



## PLANNING COMMISSION MEETING MINUTES

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

**APPROVED**

**Wednesday, November 9, 2011**

*(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 October 26, 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; Janice Stern, Planning Manager; Larissa Seto, Assistant City Attorney; Wes Jost, Development Services Manager; Steve Otto, Senior Planner; Natalie Amos, Associate Planner; and Maria L. Hoey, Recording Secretary

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

Commissioners Absent: Commissioner Phil Blank

### **2. APPROVAL OF MINUTES**

#### **a. October 17, 2011**

The Commission deferred the approval of the October 17, 2011 minutes to the November 30, 2011 meeting.

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. **REVISIONS AND OMISSIONS TO THE AGENDA**

There were no revisions and omissions to the Agenda.

5. **CONSENT CALENDAR**

There were no Consent Calendar items for consideration.

6. **PUBLIC HEARINGS AND OTHER MATTERS**

- a. **P11-0002/P11-0003, Pratap Poddatoori**  
**Applications for Conditional Use Permit to establish development standards and for Administrative Design Review approval to construct approximately 4,281 square feet of single- and second-story additions and an approximately 829 square-foot attached garage to the existing, approximately 3,658-square-foot, two-story home located at 5130 Foothill Road. Zoning for the property is PUD-LDR (Planned Unit Development – Low Density Residential) District and West Foothill Road Corridor Overlay District.**

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

Chair Narum referred to the actual photo and stated that the first-story windows are not visible. She inquired if this photo is a really representative view from the neighbor's property.

Ms. Amos replied that the photograph was submitted by the neighbor himself, Paul Wiener, as to what could be seen from his pool view. She added that the applicant can speak more on what will likely be seen in terms of ridgelines and actual window placements.

Chair Narum requested confirmation that nothing in the actual photo will be changed in terms of location and walls; it will just be redesigned.

Ms. Amos said that was correct.

Commissioner Pentin observed that it looked like the extension would fall over the crown of the hill and actually be lower than what is shown in the actual photograph. He inquired if this was correct.

Ms. Amos agreed and replied that it would be correct from this perspective; however, it may seem more visible from other perspectives on the property.

Commissioner O'Connor inquired if landscaping will be added in the back of the property but there is actually no proposal to add from that side of the home.

Ms. Amos replied that the windows will be changed and a balcony will be added. She noted that the depth of that balcony will not be more than 12 inches but will have doors that open into the bedroom and will have more of a view than what it has now.

Commissioner Olson noted that one of the neighbors, Don Errigo, had send staff an email on September 13, 2011 with some suggestions. He inquired if the current set of conditions incorporate these items.

Ms. Amos replied that she talked to Mr. Errigo regarding the items he was requesting. With respect to the oak trees, she clarified that there is no construction occurring in the back of the property where his existing oak trees are, and, therefore, there is no nexus for staff to require a tree report. In regards the property lines and retaining wall, a survey was conducted and provided to Mr. Errigo, and the retaining wall was constructed on his *[Mr Errigo's]* property, and again there is no nexus for the City to do anything about it. She added that this would be a matter between the two property owners. Regarding the landscaping, the applicant is agreeable to what is being proposed; however, staff would like it installed prior to construction and that the trees be more mature and dense in those areas.

Commissioner Pearce inquired if it is accurate to say that the original application proposed to add 3,100 square feet, and this application adds almost 4,300 square feet.

Ms. Amos said yes.

Commissioner Pearce continued that the applicant is, therefore, not only moving it around but is also expanding it by another 1,300 square feet.

Ms. Amos said yes.

Commissioner Pearce noted that the staff report references the roof height and a couple of different ways it could be measured with regard to the Overlay District or regarding zoning. She requested Ms. Amos to address these two different ways as she did not see their definitions in the report.

Ms. Amos replied that this property in a PUD that has no established development standards; however, it is in the West Foothill Corridor Overlay District which has height requirements. She indicated that this is explained in the footnotes that for the Foothill Road part, the height is measured vertically from the lowest point of the structure to the highest point; and for a straight zoning district, it is measured vertically from the average

elevation of the natural grade of the ground covered by the structure to the mean height between eaves and ridges for a hip, gable, or gambrel roof. She noted that the proposed structure meets the requirements for both straight zoning for R-1-40,000 District as well as for the West Foothill Corridor Overlay District.

Chair Narum requested Wes Jost, Development Services Manager, to address the issue of erosion.

Wes Jost stated the staff looked at the hillside and did not have any concern about erosion. He noted that this area of Foothill Road is a fairly stable piece of ground that has had no experience of soil creeping or slides. With respect to drainage, he indicated that it can be taken out towards the front of the property. He noted that the City has urban storm water runoff requirements which require disconnect of roof leaders; however, there are exceptions in hillside type developments where they can be put in pipes and taken out to the front of the property. He stated that he believed erosion would not be an issue here.

Chair Narum asked Mr. Jost if he was comfortable with what was being proposed in terms of the hillside stability and drainage.

Mr. Jost said yes. He indicated that staff will conduct a more detailed review once the plans are actually submitted for building permit.

#### **THE PUBLIC HEARING WAS OPENED.**

Ken Van Cleave, applicant, stated that Mr. Poddatoori and his family are looking forward to being residents of Pleasanton and enjoying a long stay here. He noted staff's PowerPoint presentation showing the various elevations from neighboring properties, which is something our designer did in response to the standard elevations required as part of the application. He added that in the second version after reconsidering the facets of the project to make it more palatable and useful to Mr. Poddatoori, the project was re-designed to take advantage of the natural slopes and to preserve the natural uncluttered vista views to the open area. He indicated that they have agreed to install plantings to mitigate any privacy issues of the neighbors; however, he proposed that both parties would be better served by holding off on the actual planting of trees until the structure is partially framed so they can see the actual locations of windows and other openings that they want to mitigate. He noted that this would give the neighbors the best choice of determining where those trees should be located and the applicants will not need to plant trees a second time.

Mr. Van Cleave thanked Mr. Weiner for the photographs he submitted which shows his concept of where the building is going to be located. He noted that the location of the building is much too high; that the actual structure as it is connected to the existing is much lower. He then showed a photograph showing the height of the windows, the elevation where the top window is located, and where the actual roofline of the new structure would be located, at about mid-point of where the windows are. He also

presented the sight level of the windows that would appear on the new addition as well as the floor level of the new addition. He indicated that it is somewhat deceiving because the property steps down and the additions being built terraces the property down so the second floor is actually slightly below the first floor. He stated that it appears the sight lines envisioned by Mr. Weiner as shown in his pictures will be less than what he had contemplated.

Commissioner Olson stated that when he talked to Mr. Van Cleave earlier, Mr. Van Cleave had demonstrated a reluctance to put up story poles. Commissioner Olson indicated that he believed putting up story poles would be a courtesy to the neighbors be able to show them just how the actual heights would look. He asked Mr. Van Cleave what his objection to this might be.

Mr. Van Cleave replied that he has no real objection to putting up story poles per se. He stated that the height could very easily be portrayed graphically because the new construction is relative to the existing building. He noted that the lines he has put in the marked-up photo show those site lines which are basically the ridge of the roof, which will not be prominent. He added that these do not show on the elevations they did because they needed to show the actual elevation and not the landscape and terrain directly in front of it. He indicated that the east side of the existing building and the additions are not really visible from the lower part of Mr. Weiner's property.

