that the case at hand is a Design Review, and traffic analysis is not part of that.

Commissioner Blank inquired if, hypothetically speaking, he were to invite his extended family to live with him, and there were 20 people living in his home, if would be all right to park cars on the street provided they were moved every 72 hours.

Ms. Harryman said yes. She noted that everybody probably has neighbors who have a lot of cars, and because they cannot all fit in their garage, they park them in front of their neighbors' homes. She indicated that the City does not and cannot regulate the number of cars or members in a family.

Commissioner Olson inquired if the Commission wished to address the two conditions the applicant raised to be issues, namely, the sound level requirement and changing the storage door recommending the use of a physical screen. He indicated that he is neutral with this, one way or the other and just did not want to drop the request.

Commissioner Pentin noted that the Commission just made a motion to approve the project without any changes, thereby requiring the 50 dBA noise level and the door to be moved. He indicated that he was fine with that.

Chair Narum inquired what the noise ordinance allows at the property line.

Steve Otto, Senior Planner, replied that it is 60 dBA at the property line. He clarified that there is no condition in Exhibit A that requires the noise level to be 50 dBA at the property line.

Commissioner Pentin stated that he thought the Commission had a discussion at the last meeting about the generator and its noise level, as well as the containment of the generator, was to be at 50 dBA.

Chair Narum recalled that there was a suggestion that the generator be moved off of the property line but would still have to meet the 60 dBA at the property line.

Commissioner Olson noted that 60 dBA was not an issue for the applicants, but 50 dBA was.

Commissioner Blank requested confirmation that if the proposal is approved as is, the requirement is for 60 dBA at the property line and not 50 dBA.

Mr. Otto confirmed that was correct.

Commissioner Pentin noted that there was one last point he wanted to bring up regarding requiring a Conditional Use Permit if six or more of the 12 Category A beds are changed to either Category B or Category C beds. He indicated that this is a State regulation, and because the City has no way of monitoring it, it is as good as guessing the future. He noted that the point was raised that the City should take a look at this, and granted that it is done right, the City does not have any guarantees for that and cannot stipulate anything. He requested confirmation from staff that this is already covered by State law.

Ms. Harryman said yes. She added that the applicants are required to obtain a CUP if they house six or more Category B or Category C beds.

Commissioner Pearce inquired if the City gets copies of any reports from the State when its staff visits or checks on these types of facilities.

Ms. Harryman replied that she highly doubts it, but the City does not currently have any kind of facility like this. She indicated that this might be a question that the applicant could respond to.

Mr. Dolan stated that he has never received notice of that in any of the communities in which he has worked.

Mr. Otto stated that the City does have some senior care facilities in residential areas that house six or fewer residents which are approved by the State, and the City does not receive copies of State reports. He noted, however, that these care facilities are a different category altogether.

Chair Narum inquired if the City receives reports of violations or issues with the license.

Ms. Harryman said no.

Chair Narum noted that the picture shown of the Craftsman style house in Marin County has a nice front entry that looks great compared to what is being proposed here, which looks like plain and nothing unique. She inquired if the applicants could do something similar with the front entry to make it look more inviting.

Commissioner Blank suggested including in the motion that the applicant work with the Director of Community Development to create a more inviting front entry.

Some of the Commissioners agreed.

Commissioner Pearce stated that she really liked the pictures of the other facilities and noted that they looked less institutional than what is being proposed here.

Commissioners Blank and Pentin accepted the proposal as an amendment to the motion.

Commissioner Pentin noted that on the second page of the exhibit, putting landscaping in front of the structure would break up the elevation.

Commissioner Olson agreed and added that it then starts to look like a home.

Commissioner Pearce commented that she hears what all the neighbors are saying but the City is bound by the State public policy, and the City is restricted and there is not a whole lot it City do other than manage the design, which the Commission is trying to do. She noted that there is also a need for these types of facilities, and that is what the State public policy is designed to facilitate.

ROLL CALL VOTE:

AYES: Commissioners Blank, Narum, Olson, Pearce, and Pentin
NOES: None
ABSTAIN: None
ABSENT: None

Resolution No. PC-2011-45 approving Case P11-0458 was entered and approved as motioned.

6. MATTERS FOR COMMISSION'S REVIEW/ACTION

- a. Selection of a Planning Commission Alternate to the Ad Hoc Task Force to review the Downtown Specific Plan and Design Guidelines as they relate to Historic Preservation and the Development Review Process**

Commissioner Blank moved to nominate Chair Narum to serve as Alternate to the Ad Hoc Task Force to review the Downtown Specific Plan and Design Guidelines as they relate to Historic Preservation and the Development Review Process. Commissioner Olson seconded the motion.

Mr. Dolan advised that he agendized this item as requested by the Commission but he is not certain that this is really the way it will be done. He indicated that he thinks it will be fine and that the Commission has made the selection; he just needs to get approval that this is how this will be run.

Chair Narum noted that this was how the Hacienda Task Force operated.

Mr. Dolan stated that was correct and that this is how it has always been done, but it was not specified in this particular case. He indicated that he will get confirmation on the matter.

Chair Narum suggested the motion be subject to that confirmation.

Commissioner Pearce stated that she would like to add, for the sake of subsequent discussion, that because there are only the two Planning Commissioners on the Task Force and the remaining members are at-large, it is extremely important to ensure that there are always two Commissioners at the meetings.

Commissioners Blank and Olson accepted the amendment.

ROLL CALL VOTE:

AYES: Commissioners Blank, Olson, Pearce, and Pentin
NOES: None
ABSTAIN: Commissioner Narum
ABSENT: None

7. ADJOURNMENT

Chair Narum adjourned the Planning Commission meeting at 8:34 p.m.

Respectfully,

STEVE OTTO
Senior Planner