



PLANNING COMMISSION MINUTES

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

APPROVED

Wednesday, September 23, 2009

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

CALL TO ORDER

The Planning Commission Regular Meeting of September 23, 2009, was called to order at 7:00 p.m. by Chair Pearce.

1. ROLL CALL

Staff Members Present: Brian Dolan, Director of Community Development; Michael Roush, City Attorney; Janice Stern, Principal Planner; and Maria L. Hoey, Recording Secretary

Commissioners Present: Chair Jennifer Pearce, Commissioners Phil Blank, Kathy Narum, Arne Olson, and Jerry Pentin

Commissioners Absent: Commissioner Greg O'Connor

Chair Pearce recognized retiring Michael Roush as this was his last meeting with the Planning Commission. She and the other Commissioners thanked him for his knowledge, advice and patience, and presented him with a token of appreciation.

2. APPROVAL OF MINUTES

a. September 9, 2009

Referring to his statement on page 12, paragraph 9, Commissioner Pentin clarified that his comments regarding whether or not web designers or graphic artists are exempt home occupations would not affect his situation as his web designer works in Boulder Creek and not in Pleasanton.

Jack Balch noted that the minutes were well written and follows much of what he said; however, he made the following clarifications with reference to his statements on page 7, paragraphs 6 and 7:

- First sentence of paragraph 6: He stated that it was his personal opinion that Parks and Recreation would like Tawny Park to be used as a Judo class location.
- Second sentence of paragraph 6: He clarified that his family owned the property at Valley Business Park since the 1970s and 1980s and that the buildings were constructed in 1984.
- Third sentence of paragraph 6: He noted that he confused the subject building with another building in the same parcel and indicated that he was wrong and staff was correct in saying that the building does not have rear access.

Chair Pearce asked staff whether Mr. Balch's corrections should be handled as amendments to the September 9, 2009 minutes or as an addendum.

Mr. Roush replied that the fact that Mr. Balch made corrections and clarifications, as well as those corrections and clarifications, would be reflected in the minutes for this meeting.

Commissioner Blank moved to approve the Minutes of September 9, 2009 as presented.

Commissioner Pentin seconded the motion.

ROLL CALL VOTE:

AYES: Commissioners Blank, Olson, Pearce, and Pentin.

NOES: None.

ABSTAIN: Commissioner Narum.

RECUSED: None.

ABSENT: Commissioner O'Connor

The Minutes of the September 9, 2009 meeting were approved as motioned.

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

No comments were received.

4. REVISIONS AND OMISSIONS TO THE AGENDA

Chair Pearce stated that she spoke with Mr. MacDonald, the only speaker for Item 6.a., PPOL-1, City of Pleasanton, and he has graciously agreed to have the Commission consider Item 6.b., PRZ-48, City of Pleasanton, first. The Commissioners agreed with the proposed revision to the agenda.

5. CONSENT CALENDAR

There were no Consent Calendar items.

6. PUBLIC HEARINGS AND OTHER MATTERS

b. PRZ-48, City of Pleasanton

Application for rezoning on three sites in Hacienda Business Park from the PUD-I/C-O (Planned Unit Development – Industrial-Commercial / Office) District to PUD-MU (Planned Unit Development – Mixed Use) District; and to change the Hacienda land use designation from Mixed Office, Research and Development/Light Manufacturing Planning District (MOIPD) to Mixed Commercial, Office, Research and Development/Light Manufacturing Residential District (MCOIRPD). The three sites are: (1) The W.P. Carey site (Hacienda Site 7G), at the southeast corner of Owens Drive and Willow Road (Assessor's Parcel No. 941-2778-013-00 and part of APN 941-2778-012-00), approximately 11 acres; (2) The BRE site (Hacienda Site 7E), at the north corner of Hacienda Drive and Gibraltar Drive (APN 941-2778-011-00), approximately 8.2 acres; and (3) The Roche Molecular Systems site (a portion of Hacienda Site 6), south of Gibraltar Drive between Willow Road and Hacienda Drive (a portion of APN 941-2761-003-00), about 12.4 acres (of the approximate 33.4-acre Roche site). Rezoning of the above sites would potentially allow the future development of up to approximately 1,030 residential units, although future residential development would be deferred until the preparation and adoption of a Major Modification to the Hacienda PUD rezoning.

Also consider the Negative Declaration prepared for the project.

Janice Stern presented the staff report and described the background, the sites proposed for rezoning, and the key elements of the application.

Commissioner Olson referred to a slide that referenced "good cause to proceed earlier" on the rezonings. He inquired if the reason for good cause was due to pending litigation.

Mr. Roush said no. He stated that the property owners have expressed a willingness to participate fully in the PUD modification process which may take more than a year. He added that staff anticipates the PUD modification process will be complete before development on the three sites moves ahead. He noted, however, that if the PUD modification stalls, there should be an opportunity for property owners to demonstrate good cause to proceed ahead of the PUD adoption.

Commissioner Blank noted that one of the PowerPoint slides stated that the rezoning is moving ahead of the PUD process because of pending litigation. He inquired what the nexus was between the rezonings and the litigation.

Mr. Roush replied that one of the causes of action in the pending litigation is the fact that the City has not implemented Program 19.1 of the Housing Element, which provides that the City will do the land use studies and then rezone sufficient property to accommodate its regional housing need for the 1999-2009 planning period. He noted that the City acknowledged that it is in the process of doing this but needs to complete the General Plan first. He added that the General Plan has now been completed, and the City has arrived at a General Plan designation that would allow property to be rezoned. He explained that this is what this rezoning is intended to do; it does not require, compel, or result in residential development being built in the near-term on the sites or at all, but makes that opportunity available as identified in Program 19.1.

THE PUBLIC HEARING WAS OPENED.

Bo Tian stated that he moved to Pleasanton in 1997 and that the value of his house has dropped by 20 percent since. He indicated that he wants to make sure the quietness of their neighborhood will remain so that his young children are able to enjoy it. He expressed concern about the plummeting housing prices and loss of property values in the last three years. He cited the State's budget crisis and the shortage of educational funds and inquired how the school district will accommodate children from the additional 1,000 apartment units. He voiced concern regarding Pleasanton schools' ranking dropping from 9 to 11 and asked that a full study be done on the consequences and negative impacts of building more units on population, schools, environment, traffic congestion, and property values.

Steve Bursley stated that at the City Council-Planning Commission Joint Workshop he attended a year ago, a decision was reached to form a joint task force. He noted that such task force has not been formed and that the questions raised at that time have remained answered. He indicated that he finds it difficult to understand how the rezoning can move forward without the process agreed upon in place.

Kyong Suk McGough stated that she moved to Pleasanton in 1997 and cited problems from nearby apartment developments. She noted that building more units would result in a negative impact on schools and added that she did not want her property value to go down.

Shenggao Li stated that he moved to Pleasanton in 2002 because he found it to be a nice city with a low crime rate. He indicated that he considered moving to the Santa Clara area because it was closer to his office, but he could not find a place comparable to Pleasanton. He added that he is proud of Pleasanton schools because they are good. He noted that building high density houses would make Pleasanton look like Dublin and that investors rather than future homeowners would be purchasing the units. He expressed concern that these investors would rent the units out to people with

deviant behavior who would cause the schools to deteriorate, lower their property values, and make the existing residents very unhappy. He stated that his neighbors share the same opinion.

Andy Smilovitz stated that he has lived in Valencia from the start and that he does not want another 1,000 high density residential units in the area because it is already loaded with three to four apartment complexes and a WalMart shopping center. He indicated that if it is assumed that the BART station supports the use, then the units should be relocated to the other BART station area by Stoneridge Mall. He added that he believed people are using the BART station as an excuse to develop their properties and that not all the people moving in would be working in San Francisco or using BART; some would be working in and around Pleasanton and would be driving their own vehicles.