Commissioner Pearce inquired if the colors of the home portrayed in Exhibit F, the Google map and visuals provided by the applicant, are accurate.

Mr. Van Cleave replied that they were not. He explained that these are computer printouts, which are not 100 percent accurate. He added that he had a conversation with Ms. Amos and changed the color of the window frames to a brown tone.

Commissioner Pearce inquired if the stucco and roof colors are accurate.

Mr. Van Cleave replied that those are fairly accurate.

Commissioner Pearce further inquired if the landscaping plan portrayed on the visuals is accurate.

Mr. Van Cleave replied said the visuals show the existing landscaping.

Commissioner Pearce inquired if they have not put in the new landscaping.

Mr. Van Cleave replied that they do not have that at this point. He stated that what he is proposing is that this privacy type of landscaping be postponed until they know the exact locations of the site lines they are trying to mitigate.

Chair Narum requested confirmation that the color of the window frames has been changed to earth tone color, consistent with the Overlay District.

Mr. Van Cleave confirmed that was correct.

Pratap Poddatoori, property owner, thanked the Commission for giving him this opportunity and stated that there have been suggestions and issues that they have been working on for over a year and a half. He indicated that he is very excited about the house and would like build it and move forward with the approval process promptly.

Don Errigo, adjacent neighbor, stated that he has lived at this location for ten years. He indicated that he purchased this property because of its privacy; it is a great sanctuary, and he and his wife love Pleasanton and are very involved in the area. He stated that he has been working with staff and the applicant regarding resolving some of their concerns, and they have worked through some of them. He expressed concern about the preservation of the oak trees in his property, noting that a construction on Bethel Lane adjacent to their property resulted in water draining from that property onto theirs, and they lost a 150-year old heritage oak tree which was positioned quite well and screened that house and another house. He indicated that they are very sensitive to the fact that any sort of building can have adverse consequences to the heritage oak trees on their property or other properties, and they want to make sure that drainage goes towards Foothill and not the other way.

Mr. Errigo stated that his other concern is privacy and thanked Commissioner Olson for bringing up the matter of story poles. He indicated that he is also speaking on behalf of the Weiners, neighbors who could not be present tonight. He noted that anyone could Photoshop these perspectives, and he does not know if it is the Weiners' or the applicant's perspectives that are accurate, but story poles would resolve everything. He stated that the Weiners are hoping that story poles be required on that side of the property so they can have an accurate understanding about where the line of sight will be and what viewsheds will need to be mitigated by planting. He indicated that one of his big concerns about privacy is the balcony, which had been reduced from three or four feet deep to a foot deep so it still retains the aesthetics of the house without allowing someone to look down upon their property. He noted that the view shed looks directly into their master bathroom, which has a big glass atrium, and this has been resolved.

Mr. Errigo stated that it is important that planting happens before construction. He indicated that he has had an experience with this in connection with the construction of another house on Bethel Lane, which was required to have some planting that never occurred after the construction of the house, and then the property was sold. He reiterated that it is important that the planting occurs, that it has trees that are mature, and that it is dense.

Mr. Van Cleave stated that privacy is a two-way street and that the Poddatooris are conscious of that. He indicated that they respect that and want to provide that, and they have done nothing to try to create a privacy issue with any of the neighbors. He stated that from their observations, there are some minor privacy issues that can be effectively

taken care with the planting, and the only reason he suggested the delay in the planting is because, particularly on the east side toward the Weimer property, it is critical that if the landscaping is to be effective, it should be placed in the proper place; and if this is not done, the issue would not be resolved. With respect to the drainage and erosion issues, he indicated that the property has always been there, and there have been no erosion problems from that property to the neighboring property. He added that no drainage changes are proposed except as approved by the Building Division in its plan check and inspection process.

Commissioner Pearce noted that there are drawings of trees on the graphics and asked Mr. Van Cleave to confirm his earlier statement that the visuals only show existing landscaping.

Mr. Van Cleave stated that those drawings were for effect only but that they can plant additional trees. He noted that seeing the actual vegetation and planting that is already there gives a different concept of what the property is all about, which cannot be accurately depicted on a flat dimensional piece of paper.

Commissioner Pearce inquired if she should then discount the drawings of trees on the visuals because they do not actually represent anything.

Mr. Van Cleave replied that there are some trees that are shaded in some of the elevations and some presentations.

Commissioner Pentin noted that there are trees that look like graphics and are randomly scattered around in every photo. He inquired whether these trees will be planted or whether they were there only for look.

Mr. Van Cleave replied that he is unable to answer the question. He indicated that he knows there are trees on the site that may not be accurately depicted on the graphics.

#### **THE PUBLIC HEARING WAS CLOSED.**

Commissioner O'Connor stated that the staff report referred to an agreement for landscaping to address privacy issues, but he did not see anything specific for this development in the conditions of approval. He inquired if this was included.

Ms. Stern replied that Condition No. 2 references the landscape plan. She stated that what the architect is asking for is flexibility in the placement of the trees and waiting until the buildings are up to see where the windows will be. She indicated that it should be fairly easy to be able to tell where the window openings will be in relation to the ground, based on construction drawings, and it is staff's preference to have some of that landscaping put in before construction occurs.

Commissioner O'Connor suggested that the landscape plan be subject to the review and approval of the Director of Community and Development to ensure that plantings are located correctly to ensure privacy.

Commissioner Pentin inquired if the five or six heritage oak trees mentioned by a neighbor are in danger, even with standard conditions of approval for erosion and storm water. He stated that he would not want to see another heritage tree lost because of development on another property.

Ms Jost replied that he could not speak where the existing drainage goes from this house because it basically looks like most of the drainage is going in the direction away from the house where the tree was damaged. He proposed an additional condition that addresses taking the drainage to the front of the property so there is no doubt about that.

Commissioner O'Connor requested confirmation that no construction is occurring to the rear of the home except for a window or two and a sliding door and balcony, that no grading is taking place, and that no variances are required.

Ms. Amos confirmed that was correct.

Ms. Stern added that the existing retaining wall will not be touched either.

Chair Narum noted that the color change of the window frames is more consistent with the Foothill Overlay District.

Commissioner Olson stated that he is still concerned about the story poles. He indicated that it seems fundamental that if one knows the footprint of the new construction, one can determine from the completed plans that story poles can be erected to the proper heights on the footprint all the way around the new construction. He added that he does not understand why this could not be done since, as indicated by one of the neighbors, this would solve many problems.

Commissioner Pearce agreed.

Chair Narum questioned what the story poles would resolve, as no variances are being required and the project is below the height requirements for the Overlay District. She indicated that she was not sure what could be gained from the requirement other than that there would be no argument about which visuals are correct.

Commissioner Olson noted that the Commission does not have the proper visuals for the project and story poles would help in this situation.

Commissioner Pearce stated that the Commission frequently sees projects that do not require variances and looks at mitigating any impact to the neighbors. She noted that frequently, those impacts can be mitigated with visuals, but when there are two



conflicting sets of visuals and she has no guarantee that the applicant's visuals are accurate based on an earlier discussion, she would like something objective by which to assess the impacts, such as story poles. She indicated that she has no doubts this will be a lovely house, but she is concerned about the impacts to the neighbors.

Commissioner O'Connor stated that he knows from the plans that the addition going down the hillside is going to be the equivalent of one story or lower, and even from the neighbor's own photo, the lower windows cannot be seen, so the peak is going to be higher than the ridgeline, but the windows are most likely going to be lower. He continued that regardless of whether the windows are exposed two or five feet, the landscape plan is subject to revision to ensure there is privacy from the upper level to the lower level, and there will be plantings that will create the privacy if there is some intrusion. He inquired if there are any view or privacy easements on the property.

Mr. Dolan replied that there are none. He added that oftentimes, staff suggests that applicants provide story poles, and some applicants are willing to do them and some are not. He agreed they are useful information, but the question posed by Commissioner O'Connor and Chair Narum regarding what the Commission will do with this information is a good one. He noted that if the solution is landscaping, he was not sure the location of the ridgeline was necessarily all that relevant. He added that there is no requirement that this home be screened 100 percent from view from other properties, and similarly this property can see its surrounding neighbors. He indicated that while there are some very specific sensitive areas which would benefit and privacy issues will be resolved, they will all happen via landscaping. He stated that the Commission could go through that exercise and know the precise location of the home, but he did not know what the Commission would do with the information either.

Commissioner O'Connor stated that his other concern is that story poles will take some time to erect and the applicant has been working on this for a while now; and it is an added expense. He agreed with Mr. Dolan that he was not sure what the Commission would do with the information other than screening it for privacy. He noted that the applicant has already agreed to landscaping, even though there is no requirement. He added that the two neighboring homes concerned about privacy are over 200 feet away. He stated that he thinks the applicant has already done a lot in revising their plan and agreeing to the landscaping to cover the privacy issue, and he does not believe story poles would do anything other than delay the project even more.

Commissioner Pearce asked Mr. Dolan if he was confident, given the long-standing issues between the neighbors, that he could come up with a final landscaping plan that would satisfy the neighbors' concerns and that the applicant would be willing to put in, without the story poles and objective visuals.

Mr. Dolan said yes.

Commissioner Pentin stated that he did not believe the varying exhibits by both the applicant and the neighbor had the proper sight lines or landscaping. He noted that the

best visual is the one that shows where the crest of the hill is and where the house is going down the other side. He indicated that the story poles would just confirm this and nothing more. He added that seeing a better and revised landscape plan would be more appropriate. He stated that he did not want to delay the project any further and that he thinks the neighbors have worked quite well together. He added that if Mr. Dolan is confident that the landscape plan could be revised to take care of any privacy issues, then the project would be a winner.

Commissioner Pentin inquired if the Commission wished to add a condition that the storm water runoff drain to the front of the property.

Commissioner O'Connor stated that he thinks that was required by law.

Commissioner Pentin noted that staff had mentioned that this condition could be added.

Commissioner O'Connor pointed out that it could not drain to the neighbor's property.

Commissioner Pentin stated it would ensure that the routing of storm water would not inadvertently end up on the side of the hill.

Mr. Dolan stated that this condition can be added as long as it is understood that staff's review may show that there is no water going in that direction and, therefore, nothing would need to be done.

**Commissioner Pentin moved to make the Conditional Use Permit findings listed in the staff report and to approve Case P11-0002 and P11-0003, subject to the Conditions of Approval listed in Exhibit A, with the addition of a condition that the storm water runoff would be routed to the front of the property as part of the revised landscape plan.**

**Commissioner O'Connor seconded the motion.**

Chair Narum requested a modification to Condition No. 2 to change color of window frames from "Cranberry" to dark "Brownstone."

**Commissioners Pentin and O'Connor accepted the modification.**

With respect to Condition No. 19, Commissioner Pearce inquired if an applicant is typically required to look at school impact fees for an addition.

Ms. Stern said yes and that is calculated per square footage.

**ROLL CALL VOTE:**

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

Resolution No. PC-2011-43 approving Cases P11-0002 and P11-0003 was entered and approved as motioned.

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

Chair Narum called for a brief break at 7:50 p.m., and thereafter, reconvened the regular meeting at 7:58 p.m.

**b. P11-0709/P11-0717, 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.**

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

Mr. Dolan summarized staff's thinking on this project and stated that there are a lot of issues, and they are complex and all interrelated:

1. Whether it was okay to take down the existing cottage. Staff asked for a study, and the conclusion by experts was that it was all right to remove the cottage. Staff is on board with that position.
2. Whether the variances are acceptable. There are some revisions that reduced the number of variances. In the Downtown neighborhood, there are very few properties that if built today as they are currently built, would not require variances. These variances are all reasonable and can be justified, except for the one reason that variances do allow additional square footage. This will be addressed later.
3. Whether the design fits into the neighborhood and whether it meets the design standards of the Downtown Specific Plan (DTSP). Staff's conclusion is that the design does fit, including the materials and the style. There were some nice revisions made that actually try and reduce the size and the impact to the neighbors,

which are all very positive. It comes down to just this one issue that there is a specific policy in the DTSP that says "Protect the established size and spacing of the buildings in the residential neighborhood by avoiding excessive lot coverage, and maintain appropriate separation between buildings." In essence, this asks if the building is the right size for this lot. If the two structures are considered together on the lot, it does meet the technical requirement of the floor area ratio (FAR) at just under 40 percent. If they are considered as two building sites, and the pad for the cottage is currently well below, for someone driving by, it looks like a separate lot. The question is if what is proposed too big, which is basically what this policy is saying should be avoided. There is some subjectivity to that question, and staff's conclusion is yes; it is justified, verified, or supplemented by the fact that the FAR calculation on just that pad comes up as 65 percent, which is significantly more than the 40 percent. It does not mean it is not a nice house; if it were on a bigger lot, staff would probably recommend approval.

Chair Narum inquired if the FARs calculated in the staff report are accurate.

Ms. Amos replied that they were accurate, based on the records on file.

#### **THE PUBLIC HEARING WAS OPENED.**

Dave Cunningham, applicant, thanked the Commission for taking the time to visit the property and see the story poles. He indicated that he has been a resident for 14 years, owns a business Downtown, and is a member of the Pleasanton Downtown Association. He stated that he purchased the subject property eight years ago and began the planning process two-and-a-half years ago, and that he and his family plan on residing in this residence. He added that he is trying to give the City a project that it will be proud of and that he has spent around \$14,000 just to get to this point.

Mr. Cunningham stated that his project came before the Planning Commission as a Work Session earlier this year, and they were given recommendations and requests for additional studies that it would like to see, including the number of variances requested, perform a historical study, shadow issue, privacy, tree in the rear yard, the neighbor on the west side, and size.

With respect to the variances, Mr. Cunningham stated that all have been eliminated except for the tandem parking and the one required parking in the front yard setback. He indicated that he went through Second and Third Street and found about 38 homes with parking just like he is proposing, and four or five homes that had no parking spots on them. He explained that the reason for the request is that the width of the yard creates a special circumstance unique to this property like many homes in the surrounding downtown area. He noted that the granting of this variance would not constitute a special privilege, as many of the homes in the neighborhood already have tandem parking. He added that this would also not be detrimental to the health, safety, or general welfare in the neighborhood because it is no different than the current method of parking at this residence right now.