Ellen Gave stated that she has lived in Valencia for 12 years and likes living in the area because weekends are quiet as Hacienda is closed. She added that she understood building close to the BART station but questioned the need for three large apartment buildings with Archstone nearby. She stated that these are hard times and that the apartments would bring in different elements to the area. She indicated that she is being protective of her development and its residents and cited the existence of significant vandalism, including graffiti, after the dot.com bust near her development. She stated that she believed the City should spread out the units and not just locate them in Hacienda.

Sunil Kulkarni stated that he enjoys taking his two-month old baby for walks on the vacant lots where it is quiet and safe and requested the City not to spoil the current family-oriented culture. He added that he does not go to the park right behind his house because it is crowded by residents of Archstone and Hacienda Commons. He noted that property values are decreasing and believes that low-income housing and apartment developments would further lower the values and further impact the City's high quality schools and parks and recreation with overcrowding. He indicated that adding more low-income units would not benefit Pleasanton because it would create more problems and have a negative impact on the low crime rate and the good neighborhood. He asked the Commission not to let low-income people come into Pleasanton. He added that the business park was meant for businesses and that the poor economy should not be a reason to sell the property for low-income residential development.

Robert Desroches stated that he has worked at Zantaz in West Las Positas Boulevard for ten years and that 36 of its 300 employees that live in San Francisco do not take BART. He added that there is a bike rack at his workplace but only one employee bikes to work. He noted that he lives in the Valencia development, which is a ten-minute walk to his workplace, but he drives to work. He stated that judging from his workplace, there is zero evidence to support the assertion that the units would contribute to the vitality of businesses.

Mr. Desroches opposed adding 1,000 new units in the area. He stated that the number one reason people want to live in Pleasanton is the school system and expressed concerns about the negative impact these units would have on schools. He noted that there are no clear plans on how the school problems could be resolved and could not understand how this could be ignored. He indicated that he does not understand the ramifications of the litigation but questioned why all the units need to be built in Hacienda rather than locating some of them by the BART station near Stoneridge Mall.

Ashok Moghe stated that he moved to Pleasanton three years ago because of its culture and peacefulness. He indicated that he felt the threat of litigation is being used to push this proposal through and that litigation only requires the City to create a zone and not to build actual houses. He noted that there was an attempt in the past year to build houses in Hacienda and that because there was not enough representation from owners, a joint task force was to be formed, which never occurred. He stated that he felt rezoning the properties is a push to line up developers to build apartment housing, which would only cause traffic jams, congestions, and school problems. He added that 99 percent of the US population actually choose their houses based upon not where their job is located but where there is good schools, less traffic, better culture, and peace. He noted that the Business Park was planned for commercial buildings and urged the Commission to not allow Pleasanton to be ruined and deteriorate, as what happened to Fremont.

Yogesh Joglekar stated that he moved to Pleasanton in 2006 at the peak of the housing market. He indicated that he has two children who go to two different elementary schools because of problems with class sizes and overcrowded classrooms due to the School District's financial crisis. He expressed concern about having more residents coming into the City, noting that Valencia is already surrounded by apartments. He indicated that adding more units would not bring vitality but would deteriorate property values and affect the peace and quiet of the area. He urged the Commission to re-think its decision to rezone the properties.

Suhas Kulkarni stated that he has lived next to the proposed development for six years and that he works at Oracle across the street from where he lives. He disagreed with the arguments for housing in proximity to the BART station, adding that he never walks to work. He noted that in Third World countries, there are 100 children in one classroom, and there are no extra curricular activities. He indicated that he did not want this to happen to his children and urged the Commission to not spoil the school program in Pleasanton or he will be forced to move to another community for his children's sake.

Bob Lee stated that he is a resident of Valencia and moved to the City 13 years ago after retiring. He indicated that he researched Pleasanton carefully and that people informed him that it good place in which to live. He added that he was told then by Signature Properties that they were moving into a business community and that the three existing communities would be the extent of housing in the area other than the Archstone Apartments to the east. He stated that he felt the people at this meeting represent only a small percentage of the residents in the area who have the same

sentiments and are not in favor of the proposed rezoning. He urged the Commission to find other solutions to the City's housing issue.

Stan Kataoka stated that he moved to Pleasanton 12 years ago and acknowledged that while the designation of the Business Park was fairly stable, times have changed and the City is moving towards higher density living. He voiced concern that the process put in place a year ago for a joint task force where residents, school representatives, and developers would be represented has not been started and urged the Commission to begin the process immediately. He added that he has heard nothing but building high rise housing and asked that strong language be put into agreements to ensure the intent originally expressed will be followed.

Nick Gandhi cited the current vitality and diversity that already exist in Hacienda and added that no more is needed. He stated that Pleasanton is a beautiful and fabulous city with nice arches at entries to Hacienda which should not be spoiled with high-rise apartment buildings. He indicated that many residents in Hacienda believe there is a conspiracy for residential development because developers know commercial development will continue to decline. He noted that 350 of the 817 units have already been allotted to the Windstar development and that the remaining 521 units could be built elsewhere. He added that the concept that building an apartment complex would make people work in the area is absolutely wrong. He noted that many people living in Archstone do not work in Pleasanton.

Referring to the Negative Declaration, Mr. Gandhi stated that he disagreed with the statement that there are no significant impacts to public health, welfare, transportation, traffic, schools, parks and recreation. He noted that they have to wait for the park fields to be vacated before they can play soccer. He added that vehicles take Owens Drive as a shortcut to get to I-580 and that Stoneridge Drive is becoming crowded. He noted that 1,300 units will add approximately 2,600 more cars on the streets. With respect to utilities, he questioned if the City had additional water resources to avoid water shortages. He indicated that house values have depreciated and that additional houses will mean that some of them would go to foreclosure.

Gregory Kushner stated that he moved to the City a year ago for its good schools and houses. He noted that apartments were overbuilt in Mountain View as well as in El Sobrante, which negatively affected the quality of the schools. He indicated that having too many apartments in one spot would result in a critical mass of non-property owners who will not care about the property or the community. He cited problems with vandalism from renters and stated that the credentials of apartment renters are not checked as thoroughly as those of homebuyers in terms of credit and criminal reports. He also expressed concern about the degradation of the school system and reduced police resources. He requested the Commission to seriously consider the negative changes the addition of 1,100 apartments can do to the face of Pleasanton.

Anh Huynh stated that she moved to Pleasanton from Virginia 12 years ago and that she walks and sometimes drives one block to work at AT&T. She echoed the various

comments from previous speakers and stated that she has noticed more crime and violence since more apartments units constructed behind her complex. She added that her Lexus was recently stolen from her driveway and that a lot of crimes have been occurring around the WalMart and apartment areas. She expressed concern that friends and relatives of the renters of the proposed 1,100 units will add more traffic and more crime to the area and urged the Commission not to approve the application.

Mary Keck stated that she moved with her seven-year-old daughter from San Francisco to the Sienna development in Pleasanton, mostly for its school district, relocation with her employer, and for ownership and pride. She indicated that high rises do not belong in town and that this type of development would decrease house values. She expressed concern about safety and escalating crime in the area, stating that people no longer ride their bikes or walk along the trail between Sienna and Valencia developments and the apartment complex because a man was recently held at gunpoint along that trail and his wallet taken. She stated that bringing in an additional 1,100 units of low income near the BART station is an added invitation for more family members and friends to visit. She urged the Commission to keep Pleasanton safe.

Chaitali Wagh, a senior at Foothill High School, stated that her family moved from Walnut Creek to the Sienna neighborhood last year because they found it to be a safe environment where they can go out at night without being afraid. She echoed the comments of speakers and noted that her school's class size has increased from 35 to 45 students. She stated that some students in her English and History classes sit on the floor because there are not enough desks due to budget cuts. She added that more houses will bring in more students, which would mean a greater ratio between students and counselors who are needed to discuss college plans.