Regarding historical significance, Mr. Cunningham stated that he is a firm believer in preserving the historical homes Downtown which 215 Neal is, but the converted garage is not. He noted that a historical study was performed, and the findings indicate that the building remodel for human occupancy was modified to a point where it could no longer be identified as a historic building. He added that when residents talk about Downtown revitalization, this is what they are talking about. He indicated that he wants to maintain the integrity and vitality of the Downtown, and this new home will do that.

As regards the concern about shadowing, Mr. Cunningham presented a Google Earth picture taken at 9:00 a.m. which shows 215 Neal Street; 205 Neal Street is under the palm trees. He noted that what are creating shadows are all the palm trees right in the neighbor's own backyard and a couple of large trees in front of 215 Neal Street. He pointed out that the sun was very low, and the shade is on their back yard without the proposed house being there. He indicated that the rear portion of the roofline of the single-story structure will be just a bit taller than what exists today. He added that the tree that is creating most of the shade in the backyard is the large tree in front of 215 Neal Street, along with the tree in their backyard, whose branches are hanging over his property line and which, if trimmed, would allow more sun into their backyard.

With respect to privacy considerations, Mr. Cunningham stated that they were really critical when they designed this house. He indicated that the two windows at the front of the home are at the six-foot level, and there are no rooms with views from the second story looking over into the neighbor's house. He noted that current vegetation also exists between the two homes and provides privacy. He added that the rear deck originally proposed looked into the back of 4524 Second Street was removed, and the master bedroom was relocated to the front of the house, with only one window located six feet above the vanity to provide some light into the master bathroom.

Mr. Cunningham stated that there was also a concern that the tree in the rear yard in the adjacent home on Second Street would be impacted by the remodel. He noted that a horticulturist examined this and indicated that the trunk of the tree is 19 feet from the property line and that there would be little or no impact to the health of that tree. He added that the City's Landscape Architect, Mike Fulford, arrived at the same conclusion.

With regard to size, Mr. Cunningham stated that his calculation of the FAR is 36 percent. He indicated that he recognizes what Mr. Dolan is saying but stated that the two lots cannot be separated. He noted that if he wanted to build a big home in the center of the property, he could do it with all the square footage, but it would not look half as nice as what is being proposed here; and if he connected the two homes, it would probably be approved. He stated that the distance from his house to the neighbor on one side is 39 feet and 13.5 feet to the neighbor on the other side. He added that the distance between two other houses in the neighborhood is also 39 feet.

Mr. Cunningham stated that that he walked up and down the neighborhood and spoke to many people about his proposal, all of whom were supportive and wanted to see

something happen on this property. He noted that what he is proposing will contribute to the integrity of the Downtown will support the revitalization that the City is looking for. He referred to the 66 signed letters of support that was included in the staff report, and he read an email of support from Bonnie Shamblin who could not attend the meeting.

Mr. Cunningham stated that in developing this house with Charles Huff, project architect, they took into consideration the need to blend in with surrounding homes, matching their style of wood and color. He added that they have done the best they can, moving the front porch and balcony a step away from the street. He noted that the garage and front doors are a major issue and indicated that a door company will build his front door to match the garage door. As to the landscaping, he indicated that the old bushes in front of the house will be replaced with flowerbeds, and pavers will be installed going to the garage and the front porch. In conclusion, Mr. Cunningham stated that it is homes like this that will bring young families and those who want to downsize into the Downtown, thus bringing about hospitality and vitality.

Charles Huff, project architect, stated that following the Work Session, they have taken all the comments into consideration and tried to come back with a project that meets a lot of those questions and hopefully a quality project. He added that they have also met with Mr. Dolan a few weeks ago, who mentioned some of the positive aspects of the design of the project, as well as his feeling that the house is too large for the site in terms of scale. Mr. Huff distributed a graphic that shows the massing of the house which is blocked by the palm tree in the front. He stated that, as Mr. Cunningham had explained, in terms of the distances to the neighboring properties and the vegetation, they feel differently about the comment that the house is too large for the site. He displayed another graphic showing what the neighboring property at 4512 Second Street sees when they look at the house, basically the second floor area and the deck out in front. He stated that they felt good about having the opportunity to work with the existing vegetation in terms of massing. He continued that he thinks this is a quality project; its scale as viewed from the street is softened by some of the vegetation.

Mr. Huff stated that some of the things he read from letters supporting the project are interesting, one of which stated that those objecting to change had contributed to change at an earlier time. He noted that this is true of many projects in Pleasanton and other cities across California; people are happy to have a house they have built or added on to, and when they see something different in the neighborhood, they might object to it. He added that he thinks this house is in good accord with the Downtown Design Guidelines, and finding that the house as oversized is actually setting a precedent for proposed future homes that are designed well to fit within the Downtown.

Linda Garbarino, Pleasanton Heritage Association (PHA) President, voiced opposition to the demolition of the cottage at 205 Neal Street, where all but one short wall on the side of the current cottage will be demolished, which is a weak gesture to preserve history. She stated that story poles were erected for the project to show everybody what they feared, which is that the proposed structure looks too big because it is too large for the lot. She added that it is somewhat of a flawed process to attempt to justify

the FAR for the proposed structure by accessing the property next door, as she thinks they really look like two separate parcels of land. She indicated that she personally has no problem with the design and thinks it is a lovely structure, but it is too big for the lot. She added that at this point, there are issues that speak to the height, FAR, the bulk, massing, and setbacks, and every time a problem arises, a variance is needed, which is a departure from what should exist within a historic neighborhood. She stated that the crux of the issue is what has been said earlier regarding protecting the established size and spacing of the buildings in the residential neighborhood by avoiding excessive lot coverage. She added that the Downtown Specific Plan talks about building elements which should be consistent with elements of the Heritage buildings in the immediate neighborhood, and each variance takes away from the intent of those guidelines. She questioned how many variances are needed before too many are sought. She stated that these additional variances become a problem because they vary from what is expected to be seen there.

Ms. Garbarino stated that the Downtown specific guidelines for historic neighborhoods prohibit demolition of primary buildings if no other reasonable means of rehabilitation or relocation can be achieved, and these buildings can be retained for residential use as long as the building's primary exterior is preserved. She indicated that this project, if approved, really begins what some preservationists call "erasing" or diminishment of the historic neighborhood and replacing it with oversized new structures which do not add to the historic look of the neighborhood. She added that this "erasing" process begins with the most vulnerable, small, and quaint cottages that add charm and are part of the fabric of the historic neighborhood. She noted that the Commission currently has two quaint cottages on its list to "erase" and a potential third one tonight. She indicated that the City's historic inventory is limited and allowing demolition of this cottage, losing it forever to the neighborhood, begins the erasing of a section of Neal Street history, replacing it with an oversized home, which is clearly, although lovely, as evidenced by the story poles, just too big. She stated that this cottage is located in a historic neighborhood, and while it probably will never qualify for national recognition, it should not be demolished just because it did not pass national recognition scrutiny. She indicated that the Commission is the official, together with the Council, that needs to take control of the City's historic inventory before special interests whittle it away. She noted that approving this project will be seen by many neighbors as a regressive move by the Commission, which has been given the responsibility of protecting the City's historic neighborhoods.

Cathy Pasut-Graham, neighbor, stated that she has lived all her life in Pleasanton, and while she does not know the Cunninghams, she knows that they have a lovely plan for a lovely home; but unfortunately, it is too big for a single lot. She indicated that zoning rules were established specifically to protect the Downtown historic area and she takes umbrage when someone comes into a historic neighborhood, by virtue of which they love the neighborhood and want to live there, and then want to change it. She stated that while everyone is in favor of some change, people should not be hypocrites. She agreed that changes are needed for some areas as some of the houses are falling apart; however, the rules exist for a reason which is to preserve historical environment.

She indicated that this is why everyone wants to live in the Downtown and chooses to stay there. She noted that this property was bought as a single lot small home and is now being turned into two big homes. She stated that she is passionate about the neighborhood because very soon, if the neighborhood is not preserved, it will not be there.

Bonnie Krichbaum, neighbor, stated that she has lived in the neighborhood for 36 years and is a Pleasanton resident for 44 years. She stated that she is opposed to the Cunninghams' plans to build the home, and the majority of neighbors also object to this plan. She agreed with Mr. Dolan and Ms. Amos that the property does look like two lots and it certainly will look more like two lots with two big homes, but it is actually one lot with one deed and one owner but two different address numbers. She added that since the Cunninghams have owned the property, there have also been two rentals. She indicated that the property is zoned R-1 6500, as is the entire neighborhood, which allows only one house on a 6,500-square-foot lot. She stated that before there were zoning restrictions, the two structures were already on the property which is now termed non-conforming. She noted that the new construction on the property is being required to conform to the present building codes and all the regulations, and, therefore, should also meet the current zoning requirements. The structure at 205 Neal Street could become a 1,200-square-foot granny flat, which is more or less what it presently is; but another home of 1,800 square feet would be illegal under the R-1-6,500 zoning and should never have been planned. She stated that it was mentioned that there are older homes and older lots that have variances, but this is because they were built before there were regulations, and new construction built now should meet the regulations.

Ms. Garbarino stated that before this new house was planned, the property and the owners applied for and received a variance to allow some of the property to be 80 feet deep instead of 100 feet deep, so there is already a variance on the property right now, shrinking its size. She noted that another variance was requested for some tandem parking at the west side of the property, which was mitigated somewhat by a small bump-out. She added that the new construction will require three more variance, for a total of more than four variances. She stated that she sincerely hopes each Commissioner has visited the property and seen it from all angles, including from the Bourgs' house. She pointed out that City staff has required story poles to illustrate the size of the new construction, but as with most new construction, the actual building is much larger and more imposing than what the plans show. She noted that all properties in the Pleasanton Historic District are unique properties, one of a kind, on a unique street, in a unique neighborhood. She indicated that this lot and this block have been under siege for several years; changes have been grievous, and they have to be stopped. She added that once the history is erased from Pleasanton's Downtown heritage neighborhoods, once the small cottages and heritage homes are gone, the charm and character will also be gone, and this is irreplaceable. She stated that their neighborhood is protected by the Downtown Specific Plan and does not have CC&R's as most neighborhoods in Pleasanton do. She noted that right now, the City is going parcel by parcel trying to make long-term decisions for their area. She asked the Commission to look at each heritage property it is asked to consider and make a



decision based on what is best for the entire community. She indicated that Pleasanton is blessed with wonderful people, great weather, and a family-friendly atmosphere, and the gift to all who live here is a small town heritage charm of the Downtown residential and commercial area. She stated that she believed the plan for 205 Neal Street is wrong in so many ways and asked the Commission to deny the project.

Brian Bourg, neighbor, stated that he lives next door to the proposed project. He indicated that he has seen the streetscape and plans which are an artist's rendering and are not drawn to scale and, therefore, do not show the true relationships among the structures involved. He asked that if the project goes beyond this stage, a photomontage be done, similar to the one done for the two homes proposed for the Generations HealthCare property, to show exactly what it will look like in relationship to the surrounding area. He read from a written script as follows:

"I oppose the project for many reasons, most of which relate to the massing and scale of the home as proposed, as well as the variances it requires.

"In the Staff report, dated November 9, 2011, Downtown Specific Plan & Design Guidelines criteria state '...that the design of new buildings and modifications are compatible with Downtown's traditional design character & scale.'

"The DTSP further notes that; '...height, floor area, bulk, massing & setbacks should be consistent with those elements of buildings in the immediate neighborhood, & the design of new buildings should NOT represent a SIGNIFICANT DEPARTURE from the existing neighborhood character' AND, 'Protect the established size and spacing...by avoiding excessive lot coverage and maintain appropriate separations between buildings.'

"Mr. Cunningham's proposed NEW home VIOLATES the DTSP criteria I have cited above, thereby detracting from our neighborhood's character and would represent a **significant departure** from that of its surrounding properties.

"The Staff report points out that the subject property is located on a LOWER PAD from the historic Hall home at 215 Neal which has the appearance of, and function as, an independent lot. A retaining wall bisects the property and effectively makes the 2 properties appear independent and separate.

Treated independently, the proposed home would have to fit between the retaining wall and our property line a distance of only 35 feet. And the lot is less than 80 feet deep. If it were considered a separate lot, it would need a fourth variance for having less than the required 100 foot depth.

"The Staff report points out that it would be an 1844 square-foot home on a 2808 square-foot parcel, thus presenting itself as a home with a FAR of 65.6, a SIGNIFICANT DEPARTURE from any other home in the neighborhood, thereby violating DTSP guidelines regarding massing and scale.

“Using Zillow.com I researched every home on 2<sup>nd</sup> St., 3<sup>rd</sup> St., Neal from 1<sup>st</sup> to 3<sup>rd</sup> & East Angela, from 1<sup>st</sup> to 3<sup>rd</sup>. I took the home size and lot size and calculated the FAR of each house.

“For these 74 homes the average FAR is about 25. The proposed home would thus have an FAR...OVER TWO & A HALF TIMES the average for our neighborhood, which the DSP refers to as the 1<sup>st</sup>-2<sup>nd</sup>-3<sup>rd</sup>-Neal St. neighborhood. No other home in the neighborhood comes anywhere near this 65.6 figure.

“This is DEFINITELY OUT OF CHARACTER with the neighborhood.

“In addition, for these 74 homes in our neighborhood, the average size is about 1870 square-foot or about the same size as the proposed home. However, the average lot size is 8,263 square-feet, almost THREE times bigger than the site of 205 Neal St.

“The proposal would make our home, the Cunnningham’s new home and the Hall home on our block look like part of a high-density development. Let me remind you that our home and the Hall home, which would ‘BOOKEND’ the proposed home, are 2 of the most historic in all of Pleasanton and have been recognized as such and given plaques by the City Declaring them heritage sites.

“To ‘shoehorn’ a TOO LARGE NEW HOME on a TOO SMALL site narrowly between 2 of the most historic homes in town undermines the heritage quality of those homes AND lowers their property values.

“My wife, Christine & I have lived in our home ... for 37 years. We have put hundreds of thousands of dollars and thousands of hours of our own time restoring and maintaining the historic look and feel and we know that our neighborhood character, quality of life and property values will suffer. We and the VAST MAJORITY of neighborhood residents disagree with the so-called experts who say otherwise.