Debora Sanders stated that she moved to Valencia in 2007 and that she agrees with the comments of earlier speakers. She indicated that she attended the neighborhood meeting a week ago to learn about the plans. She noted that because only eight residents attended the workshop, she walked the Valencia neighborhood and informed the residents, a majority of whom were unaware of the rezonings proposed. She stated that she understood that growth needs to take place; however, the residents need opportunities other than staff reports to understand the impacts this rezoning will have on them. She reiterated the concern that the joint task force has not been set up.

Shaivali Parekh, a senior at Foothill High School, stated that there are not enough desks for students in some classrooms because the class sizes have increased from 35 to 45 students, and teachers are not able to pay attention to students. She indicated that she and her family moved to Pleasanton from Fremont a year and a half ago and that she likes living in Pleasanton and wants to raise her children here. She added that her grades have also improved since she moved to Pleasanton. She stated not everyone who lives in Pleasanton works in Pleasanton and that the BART station argument was not a valid reason to build more apartments.

Makarand Walimbe stated that Pleasanton is a fabulous city and that he has been lived here for seven years. He concurred with the comments made by earlier speakers and disagreed that additional housing would create a better Business Park. He indicated that he felt more housing will tax the local resources such as police, hospitals, schools, and water. He added that Valley Care Hospital and schools are already crowded, and that there will be more pollution and safety concerns. He asked that the Commission to reconsider the proposal and questioned if bringing this to the Commissioners' neighborhood would be acceptable to them.

THE PUBLIC HEARING WAS CLOSED.

Commissioner Pentin inquired if the maximum height for the buildings on the three properties would be 85.5 feet.

Ms. Stern replied that 85.5 feet is the maximum height allowed under the current PUD. She added that the rezoning does not change any of the existing underlying regulations.

Commissioner Pentin inquired when the Hacienda PUD was first modified for residential use.

Ms. Stern replied that she believed it was in 1991.

Mr. Roush clarified that in 1991, there was a General Plan modification and rezoning to allow residential.

Commissioner Pentin inquired if the PUD had been changed just once or if there were numerous changes since 1991.

Ms. Stern replied that Verona was the first development, followed by Avalon, Sienna, and Valencia, and then the Archstone apartments.

Commissioner Narum inquired if, considering that the Hacienda rezoning would be followed by a PUD modification, the development plan could change the maximum height allowed of 85.5 feet.

Mr. Dolan said yes. He explained that all site development standards will be up for review and considering the new land uses, there will most likely be changes that are appropriate.

Commissioner Narum inquired if a park could also be included in the plan.

Mr. Dolan said yes.

Commissioner Blank stated that he was not insensitive to the effort people take to come to meetings and that he appreciates those who came to the City Council-Planning Commission Joint Workshop last year and those who are present tonight. He noted that

if the Commission followed staff's recommendation and recommended approval, the proposal would move forward. He inquired what would occur next if the Commission rejected staff's recommendation and denied the rezoning.

Mr. Roush replied that staff would take the Commission's recommendation for denial to the City Council. He added that if staff's recommendation would still be to approve the rezoning, it would go forward along with the Commission's recommendation that properties not be rezoned.

Commissioner Blank inquired if there were any middle ground options, such as suggested by a speaker that the City rezone only one of the three properties.

Mr. Roush replied that the options could vary with some, none, or all of the sites.

Commissioner Blank requested clarification that the PUD process must still take place and that there would be opportunity for the public to comment upon the actual detailed design and physicality of what would go on the properties.

Mr. Roush replied that many of the issues raised concerning impacts to infrastructure, schools, parks, and others are more typically considered in the context of a PUD development plan and not of the rezoning process. He added that the issues would be considered by both the Planning Commission and City Council at the development plan stage.

Commissioner Blank noted, however, that the Commission is being asked to approve a Negative Declaration on impacts like schools, facilities, services, and others, which is almost like a PUD but without the benefit of understanding whether or not there is an impact.

Ms. Stern explained that most of the analysis in the Negative Declaration was based upon the General Plan EIR, which included an alternative for transit-oriented development, and which put 1,271 units within the Hacienda Business Park. She added that staff pulled out the analysis of that alternative for the Negative Declaration. She agreed that there are a number of studies related to traffic, infrastructure, and more detailed analysis would also be done at the PUD level for specific impacts.

Commissioner Blank noted that the Negative Declaration is based upon the EIR which is part of the General Plan update recently approved.

Commissioner Olson stated that he is as distressed as the public in that the task force planned to be set up a year ago has not gone anywhere; however, this does not mean that it will not. He indicated that it is his understanding that it will be dealt with in October by the City Council and the process will start. He asked staff about the assertion that the City needs to create this rezoning in order to satisfy the requirements of the State with respect to housing.

Ms. Stern explained that the Regional Housing Needs Allocation (RHNA) number in the City's 2003 Housing Element, which runs up until 2009, was 871 units. She added that the approval of the Windstar project for 350 units leaves about 521 units. She noted that the City is due to update the Housing Element, for which the RHNA requires an additional 3,200 units, 1,800 of which would be for low- and very-low-income households to be accommodated with higher-density-zoned areas.

Mr. Dolan stated that he understood Commissioner Olson's question as whether or not the City's obligation is only to rezone. He confirmed that the City's obligation under the Housing Element law is only to rezone.

Commissioner Olson stated that, regardless of a Negative Declaration, many issues were brought up tonight which can be dealt with during the PUD process. He indicated that he felt it does not make sense to add a housing component to a situation where the City is out of capacity prior to that addition.

Ms. Stern confirmed that the issues raised would be dealt with during the PUD process.

Commissioner Olson stated that he believes a subcommittee would most likely come to that conclusion based upon public input and that the process should move in that direction.

Commissioner Narum inquired if, in the event the Commission approves the rezoning, some retail and services be included in addition to housing. She noted that she felt this may be in conflict with components and programs of the General Plan which were cited in the staff report.

Mr. Dolan replied that a follow-up development is evaluated against the policies that exist. He added that there is a possibility, but with no guarantee, that there will be an exploration of the City's ability to provide retail because this is a component of a true transit-oriented development. He noted that part of the PUD process will be an evaluation of what the retail demand is, which will be indicated by an on-going study during the PUD process. He indicated that it is somewhat premature to include that requirement because the numbers are yet unknown; however, he noted that retail is a vital component of transit-oriented development.

Commissioner Narum inquired whether, if the study should state that there is enough mass to support some retail but the PUD is only for residential, there would be an opportunity to reject the PUD based upon the fact that there is enough demand to support the retail and that it is not consistent with, for example, Program 2.1.

Mr. Dolan replied that if those turn out to be the facts, it is unlikely that a positive recommendation will be developed by staff and that it would be legitimate for the Commission to come to that conclusion in its recommendation to City Council.

Commissioner Narum inquired if all of the units need to be low- and very-low-income units. She noted that the City's policy is that these types of housing be dispersed throughout the community.

Mr. Dolan replied that there is some misconception regarding what would occur if a project were to develop. He stated that the State requires a zoning of a minimum of 30 units per acre but does not require all the units to be affordable. He added that the affordability component would be what is required by the City's inclusionary ordinance. He noted that the City could consider a greater number to be a bigger benefit, but the framework is not for 100-percent affordability. He further noted that such a project requires millions of dollars of subsidy, which will not happen.

Referring to the Negative Declaration and the school impact, Commissioner Narum inquired if the City had an idea of how many additional children the project expects to generate.

Ms. Stern replied that during the General Plan analysis, staff had a conversation with the School District about all of the alternatives for the General Plan Land Use, one of which included putting 1,271 units in the Business Park. She stated that the District expressed concerns and wanted to decide for itself if it would need any additional facilities as a result of this. She added that in terms of what could be generated, staff received information from the school demographer on the different types of housing, and for multi-family housing at that density, it is relatively low, about 1/3 of what is generated in single-family homes on larger lots.

Commissioner Narum inquired whether, if the school demographer were to say there are 1.2 children per average household in a high-density household versus 2.1 in a single-family home, there would be a process whereby the City might actually have to survey the existing environments in Valencia and other developments and indicate that it may be true based upon the origin of the demographic data, which is about 8-9 years old. She noted that the reality is that in today's environment, there are families with two to three children in high-density housing.

Ms. Stern stated that the School District demographic study is extensive, accurate, and conducted yearly. She noted that School officials meet with City staff about the number of units moving forward, and the District has generation surveys from developments in town.

Mr. Dolan indicated that data is possibly gathered based on children going to school and where they live, which is accurate.

Ms. Stern agreed. She added that the figure was about .4 children per higher-density household.

Commissioner Narum stated that .4 children would be almost 400 children. She indicated that she had a problem with a "less than significant" impact.

Ms. Stern clarified that the numbers are distributed from Kindergarten through 12th grade.

Commissioner Narum referred to page 23, Section 14. Recreation, of the Negative Declaration, and stated that there are not enough parks in or near the property for the 400 children that would be generated. She added that the Creekside Park gets a lot of use already and inquired how staff arrived at "Less Than Significant Impact" and how the additional residents would be served.

Ms. Stern replied that the information in the General Plan is based upon a general analysis. She stated that with respect to the number of acres of park per person, there may be needs specific to this area as the City grows which could be looked at in designing the individual developments or the entire PUD.

Mr. Dolan stated that a park could be part of the PUD modification and that it is fairly likely that in reviewing parks per person per acre, the City rates very well against the standard; however, the City may decide that it needs more park space.

Commissioner Narum stated that the developments are proposed to have less car dependency, which may mean that some members of the family will not have access to a vehicle. She noted that this would make it more difficult for family members to access a park somewhere else in the City that does not have as much use as those in the Business Park.

Mr. Dolan stated that this could be incorporated into the PUD process.

Commissioner Olson stated that he thought, given the number of additional residents and children, the requirement for more parks and schools would have to be built into the PUD process.

Mr. Dolan replied that there will be the Hacienda PUD Master Plan process and the subsequent, actual PUD process, both of which staff will go through. He added that the Commission will have to look at potential outcomes and come up with some alternatives because the park demand will be different if ultimately an office application is received.

Commissioner Blank inquired if each property would have its own PUD process.

Mr. Dolan said yes.

Commissioner Blank commented that if he were a developer and was asked to develop a park, he would cite the Negative Declaration that states he would not need to do anything about parks.

Mr. Roush explained that the Commission would have to distinguish between a situation of what the Negative Declaration is based on, which is the analysis under the General

Plan EIR where it looked at a transit-oriented development alternative, and whether it had any impact. He stated that this is generally true citywide and not only for the Business Park because community-wide impacts are looked at. He continued that during the Master Plan process, it may be necessary to provide additional park space within the Business Park in the PUD process.

Commissioner Blank noted that Ms. Stern was emphatic when asked the question earlier that this was right out of the General Plan. He inquired if the Negative Declaration for the rezoning does not count as a Negative Declaration for the PUD.

Mr. Roush replied that he was trying to pair it with Ms. Stern's comments that the Negative Declaration prepared for the rezoning was based on the environmental analysis done for the General Plan with respect to one of the alternatives, the transit-oriented development, in the General Plan. He added that based on that, a determination was made that there would not be an impact on schools, recreation, etc., and he was only suggesting that when the PUD modification process comes forward, there will be another opportunity to look at a range of alternatives that may cause the need to have additional park-type facilities within the Business Park.

Commissioner Blank stated that he wanted to have it clearly stated for the record for a future Planning Commission what Mr. Roush is saying: if this project were to be approved as it sits today, and two years down the road a developer comes in and is ready to develop a transit-oriented development project, and the Planning Commission says that is great but the developer must build a park or amenity for recreation, he wanted to be sure whether or not this is legitimate.

Ms. Stern stated that an environmental impact is not necessary to request an amenity. She explained that if the Commission believes it is a needed amenity in the area because of Pleasanton's high standard for good and accessible parks, the Commission can require it without relying on a CEQA analysis finding of significant impact.

Commissioner Blank stated that he was looking at it from the perspective that the developer would say it is not needed.

Ms. Stern stated that the Commission has discretion over this.

Mr. Roush stated that if there were an environmental impact that resulted from the more specific PUD plan requiring additional park recreation facilities, clearly, the Commission could impose this. He added that even without that specific environmental impact, the Commission can still require it even if it did not rise to the level of an environmental impact that had to be mitigated, as long as you could find a reasonable nexus between the need for that amenity and the project. He confirmed that this could be backed up by the Planning Commission or the City Council if the PUD were approved by both.

Commissioner Narum requested clarification that the PUD modification for the Business Park is where a lot of concerns she has with the Negative Declaration would actually be addressed.

Mr. Dolan replied that it is likely this would be the case; however, a few concerns may have to wait until a project came forward.

Commissioner Narum stated that if the Commission felt that the park standard is not up to what it wants, and if all three properties had high-density housing to the point where you would almost need to set aside a piece of land somewhere, it appears this would need to be addressed in the Business Park PUD modification as opposed to one of the individual parcels where a piece of the property would have to be set aside for a park.

Mr. Dolan stated that he thinks the overall PUD process would be forced to anticipate the scenario that would create that demand.

Commissioner Narum inquired if the point in time the School District would indicate that it can or cannot handle the number of students that the development is expected to generate would be at the time when the rezoning is approved, the PUD for the Business Park is modified, or the individual PUDs start coming in.

Mr. Dolan replied that the school issue is a difficult one in all communities because everybody perceives that their school cannot handle more growth. He stated that in this case, based on recent events, there are situations of bigger classroom sizes; unfortunately, the expectation that boundaries among schools are not adjusted in response to development is probably unrealistic. He noted that this happens in every community and that families are affected by it. He added that while this is not ideal, if this is part of the equation, there is a lot of lead time to gear up for it so that a likely solution can be found if there is a particular school with an issue.

Commissioner Narum inquired whether or not the Commission could add a condition to the PUD that prior to building, the School District would have to evaluate the situation.

Mr. Dolan replied that the School District must respond to those children who show up for school and not vice versa.

Mr. Roush clarified that in the early 1990's when the School District and the City were attempting to determine how many schools would be needed for eventual build-out of the City, it was assumed that ten elementary schools would be needed, three middle schools, and two high schools of an expanded nature. He continued that as a result of that, there was a nexus study done in terms of how much money would have to be collected as residential property developed such that the facilities would be in place when the children arrived. He noted that this process continued for 15 or more years, and when growth seemed to slow significantly in the early 2000, the School District made a decision not to build a tenth elementary school, although this is still within its Master Plan. He added that presumably, given the amount of growth, this may cause

another facility to be built to accommodate the children, and the money will be generated from the development that occurs to pay for those facilities. He stated that it is supposed to work in tandem that way, but given the State budget situation, the impact has been dramatic and unfortunate; however, this was somewhat unrelated to the number of facilities.

Commissioner Narum inquired if the City would get a response from the School District with a PUD application.

Mr. Roush replied that the City would see it in the context of the Master Plan, i.e., what are the likely scenarios of numbers of children the development would generate, what are the facilities available, and how will it be paid for.

Commissioner Narum inquired how many units the City still has to allocate to reach the housing cap.

Ms. Stern replied that there are 2,007 units that could be allocated under the new General Plan which were not already shown on the land use map of the 1996 General Plan. She added that there are about 2,400 units to be built under the cap.

Commissioner Narum inquired if the 2,007 units included the Windstar development.

Ms. Stern said yes. She continued that there is a placeholder assumption in East Pleasanton for 250 units, an assumption there would be some densification of Kottlinger Gardens, Pleasanton Place, and certain reserved units that had not been allocated.

Commissioner Narum inquired if these could be accommodated and still have some left over.

Ms. Stern said yes.