“Mr. Huff has already pointed out at a previous meeting that when we needed a garage and bedroom space when our children arrive we were granted a variance for being within the 5 foot property line clearance. This, by the way, was in 1980. The difference is, **that** was for an additions which we designed in the spirit of a carriage home matching the design of our Victorian home. We were NOT building a NEW home. There was NO opposition, in fact the property owner a 4524 Second St. even wrote a letter supporting our proposal.

“Mr. Cunningham does not have to build a NEW home. He has a heritage home on the lot which he could add on to, as we did. We would support him in restoring and even adding on to 215 Neal St. The home needs some work and restoration, as does the small cottage but to do this would be an asset to the

neighborhood instead of a detriment. The historic Hall home could return to its historic status as one of the most regal in all of Pleasanton and the cottage could continue to provide a unit of much-needed affordable housing.

“We URGE the Planning Commission to deny this project as proposed and we urge Mr. & Mrs. Cunningham to devote their energies to restoring the historic home on their lot.”

Christine Bourg, neighbor, stated that she lived for 37 years right next to the vintage cottage being discussed, formerly owned by the Hall family. She indicated that she has spoken to the Planning Commission at least twice in the past asking for a denial of the proposal, and she is asking to do so again tonight. She indicated that the proposal to demolish the 482-square-foot cottage and replace it with a 1,844-square-foot two-story house is wrong for many reasons. She pointed out that it would spoil the integrity of the heritage neighborhood which is one of the first subdivisions in Pleasanton, divided by Joshua Neal. She added that this block on the south side of Neal Street includes the first doctor’s office, the first hospital, the Presbyterian Church which is now the Baptist Church, the homes of Joshua Neal, banker E.L. Benedict, Game Warden Frank Donahue which is our home, store owners, Buford Hall, and Jack Collin. She noted that these historic buildings were all constructed between 1850 and 1910 and are cherished by those who own them and by the residents of Pleasanton, including school children and adults who tour the downtown, as well as by visitors to Pleasanton who may wish their own hometowns have preserved the past so well. She added that another reason she opposes this plan is that if approved, it would set a dangerous precedent and would tread on other parts of the City’s historic neighborhoods.

Ms. Bourg presented photographs of the story poles taken from her kitchen window. She stated that there were no windows on the original plan, but they recently went to City Hall to look at the plans and saw that there are two windows on the second story. She noted that those windows and the front deck on the second story of the proposed property would invade their privacy because they face their kitchen, their family room, and their bathroom. She indicated that she talked with the Chief Building Official about the height of the windows, and he stated that the windows had to serve as a fire escape and would be too high at six feet. She noted that the room is also listed as a study but could be used as a bedroom. She also noted that main vegetation referred to between the two properties is low; the largest one on their side is a 25-foot-tall Photinia tree which would block some of the building; however, Photinias have a short lifespan, and this one is about 30 years old. She stated that they did not have 30 years to grow anything that would hide the building. She added that the plan would also spoil their lovely eastern view of the historic Hall home and the hills and trees beyond.

Ms. Bourg stated that another issue which was also brought up earlier is that this home provides affordable rental housing which she encourages, and there are single mothers in Pleasanton who cannot afford an apartment. With respect to the three variances in addition to the one already granted, she indicated that because the lot is not deep enough, the proposed structure would sit too close to the street. She noted that this is a

function of the house for being too massive for its size at a FAR of 66 percent and is further proof that this project is too much house on too small of a lot. She added that the lot is so small and narrow that there is no room on the side to park a car, the house being 30 feet wide and the lot being only 35 feet wide. She indicated that staff states that granting the variances will not constitute a grant of special privilege inconsistent with the limitations on other properties classified in the same zoning district; however, she finds that it is a special privilege because other tandem parking situations exist only on lots of older homes, and none have been granted to new homes. She added that staff also states that the tandem parking would not pose a traffic obstruction, but she believes it would because they have a small garage situated so close to the sidewalk and to the property line that their current neighbor cannot see what is coming up the street from his right and is careful not to hit pedestrians when he backs out. She noted that there is a single renter at the house at this time, but there could be at least two people driving cars, and the situation could be more dangerous than it is now. Finally, she stated that the street space in front of the existing cottage has space for only one vehicle, but it is very steep. She noted that previous renters and their visitors rarely parked there and have consistently parked next to their house where the ground is flatter. She indicated that with two to three drivers in the household, there would be more need to park next to their house, and this is a problem for them because this is where they put their garbage and recycling cans, in addition to the already frequent parking that occurs then, including those from Baptist church members who come to services, farmers market shoppers, Wheels buses, delivery trucks, and especially workers and visitors to the Generations HealthCare across the street. She noted that this would make an already over-crowded street worse and would create more difficulty with their existing parking situation and that of their visitors. She urged the Commission to deny the application.

Commissioner Olson disclosed that the Shapiros are personal friends of his.

Joyce Shapiro stated that she has lived in Pleasanton since 1966 and has driven First Street, Second Street, Neal Street, and the surrounding area thousands of times. She indicated that people should feel fortunate that this area continues to be improved and modified to maintain its uniqueness and charm. She noted that there are many kinds of lot configurations with an assortment of house designs, and she found it interesting that each design seems to get along and support one another far better than the occupants of those homes. She stated that she is not sure of the definition of a historic or heritage area and wondered if it is when the house was built, because of who lived there, or because of a particular design. She stated that she is sure that everyone has a different opinion of this subject, and she thinks it is unfortunate that a committee of eight or twelve has become the Pleasanton Heritage Association and seems to think they can control Pleasanton with their opinion.

Ms. Shapiro stated that she was not sure what the Oxsens' Sears Kit house has to do with Pleasanton's heritage; she was not aware that this type of home was part of the City and believes that the home was placed on a remnant lot left from Peters Avenue construction. She added that the lot has a peculiar alignment with the adjoining lot on

St. Mary's Street, and she was not sure this is a good example of a Heritage selection. She stated that the Cunninghams are trying to be good neighbors; their design has been given much thought with regard to the area, the lot, and, more importantly, the livability of the dwelling. She added that there is nothing dear or historic about the Hall family compound anymore, and the same is true with their historical building on Main Street at Neal Street that has been replaced but still reflects its original design and relevance to the Downtown. She noted that the cottage does nothing for the area; it can hardly be seen from the street and usually has a motorcycle and two cars on the lawn in the front area. She stated that the Cunninghams wish to build their own home of hard structure that will not be modified; they are not building a rental. She added that if people did not want neighbors looking into their yards or have shade situations, they would have to live on huge lots, which does not make for a unique area like most downtown area. She stated that at her home, her neighbor behind her has a two-story home with three large picture windows along the back, and their other neighbor has a heritage tree that is so tall that it eliminates the sun from warming their pool water. She indicated that she hopes the Commission can make the findings to approve the proposal, as the Cunninghams want to be part of the Downtown neighborhood and want to be good neighbors. She added that they are trying to make an infill project that would add much to the area, another unique home which would blend nicely with the eclectic mix of the area.