Commissioner Pentin requested clarification of an earlier statement that to meet the RHNA numbers, the City only has to rezone for it and does not have to build the units.

Ms. Stern said yes.

Chair Pearce stated that there seems to be some confusion or lack of information about the Task Force in terms of the formulation of the PUD major modification. She requested staff to walk the Commission through the composition of the Task Force and the process anticipated.

Mr. Dolan replied that the item is tentatively scheduled to come before the Council at the first meeting in November, at which time the composition will be finalized. He stated that what came out of the joint meeting was that there would be a committee that would comprise of at least two Councilmembers and two Planning Commissioners, and that

there would be opportunities for the general public and stakeholders to participate. He noted that the Council has yet to determine how all this will exactly work.

Chair Pearce recalled that Mr. Roush had stated only the rezoning is required to comply with Program 19.1 of the Housing Element. She inquired what the City would be left with if the Task Force states that it is too dense or that no residential should be put on the properties. She indicated that it was her understanding that it is not just intent that is important but action being debated, as well.

Mr. Roush replied that if the process resulted in a decision that no residential should go within the Business Park, and, therefore, the City would rezone it to something that would not allow residential, staff would need to find alternative places within the City that would allow high-density housing to be developed or the City would be losing the opportunity to provide affordable housing projects. He clarified that this is not to say that the Task Force could not recommend and the Council adopt a rezoning back to something else; however, as part of the process, the City would still need to identify property where a certain number of higher-density housing could be built.

Mr. Dolan stated that if this were the outcome, staff would probably have to entertain General Plan amendments because most of the General Plan themes point them in this direction.

Commissioner Blank said that he was impressed that there were 19 speakers, all of whom spoke eloquently and directly that they were not in favor of this. He expressed disappointment that the Task Force was never begun. He stated that he found it interesting that not one single person in the community came forward in favor of this, whether developers or affordable housing advocates.

Commissioner Blank stated that he is full of angst because if the Commission recommends approval of this to the City Council, all of the speakers will want to show up at the Council meeting. He added that if the City Council approved it, all of the speakers will want to show up for the PUDs, and a fatigue factor will set in and the people will start to not care. He indicated that he would hate to see that happen and is conflicted by the entire thing. He stated that he was concerned about the Negative Declaration and does not know if there is some middle ground where there may be some flexibility he did not anticipate.

Commissioner Olson stated that some of what he heard tonight is concern that new people coming in will occupy an apartment and not be owners, and, therefore, will not care. He inquired if it was possible for the City to require that the units be owner-occupied as a whole new element of caring is added to the units and the environment if they are occupied by owners.

Mr. Roush replied that his sense is that unless there was particular financing involved that had this as a component, it would probably not be permissible for the City to impose this because there are certain costs involved in the for-sale housing that might

not be true with respect to rental housing. He stated that sometimes there are State tax credit monies available for for-sale housing, but he would be reluctant to say the City could impose this as a condition of the development.

Mr. Dolan stated that it is also not accurate to make the assumption that whatever is developed will be rental – not that rental housing is not needed and that people who live in them are deficient – but that there are densities much higher than 30 units per acre across the freeway in Dublin that are condominium projects that are homeownership. He added that a year ago, developers were pushing two projects, one of which was rental and the other ownership.

Commissioner Narum voiced angst on this, as well. She stated that she thinks the reason the affordable housing people are not present is because this was put into the General Plan, and they may have felt the job was done at that point. She indicated that part of what bothers her is the unknown in terms of what the PUD modification for the business park would end up looking like. She noted that she might feel better if she knew more about it. She stated that she definitely supports rezoning Site 1 across the street from the BART station, as every other community is doing transit-oriented development by BART stations. She added that she thinks she can support rezoning for Site 2 as well, but is having trouble with Site 3 as the southern end of that parcel falls outside the ½-mile radius.

Commissioner Pentin stated that he has issues with the Negative Declaration. He indicated that he was a renter, has a child in school who, he hopes, will be able to return to Pleasanton after college and rent. He indicated that he understands the ownership and pride in neighborhoods and acknowledged that the Commission does not know what type of developments may be proposed; however, to state that the only people who will live in the developments are undesirables is not necessarily true. He stated that he was more concerned about how, should developers come in for the three properties, the School District will take care of the issue, noting that the nearest school is farther than ½ mile away from the transit-oriented development area.

Commissioner Pentin further stated that even though there are 41 or 42 parks in Pleasanton, and knowing what the City committed to with the Bernal Community Park, the Sports Park, and Staples Park, he was concerned with how the City would achieve more park space. He also noted that each parcel was individually owned and that there was no space in Hacienda to create park space. He added that he hoped those questions would be answered during the PUD process.

Commissioner Blank moved to find that the project would not have a significant effect on the environment and recommend approval of the Negative Declaration only for Site 1; to find that the proposed PUD rezoning from PUD-I/C-O to PUD-MU is consistent with the General Plan and purposes of the PUD Ordinance only for Site 1; and to adopt a resolution recommending approval of Case PRZ-48 only for site 1; and to amend the language in Exhibit B, Item 2 that the applicant shall prepare new CC&Rs in plain language, subject to review and approval by the City Attorney.

Commissioner Narum seconded the motion.

Chair Pearce asked staff if rezoning only Site 1 would fully implement Program 19.1 of the Housing Element.

Mr. Roush replied that it would fall short by a couple of hundred units because 521 units are needed and Site 1 would provide only 330 units.

Commissioner Blank stated that those units would not necessarily have to be placed in Hacienda but could be placed by the new BART station on Stoneridge Drive or elsewhere in the City.

Mr. Roush reiterated that in order to fully implement Program 19.1, the City needs to rezone property to accommodate 521 units, and Site 1 would provide only 330 units.

Commissioner Pentin proposed an amendment to the motion to include Site 2.

Commissioner Narum asked staff if this would total 570 units.

Mr. Roush replied that this would allow Program 19.1 to be fully implemented for the 1999-2009 planning period, which is what the City is dealing with in its 2003 Housing Element.

Chair Pearce stated that the Commission can go back and rezone Site 3 later on if necessary. She added that she felt the action tonight would not tie the City's hands if another appropriate configuration is identified in terms of housing dispersal.

Commissioners Blank and Narum accepted the amendment.

Commissioner Blank recommended that those in charge of the process step back and understand why there are 19 speakers who are dead set against this, why what was committed a year ago has not taken place, and how this ended up here. He added that he thinks the Commission should step back and look at this and that he felt the Commission was doing the best it can with something that is not a pretty picture.

Commissioner Olson noted that the Task Force is starting a year later than proposed and agreed with Commissioner Blank that the Commission needs to take into account what was heard tonight.

The Commissioners agreed that they did not want such a delay to recur.

Chair Pearce stated that the Commission recognizes there is general public concern about the process and takes it to heart. She added that the City is committed to a public process and hopes for participation. She indicated that she thinks the desire is to form a Task Force and have complete community involvement in determining the Major Modification and what will be done with the community. She acknowledged the Commission's disappointment with the progress of this process to date and reiterated that the intent is to move forward in a very thoughtful and responsible manner.

ROLL CALL VOTE:

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

Resolutions Nos. PC-2009-32, recommending approval of the Negative Declaration for only Sites 1 and 2, and PC-2009-33, recommending approval of Case PRZ-48 for only Sites 1 and 2, were entered and adopted as motioned.

The Commission took a break at 9:20 p.m. and reconvened to the regular meeting at 9:30 p.m.

a. PPOL-1, City of Pleasanton

Review and consideration of a Planning Policy regarding the definition and licensing of child care uses.

Ms. Stern presented the staff report, stating that the purpose of discussion is to ensure that the Planning Commission recommendation to the City Council for the child care policy is accurately represented. She noted that the attachment to the staff report has been amended, based upon the Commission's discussion at a previous meeting.

Commissioner Narum asked Ms. Stern to comment on calling after-school care an office use and whether this would result in any negative, unintended consequences, considering that letters were received from Peter MacDonald and Scott Raty.

Ms. Stern replied that Mr. MacDonald and Mr. Raty were asking that child care be allowed in areas where office is allowed. She stated that she was not certain it would be called an office use in the zoning ordinance but that staff would treat it as an office use for the purposes of the zoning ordinance.

Mr. Dolan stated that this could be interpreted either way, but the intent is that it be treated as such, which then has implications for location and also for traffic impact fees.

He indicated that there may generally be a greater trip generation during the peak hour for a child care use than office use. He added that it might also impact occupancy; however, he was not certain whether the proposal to do that necessarily ventured into that area.

Referring to Option 1 where a child care license is required, Commissioner Narum inquired if this would then require the building to be an E Occupancy.

Mr. Dolan replied that this is a downside if the objective is not to spend money but an upside if one is trying to have the fire protection match the use. He stated that with the City's policy, there are many uses that are excluded for the policy staff is recommending, and the one most controversial and the best example is the heritage school type. He noted that the reality is that the Commission could not have approved the Little Ivy League School the way it did if the Council adopts the policy staff is proposing.

Commissioner Narum stated that what still is unclear to her is the sports groups, such as soccer, little league, water polo, swimming, where if the policy allows ten hours or less per week without transportation, then applicants would not fall under this. She noted that children are typically at practices over ten hours a week.

Commissioner Blank agreed and stated that this is especially true with the more competitive leagues.

Commissioner Narum expressed concern that all non-profit volunteer organizations now must fall into this under either scenario.

Commissioner Blank stated that he has been involved with soccer teams in which background and screening are administered, but he agreed that he would not expect them to fall under this policy.

Commissioner Narum requested clarification because she felt that it might be included the way it is written.

Mr. Dolan replied that if it is an issue of hours, then it should be changed because it is not intended to include those groups.

Commissioner Narum stated that this would be taken care of if all City co-sponsored organizations were exempt.

Chair Pearce stated that there are also many non-City-sponsored organizations that have this issue.

Commissioner Narum stated that some of those would be for-profit in all likelihood.

Chair Pearce noted that the problem would still exist because the children are competing and going for more than ten hours. She indicated that she was not sure she wants them subjected to regulations.

Commissioner Pentin agreed and stated that the First Tee program at the Pleasanton Golf Course is a good example. He noted that as children are supervised there, they can be out there 20 hours a week practicing into the evenings, in which case they would fall under this.

Commissioner Narum noted that most of those groups require and conduct background checks of some sort. She added that it would appear almost all athletic groups will have a significant number of children affected, thereby forcing those organizations to come under Alternative 1 or 2.

Ms. Stern stated that the Commission could write a specific exemption for those types of groups, such as those types of co-sponsorship groups that participate in background checks.

Commissioner Pentin indicated that he was involved with one of the largest junior golf organizations in the State that implements a child protection plan that requires background checks. He noted that if they ran a program in Pleasanton, they would have their own background checks in place. He inquired if these organizations would be exempt.

Commissioner Narum referred to the list on page 1 of Attachment 1, second bullet point from the bottom.

Mr. Roush stated that he thought the qualification for child care is where families rely on the facility for actual child care for their children. He added that he did not consider a sports situation as child care.

Ms. Stern noted that the previous paragraph discusses operating year-round in a permanent facility, which is why the aquatics group came up, but that perhaps some of the other groups would not come under that.

Commissioner Narum stated that she felt the leagues would be competitive and year-round, but most likely not all in a permanent facility. She noted that gymnastics is year-round and that when the ice rink is built, there will be figure skaters and hockey players practicing more than 20 hours a week.

Commissioner Olson noted that the objective in those is sports training and not child care.

Commissioner Blank stated that he does not know anyone who participates in competitive activities that rely on it for child care.

Commissioner Narum stated that this leads to a determination of what relying on the facility for child care is.

THE PUBLIC HEARING WAS OPENED.

Peter MacDonald stated that both he and Brad Hirst both had the experience of guiding clients through the City's approval process for after-school care and tutoring facilities. He noted that for the small-business applicant, the process is lengthy, taking over six months, and is uncertain, expensive, and agonizing. He indicated that he welcomed the Council's directive that the approval process for after-school care be simplified; however, he felt the child care policy before the Commission was anything but a simplification of the process and literally adds a new process of State licensing without reducing the City's process. He added that it eliminates after-school care from the most functional locations in the City like Hacienda Business Park, the shopping centers, and the Downtown.

Mr. MacDonald stated that by requiring State licensing, after-school facilities would need to provide 75 square feet of outdoor play space per child, making the few remaining locations in the City unfeasible. He added that it raises the cost of after-school care substantially by subjecting new operators to huge traffic fees and potentially to impossible building improvement requirements. He indicated that he does not think this is what the Council had in mind when it commissioned this policy. He noted that the draft policy contains everything that was rejected by the City Council when Anne Fox proposed that those policies apply to the Little Ivy League School.

Mr. MacDonald stated that while Brad Hirst and he have represented after school providers in the past, the Commission and the City Council represent the parents. He noted that an intelligent after-school policy needs to start from the perspective of working parents who need after-school care and want abundant options close to home at reasonable cost with provisions for safety and security. He indicated that the alternative for most parents is to have their children waste time watching TV as latchkey children or worse. He added that from a land use perspective, after-school care without playgrounds is a completely innocuous use and less significant than most office uses in terms of parking, traffic, and impact upon neighboring businesses. He stated that the policy needs to focus on what parents are interested in, which is the safety of their children and not the location of the facility. He added that an intelligent after-school policy looks like the Little Ivy League School Conditional Use Permit, which the Planning Commission fine-tuned with excellent results.

Mr. MacDonald stated that his letter quoted a list of standards which was developed by Planning staff, a list that the Commission expressed preference for the last time the issue was heard. He read some of the standards into the record and suggested adding "disclosure" to the list so parents know what standards the providers are required to meet and have access to the non-confidential information required from the providers. He stated that there is no reason to put every provider through a six-month process to come up with this same list of requirements and have different standards for each

provider. He suggested that those objective standards be listed and have Planning staff verify that applicants comply with them. He noted that if staff works with objective standards, they will discover real issues, such as what level of screening parent volunteers should go through, how to deal with a criminal charge that never resulted in a conviction, and how the applicant information is kept updated. He indicated that he felt working together will result in the development of efficient and objective standards which will reduce rather than increase the barriers to after-school care.

Commissioner Narum asked Mr. MacDonald whether he was supportive of a planning policy or an ordinance.

Mr. MacDonald replied that he felt creating a category like after-school care and thinking through the rules would have to be done as an ordinance which should be made easily accessible to the public. He noted that one of the problems that currently exists is that City policy is difficult to find and open to interpretation and extrapolation.

Commissioner Olson inquired if the text of Mr. MacDonald's presentation could be used to create an ordinance.

Commissioner Narum stated that he felt the details would need to be filled in. He added that there ought to be a disaster plan on an 8.5 inches by 11 inches sheet with a diagram showing where the exits are, etc.

Commissioner Blank stated that he agrees that specificity needs to be in place so that the applicant has a list of the things he/she needs to do, whether it be in the form of a policy or an ordinance. He added that he felt this was the preference of the Commission the last time it was discussed.

James Paxson stated that he thinks child care is a complicated issue and that all issues have been vetted well. He indicated that he is less interested in commenting on what policy is adopted than on its effects and what is being done to go forward. He reiterated Mr. Dolan's comment that should the Commission adopt certain provision on some of the alternatives, Little Ivy League School would not be able to be located in Hacienda right now. He noted that there are other uses that he thinks would have the same fate and he felt this would be a shame as there are very good locations for these types of facilities that are successful.