Bob Shapiro stated that he has been a Pleasanton resident since 1999, has been active in the City, has participated in many commissions, and has worked on community volunteer roles. He indicated that his passion is to sustain the value of the City, its amenities, and its beauty. He added that he has known the Cunninghams for over a decade and knows the value this family brings to the community. He agreed with staff that the Cunningham proposal is well designed and compatible with adjacent homes; the architectural style is very beautiful and was done with integrity by Mr. Huff and the owners to make it look consistent within the community, and will enhance the beauty of the City. He reminded the Commission that the Cunninghams' cost of compliance has not been low; due to changes in the plans and the work done, the owners have spent close to \$14,000 for a historical study, a horticulturist, story poles, and changes in design as requested by the City and the neighbors. He asked if it is fair to require applicants to put up that amount before they can even start on a project, and he questioned how many more requests will be asked of the applicants before they can build a home to live in that is consistent with the neighborhood. He stated that the Cunninghams have acted in good faith to be in compliance with the neighbors, the City, and the citizens of Pleasanton and requested the Commission to approve their request.

Patty Donahue-Carey stated that she has lived on Second Street for 29 years, and driving by the proposed project since the story poles went up, her impression is that it would result in a structure that would look like it came from another neighborhood and landed on this street. She noted that the design is lovely and thinks that there is no one in the room who has a problem with the structure and the integrity of the design and materials that were chosen; however, she knows that when driving by historic neighborhoods it is easy to spot a home that might otherwise look like it belongs. She

stated that in this case, the proposal is so overbuilt and close to the lot lines that it will never look like it was original or like it belongs. She noted that when a house is overbuilt, it falls out of the visual connection with the surrounding structures.

Ms. Donahue-Carey expressed concern that there has been discussion over the years about redevelopment of properties behind her, and when she looks at the image and reckons how this would affect privacy for the home on Second Street and the value of all the homes in the areas. She stated that everybody can agree that it is a homeowner's prerogative to redesign and remodel; however, they must be very circumspect on its impact on the neighborhood, the unique quality, the privacy, and the home values of the immediate neighborhood.

Becky Duret stated that she will not speak as her comments have been reflected by previous speakers.

Jon Harvey, Downtown resident, had a question of staff for clarification regarding the variance that involves the calculation of the depth of the property, as the depth of the property never changed. He then asked the Commission to imagine being in the shoes of the Cunninghams: have a dream; find a property in the Downtown and convince your spouse that it is a good idea; buy the property; think about how to renovate the property as you move into your empty nester years; hire a legitimate historical architect who has been awarded the job for renovating the John Steinbeck house where he wrote many of his books; meet with neighbors to review the plans, including those who you know are predisposed to the project and who you do not know will later form a campaign against your project; go through the design process which can be frustrating in and of itself; deal with structural engineers and work back and forth in your own mind; meet with staff and incorporate their recommendations; go to a Planning Commission Workshop and incorporate many new recommendations; and then find yourself at this meeting where suddenly your project is dead in the water because it is being looked at under a different set of rules, in this case, a logical lot split versus being two homes on a single lot. He noted that had the owners known at the Workshop that the metric was going to be FAR, based on what the visual lot size is, they may have taken a different direction. He indicated that he thinks the process has run its course, that variances are incidental and do not drive the design of the house, that it will have to have tandem parking. He urged the Commission to consider this application from the Cunninghams' perspective and from a process perspective, and move the project forward.

Mr. Cunningham stated that in responding to the statements made about variances, he is not asking for anything different than what is currently on the lot now or what is currently in the neighborhood; and to him, this is not a variance. With regard to FAR, the size, and all the other regulations, he indicates that he is compliant, that it is not two separate lots, even if it looks that way. Regarding the statement that the majority is in opposition, he stated that he has 66 letters of support from the neighbors, and it is the PHA that is objecting. He stated that he walked up and down the street and many people are happy to see something done. He noted that Ms. Krichbaum commented that 215 Neal Street has tandem parking, but it does not, as there are two spaces, one

covered and one along the side of it. He further noted the Mr. Bourg stated that the streetscape is not to scale, and he pointed out that it is, especially for height, and noted that the peak of his roof falls right in the middle of the second floor of Neal Street. He indicated that the 215 Neal Street window lines right up with the peak of the roof of their proposed home, and the peak of the house is right at the bottom of the window of the master bedroom. He added that there is 39 feet between the two homes, and he has no control over the garage, which is a utility building. In response to Ms. Bourg's comment that that the windows in the front room cannot be used for a fire escape, he replied that those windows do not have to be used as fire escapes because there is a door to the front of them. With respect to losing affordable housing, he noted that the Pleasanton Weekly published that over 400 units being proposed for affordable housing, and he did not think one cottage will not impact this. As regards traffic obstruction, he stated that the garage right there makes it difficult to back out and they need to be careful. He added that the parking issue is due to the nursing home and that half of the people parking up and down that street are going into the nursing home. In conclusion, he stated that he reduced the project to the smallest size possible while still making it livable for him and his wife, with the bedroom downstairs measuring nine by ten feet. He indicated that he cannot envision squeezing it any smaller and still make it livable.

Charles Huff, architect, referred to rental properties in the Downtown and stated that to keep this property as a rental property would be foolish. He added that perhaps some of those who spoke tonight and own properties would rent out some of their rooms. He stated that with the approval of 205 Neal Street, there will be an opportunity to show how historic sympathetic projects can enhance a Downtown streetscape. He noted that this home is a one-of-a-kind project and does qualify for one of those other homes in that neighborhood that are "under siege." He stated that in his opinion, the structure would complement the existing homes on Neal Street. He indicated that the suggestion that they abandon this project and remodel 215 Neal Street instead could be done, but it would be a much more massive house than what is shown tonight.

#### **THE PUBLIC HEARING WAS CLOSED.**

Commissioner Pentin commented that there apparently is an agreement to disagree in the neighborhood. He stated that he wanted to go back to the Workshop, where the Commission gave the applicant some recommendations for change. He noted that he sees a lot of compliance in the packet presented tonight. He added that while the shadow survey was done by Mr. Cunningham instead of a professional, the survey works for him. He indicated that what he sees is the Cunninghams' attempt to comply with everything the Commission asked for. He further indicated that what he does not remember at that meeting or see in the Minutes is that the size would fall outside of the Downtown Design Guidelines and, if brought back six months later, the Commission would deny the proposal if the house is not reduced considerably. He expressed concern that the Cunninghams are being held to that standard today. He stated that if the palm tree were not there, if the vegetation and landscaping were not there as they are, and if the street were not what it is, he might be concerned with the massing;

however, with how it sits, he is not as concerned with the massing. Referring to the historical review that was requested and professionally done, he commented that the Commission can consider all day what should and should not be retained; however, a professional review was asked for which returned a finding that the house is not historic. He questioned at what point the Commission should say that it holds the applicant to it and that he cannot demolish or remodel. He stated that he supports the project as is.

Commissioner Olson stated that he was delighted to see the staff report with the one exception that staff referred to the lot that will contain the new structure as “an independent lot” in quotes. He indicated that his view on that is the reason it is in quotes is because it is really not a lot. He noted that there is one lot, and the FAR on the one lot with the new project is below the FAR at 4512 Second Street. He indicated that at the Workshop, he expressed concern with the massing, and the architect has returned with a redesigned project with less massing. He stated that he agrees with Commissioner Pentin on this point. He indicated that he thinks the problem the Cunninghams are having here is that they are trying to do a project in a neighborhood that has demonstrated a hostile view of projects, just as what occurred with the Harvey project at Third Street and Neal Street, which he sat through. He commented that he thinks it is unfortunate that some people in the community cannot view differences in the neighborhood. He indicated that he thinks this project is acceptable and that he would vote in support of it.