Mr. Paxson noted that the issue of requiring outdoor play and co-mingling with businesses is more difficult to figure out. He stated that one of the solutions, depending upon which policies are advanced, would be to do a PUD modification for the Park to look at how underlying zoning interfaces with whatever child care policy or ordinance is adopted. He indicated that because of the complexity of Hacienda's PUD and its variety of zonings, he would be more than willing to work on this to figure out how to apply the adopted policy to the Park.

Mr. Paxson reiterated that there is absolutely a need for child care facilities. He stated that he believes it is an important component of what Hacienda is trying to accomplish with some of the mixed-use nature of the Park that has emerged over the last 25 years. He continued that Hart Middle School, a private elementary school, private child care facilities, tutoring facilities, and others help knit the fabric of Hacienda. He indicated that Hacienda wants to continue working with the Commission and hopes to be able to be able to mesh with whatever is approved.

THE PUBLIC HEARING WAS CLOSED.

Commissioner Blank referred to Exhibit B; the refined version with revisions labeled "Alternative Planning Policy," and the City Council staff report it intended to accompany. He indicated that he finds that the staff report is not very objective, with the lack of objectivity ranging from subtle to obvious. He noted, for example, that the second paragraph under the Planning Commission Recommendation in Exhibit A states: "The Planning Commission reviewed the draft planning policy. The Commission generally favored the alternative policy". He stated that there is a subtle difference in that there is a planning policy versus an alternative policy. He indicated that he is extremely sensitive to the language that implies that Option 1 is a planning policy and Option 2 is an alternative policy.

Commissioner Blank continued that the amount of space used to justify the City proposal is almost three pages of discussion, and the amount of space dedicated to discussing the Planning Commission proposal is on one page. He noted that the most glaring lack of objectivity is where the staff report very clearly points out why staff is not supporting the Planning Commission recommendation; however, nowhere in the staff report does it point out why the Planning Commission chose that recommendation and did not support staff's recommendation. He indicated that the issue of the lack of responses from the State and the issues the City had in dealing with the State of California over the Pfund application were key to this Commission's recommendation for Option 2. He noted that this was not discussed at all in the staff report, which, in his opinion, was blatant bias.

Commissioner Blank stated that this is the challenge he thinks staff faces and that this is a great example of why he believes the report needs to come back to the Planning Commission. He indicated that he was sure staff did its best to write an objective and balanced report but that this is very difficult to do without sitting down with the persons on the other side of the table and ask whether or not their position was reflected accurately. He stated that he believed Exhibit B was easy to fix but that the staff report needs a lot of work.

Commissioner Olson stated that he thinks Commissioner Blank's comments were well stated.

Commissioner Pentin also agreed. He reiterated that under "Recommended Planning Policy," there was a Catch 22 in the policy between the State and the City. He referred to the last item on page 2 of Attachment 1, which states that a child care or child day care needs a State license to do business in Pleasanton. He noted that the City may require the State license, but the State does not issue a license if it determines that the facility is exempt. He added that this staff recommendation does not fall under anything the Commission discussed.

Commissioner Narum noted that she was not at the last meeting and that she spoke with Mr. Dolan and suggested the item be brought back to the Commission for further discussion. She indicated that she had requested to refine the option, which she felt was the better choice.

Chair Pearce stated that she was certain no one on the Commission was in favor of State licensing for what the State considers exempt.

The Commissioners agreed.

Commissioner Olson disclosed that he had a discussion with Brad Hirst and that one of the points he made to him as a possible issue is having background checks done, which cannot be done by the Police Department because it is not a City ordinance. He noted that what the Commission is recommending is partly due to the Pfund experience and that the objective here that no one is taking issue with is the safety and protection of the children. He indicated that one part of this is to conduct background checks which should be part of the policy, but the question is how this would occur.

Mr. Dolan agreed that this is an issue. He stated that if the Council ultimately picks the alternative that the Commission favors, it is almost certain that an ordinance amendment will be done that directs the Police Department to do those background checks, in the same manner that it performs them for massage operators. He noted that the Police Department's position is that unless authorized and directed by an ordinance, they will not do background checks.

Commissioner Blank inquired if there were other alternatives, which is where he finds imbalance in the staff's recommendations, stating that the private industry outsources background checks all the time at a low cost.

Commissioner Narum stated that there needs to be standards as well.

Commissioner Blank agreed. He suggested that a background check could include a DMV check, judicial records in every county in the State of California, and other requirements.

Chair Pearce inquired whether the Commission needs to provide that level of specificity before the City Council determines this is the direction it needs to go as she believes the Commission should not get bogged down in the details.

Commissioner Narum indicated the City has a massage ordinance that works well. She inquired why the City would not also develop a specific ordinance dealing with children.

The Commissioners agreed.

Commissioner Narum thanked staff for its work but added that she would like to see the Commission's preferred policy in terms of an ordinance with the things listed made more specific. She stated that she thinks that at some point, depending on the number of children where it is considered an assembly, an application would need to come to the Planning Commission. She indicated that children's safety is what is most concerning and that this is the message she wants to send to the City Council and one of the reasons why she wanted another discussion.

Commissioner Blank agreed.

Chair Pearce confirmed that all the Commissioners were in unanimous agreement in terms of what is currently being termed as the "Alternative Planning Policy" as opposed to the one that requires State licensing. She suggested going through the "Alternative Planning Policy," recognizing that the Commission may want to change it to an ordinance or add more objective standards and talk about the text.

Commissioner Narum stated that another part of this would be, if the City went to an ordinance, having approvals done at the staff level, given a clear-cut set of standards to address.

Commissioner Blank recalled the discussion the Commission held on age and stated that the Commission used 15 years and under. He further recalled that Commissioner O'Connor had suggested the "under 18 years."

Commissioner Narum indicated she thought it was "16 years," noting that one of things considered was whether or not the child is being picked up or escorted from school to the facility by the applicant as opposed to going home and then going to a soccer practice or an hour of tutoring.

Commissioner Blank questioned whether a 16-year-old who would be driving would really need to be signed in and out by parents.

Commissioner Pentin stated that an exception could be made for the sign-in and sign-out policy for certain ages. He noted that the purpose was for the safety and welfare of children, and anyone below 18 years is considered a minors.

Chair Pearce agreed that a certain age could be required only for sign-in and sign-out purposes. She added that she still liked the requirement for first aid and CPR training as well as a disaster plan.

Commissioner Blank suggested making the sign-in and sign-out policy for “15 years and under.”

Commissioner Olson agreed.

Some of the Commissioners indicated that this was not what was done for Little Ivy League School.

Commissioner Narum stated that she thought what was typically done is for “12 years and under.”

Chair Pearce stated that she felt bound to what was done for Little Ivy League School, and all the Commissioners unanimously agreed using “under 16 years.”

Commissioner Pentin suggested changing the phrase in the last paragraph of page 2 of Exhibit B, “Alternative Planning Policy,” from “...granted an exemption from licensure...” to “...granted an exemption from State licensure....” He inquired whether the Commission was even requiring child care providers to apply to the State.

Commissioner Blank replied that if the State requires the providers to be licensed, then they must go through the State.

Commissioner Narum clarified that as part of getting their business license, the providers would have to come in with a letter saying they were exempt from State licensing.

Chair Pearce agreed. She added that it would then trigger the disclosure or whether parents must sign it when they bring in their child.

Commissioner Narum suggested adding a bullet that relates to disclosure.

Commissioner Blank requested that it be a plain language disclosure.

Chair Pearce inquired whether the Commission wanted to discuss liability insurance.

Commissioner Olson stated that he felt providers could easily generate that by simply calling their agent.

Commissioner Pentin inquired whether or not the Commission needed to discuss the exclusions on page 1 of Exhibit B.

Chair Pearce stated that she felt this should be slightly modified.

Chair Pearce stated that she thinks there were problems with the fact that it states, “fewer than 10 hours per week” as there are children going to facilities more than that, which would trigger all of the other things which are not necessarily appropriate.

Commissioner Narum suggested language to indicate that children are not being transported.

Commissioner Blank suggested excluding organized, competitive, and athletic items.

Commissioner Pentin noted that every child in martial arts is competitive.

Commissioner Narum stated that these types of activities should be distinguished in that parents are not relying on the service for child care.

Commissioner Blank suggested taking some of the language from page 1 of the report and indicated that "...where families rely on the facility for child care" could be incorporated into some of the exclusions.

Commissioner Narum suggested transportation be identified.

Chair Pearce inquired what would happen in the summertime when children are driven by parents to facilities and stay there for more than ten hours.

Commissioner Blank asked staff if they had a sense of what the Commission wanted.

Mr. Dolan clarified that the Commission wants parallel language to the other policy relative to relying on it, which is related to whether you drop off or not, and the Commission wants to delete the hours; the length of time children spend in the facility.

Commissioner Blank emphasized the reliance or expectation on the facility for child care.

Commissioner Pentin inquired how this is determined, and Commissioner Narum replied that it would depend on whether or not the children are picked up from school.

Commissioner Olson inquired if the Commission has dealt with the Hacienda issue, i.e., if the Commission continues to have something in place that would prevent child care in Hacienda. He noted that the point made is that there should not be a geographic restriction within the City. He stated that he did not want child care restricted to a few locations in the City.

Ms. Stern stated that calling it "child care" is a problem for the Hacienda PUD as it stands right now, but that it could be fixed so it solves the outdoor recreation issue as it talks about a programmatic equivalent. She noted that there are only a couple of existing sites in Hacienda where calling it "child care: would be allowed.

Commissioner Blank noted that a Major Modification for Hacienda must be done in any event. He inquired whether there would be value with the Chair appointing a couple of Planning Commissioners to work with staff on some of the details to ensure each item is

defined to the level of specificity necessary so this can be an over-the-counter type of approval.

Mr. Dolan stated that staff is willing to work with a subcommittee if the subcommittee can work quickly.

Chair Pearce stated that she did not want to spend days on it and that if the Council chooses the Planning Commission-recommended alternative, it would have to come back to the Commission. She added that if the Commission decides it wants an ordinance versus a policy, it would need to return to the Commission as well.

Mr. Dolan agreed that if the matter ends up in the zoning ordinance, it would have to return to the Commission.

Chair Pearce inquired where the public would find the policy if it were a policy as opposed to an ordinance.

Mr. Dolan replied that it could be placed on the website. He added that staff has some administrative policies that have been adopted by the City, most of which have not come before the City Council; however, the child care policy would have that added authority behind it. He indicated that policies would be more common and ultimately would be put on the website or linked to the Code.

Chair Pearce inquired if this was on the Council agenda to go forward.

Mr. Dolan replied that when staff decided to bring it back to the Commission, it was taken off the Council agenda; however, staff would like it returned as soon as possible. He noted that some of the pressure had been relieved by processing some of those being held up, but as alternatives were developed, the non-controversial ones were clearly going to be allowed to pass through.

Chair Pearce stated that she was interested in appointing a subcommittee to speed up the process.

Commissioner Narum stated that she would be fine with taking this to Council with the changes discussed, indicating that the Planning Commission strongly supports this and would like to see it in the form of an ordinance so that applications can be handled across the counter.

Commissioner Blank inquired if it is staff's preference to take the matter to the Council and have it decide.

Mr. Dolan said yes. He noted that if an ordinance were proposed, another process would need to occur.

Commissioner Narum requested that if this was going to be an ordinance and handled across the counter, applications with a certain number of students would warrant review by the Planning Commission. She suggested the number 25-50, similar to an assembly number.

Commissioner Blank and Chair Pearce said this has been done; the threshold number was 20 or 25.

Commissioner Blank added that if the application was for 20 children or more, it should go to the Planning Commission for a use permit.

Chair Pearce clarified that it would be an over-the-counter approval for 20 students or less. She asked staff to be consistent with whatever is done with the schools and tutoring.

Ms. Stern confirmed that 20 students or less would be processed through the ordinance, and over 20 students would be processed as a use permit.

Commissioner Narum also suggested the idea of a 24-hour cooling-off period on any application related to child care, where an applicant could submit all paperwork for the business license and return in 24 hours to give time staff to review the request.

Commissioner Blank stated that staff would not be able to review an applicant's documentation for criminal background check, health screening, sign-in and sign-out sheet, CPR training, disaster plan, driver's license, driver's and liability insurance, open space equivalent, fire and safety codes, restrooms, and plain language disclosure in less than 24 hours. He noted that staff would simply receive all the documentation, review them, and then approve the application.

The Commissioners agreed.

Mr. Dolan inquired whether or not the Commission wanted to explore the exclusion language.

Ms. Stern stated that the concept of finding that these are uses where parents rely on them for child care is what everyone knows as child care. She noted that she felt it was difficult to translate that into language but that staff can work on it. She added that the hours came out of the desire for an objective measure, i.e., whether or not the child stays at the facility for 10 hours or not.

Commissioner Blank stated that as Mr. Roush indicated earlier, child care is reliance on picking-up and dropping-off, that it is a "sniff test," and that when people bring in an application and they have everything that is needed, it will be obvious as to whether or not it is a child care or not.

Mr. Dolan said he did not think a “sniff test” was hard to administer, but noted that if the Commission goes this way, it should recognize that Little Ivy League School would fall under this because it does pick-up and would not have been exempt.

Commissioner Blank stated that this was fine. He inquired whether the Commission will see a revised staff report.

Mr. Dolan replied that staff will consider comments and inquired if the Commission wanted to expand on the Human Services Commission’s position.

Commissioner Blank replied that because he was not at that meeting, he did not have the benefit of creating their position and, therefore, cannot advocate for them.

Commissioner Olson recalled that at the previous meeting, he had commented that he agreed with the Human Services Commission’s point that some of the onus need to be put on the parents to know where they are putting their child.

Commissioner Narum referred to Chair Pearce and inquired if the speakers wanted to make any additional comments.

THE PUBLIC HEARING WAS RE-OPENED.

Mr. MacDonald stated that he thinks the discussion was great and that everybody was engaged in it. He asked that the City follow-through with an ordinance to make sure that after-school care can be offered anywhere an office use is allowed. He indicated that he believed a category needed to be added by ordinance and the development of a set of definitions that would allow a broad number of locations.

THE PUBLIC HEARING WAS CLOSED.

Chair Pearce inquired if it was staff’s intent to return the item to the Commission.

Mr. Dolan replied that he had hoped the matter could be completed this evening. He added; however, that there is flexibility in the Council’s date and that it could be returned to the Commission.

Commissioner Blank suggested an email review.

Chair Pearce voiced Brown Act concerns with this method.

Mr. Roush stated that Council consideration would probably not happen in October, and therefore, there should be sufficient time for the matter to return to the Commission, as necessary.

Mr. Dolan suggested it return as a Consent item. The Commissioners agreed.

7. MATTERS INITIATED BY COMMISSION MEMBERS

Commissioner Blank moved that the Planning Commission formally commend and thank Michael Roush for his many years of fine service, patience with the Planning Commission, his sage advice, and his outstanding service and dedication to the City and the planning process in Pleasanton. Commissioner Olson seconded the motion.

ROLL CALL VOTE:

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

8. MATTERS FOR COMMISSION'S REVIEW/ACTION

a. Future Planning Calendar

Commissioner Blank inquired if the October 14, 2009 agenda would include the Home Occupation Ordinance.

Mr. Dolan indicated that he would check on it and confirm the date.

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

- a. Brief report on conferences, seminars, and meetings attended by Commission Members

Chair Pearce reported that the Bicycle and Pedestrian Master Plan was discussed at the last City Council meeting and that Council action would be taken next month.

12. ADJOURNMENT

Chair Pearce adjourned the Planning Commission meeting at 10:28 p.m.

Respectfully,

DONNA DECKER
Secretary