Commissioner Pearce started with her usual comment that neighborhood disputes are always the hardest thing that the Commission does, and it is never a situation where it can make everybody happy. She stated that she thinks it is a lovely house, and she has tried to be consistent in conveying that to the Cunninghams, both formally at the Workshop and informally when she met with them on site. She indicated that she also agrees with the results of the historical survey. She stated that if they had proposed a smaller house on the site, given the City’s current standards, it would be fine; but she has to support staff’s recommendation based on the Policy 17 in the Downtown Specific Plan because she remains consistent in her concern about spacing between the houses and the size of the house in particular.

Chair Narum stated that this is probably the toughest proposal she has had to consider and that she agonized over it. She indicated that the Commission asked the applicant to obtain a historical study which he did, and it is clear from the study that the cottage has no historical significance, so she would support demolishing it. She continued that she thinks the variances being requested are reasonable given what is going on in that neighborhood. She added that she appreciates the serious attempt to make changes to incorporate the Commission’s feedback; however, in the end, she finds that the house is still too large, and she is not comfortable with the mass at the front. She stated that if it were up to her, she would ask the architect if there was something else that could be done to reconfigure the front a bit more to get the appearance from the street not quite so big. She indicate that it is really hard because she really believes that the applicant has made every effort to do what the Commission has asked him to do, but she is just not quite there and cannot support it as it is.



Chair Narum noted that this is a 2-2 vote and asked Ms. Seto what the implications of that are.

Ms. Seto explained that when the Commission faces a 2-2 vote, it is actually a “no action was taken” with regard to this application. She stated that in cases like this, the Commission could try a motion in favor or against, the Chair would note that it is a 2-2 vote, and staff would recommend that because there is one absence and one abstention due to a conflict of interest, the Commission consider a motion to continue the matter where a 5<sup>th</sup> Commissioner could be present.

Chair Narum inquired if it was appropriate to re-open the public hearing to determine whether or not the applicant had a preference.

Ms. Seto replied that this is up to the Commission’s discretion whether to make a motion to continue the item or ask the applicant if he wants to continue the item.

Commissioner Pearce inquired if this could be continued to a date certain as she would hate to draw this out much longer for the applicant and all parties concerned. She asked if this could be continued to the next Commission meeting on November 30, 2011, if necessary.

Mr. Dolan replied that at the moment, there is a very large item that would take a long time that is scheduled on the November 30<sup>th</sup> agenda, but there are some issues with that project and may require some juggling. He noted, however, that this is not certain and the Commission can schedule the continuance for then and end up with quite an agenda.

Commissioner Olson inquired if the Commission could simply forward this to the City Council.

Ms. Seto said no. She explained that a tie vote means no action; it is neither a denial nor an approval and, therefore, there is no action to appeal.

**Commissioner Olson moved to continue the item.**

**Commissioner Pearce seconded the motion, with an amendment that it be continued to a date when there is a 5<sup>th</sup> Commissioner or an odd number of Commissioners present.**

## **ROLL CALL VOTE:**

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

Commissioner Olson asked if a Special Meeting could be called.

Mr. Dolan replied that November 30<sup>th</sup> is already a special meeting. He indicated that if the Commission is willing to hear the item that night, it should just pick that night, and there is a chance that the bigger item would fall off. He added that there are a few other minor things on that agenda as well. He indicated that the fact that the Commission has already had the public hearing on this item would mean that the discussion would not necessarily have to be an extensive. He added that Commissioner Blank could read the Minutes and get up to speed.

Commissioner Pearce inquired if this could go first on the agenda and before the larger item.

Mr. Dolan said yes.

Chair Narum that the other item is date-sensitive and has to be done.

Commissioner Pearce noted that this item is continued and inquired if it does not get bumped up to the top of the agenda.

Mr. Dolan stated that presumably, the second time around, it would not have quite as much public comment.

Chair Narum inquired if a motion was needed for this.

Mr. Dolan replied that he thinks it is worth it to shoot for November 30<sup>th</sup>, assuming that the applicant is available then.

## **THE PUBLIC HEARING WAS RE-OPENED.**

Chair Narum informed that applicant that the Commission has a fairly impacted schedule and in fairness to him to get a final vote one way or the other, the Commission has a Special Meeting on November 30<sup>th</sup> and is considering making a motion to schedule the hearing to a date specific which would be at that meeting, with the item being first on the agenda.

Mr. Cunningham replied that it should not be a problem. He inquired what he should do then, if he needed to make a ten-minute presentation again.

Chair Narum suggested that he speak with Ms. Amos and she would walk him through what was appropriate in terms of what he needs to present.

In terms of the two “no” votes, Mr. Cunningham inquired what he could do to make it pass. He indicated that there is no way he can do without a second story, so if the issue is the second story, then there is no purpose to move forward. He noted that he needs some guidance and would like answers to some general questions.

Chair Narum asked Ms. Seto if this is an appropriate dialogue to have.

Ms. Seto replied that since the Commission has already taken a vote to continue the matter, there should not be a prolonged discussion. She advised the applicant that he has the right to contact each of the Commissioners, have a discussion about these kinds of concerns because this is not the time to discuss design issues.

Chair Narum requested Ms. Amos to set up a meeting as soon as possible for Mr. Cunningham to meet with Chair Narum and Commissioner Pearce.

Ms. Seto advised that the Commissioners present not talk to Commissioner Blank either to fill him in on what happened but to leave it to him to listen to the recording of the meeting.

Mr. Cunningham suggested if the two Commissioners could come up with some ideas at the meeting so he and his architect could put something together before the November 30<sup>th</sup> meeting. He indicated that he would love to start construction next spring.

Chair Narum and Commissioner Pearce indicated that was good.

**THE PUBLIC HEARING WAS CLOSED.**

**THE PUBLIC HEARING WAS RE-OPENED.**

Bob Byrd inquired if the netting could come down.

Chair Narum commented that it is a very fair question.

Ms. Amos replied that she has contacted Commissioner Blank, and he indicated that he has seen the story poles, and, therefore, the netting can go down.

**Commissioner Olson moved to continue the item to November 30, 2011.  
Commissioner Pentin seconded the motion.**

**ROLL CALL VOTE:**

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

Commissioner O'Connor returned to the dais.

**7. MATTERS INITIATED BY COMMISSION MEMBERS**

Commissioner Pearce noted that when Commission members were appointed to the Historic Preservation Task Force at the last meeting, an alternate was not appointed. She inquired if this can be done tonight.

Ms. Seto replied that it could not because it is not on the agenda.

Commissioner Pearce inquired if it could be agendized for the November 30<sup>th</sup> Special Meeting.

Mr. Dolan said yes.

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

**a. Future Planning Calendar**

No discussion was held or action taken.

**b. Actions of the City Council**

No discussion was held or action taken.

**c. Actions of the Zoning Administrator**

No discussion was held or action taken.

**9. COMMUNICATIONS**

No discussion was held or action taken.

**10. REFERRALS**

No discussion was held or action taken.

**11. MATTERS FOR COMMISSION'S INFORMATION**

No discussion was held or action taken.

**12. ADJOURNMENT**

Chair Narum adjourned the Planning Commission meeting at 9:34 p.m.

Respectfully,

JANICE STERN  
Secretary