



PLANNING COMMISSION MEETING MINUTES

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

APPROVED

Wednesday, April 25, 2018

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

1. CALL TO ORDER, PLEDGE OF ALLEGIANCE, AND ROLL CALL

The Planning Commission Meeting of April 25, 2018, was called to order at 7:06 p.m. by Chair Nagler.

The Pledge of Allegiance was led by Commissioner Brown.

Staff Members Present: Gerry Beaudin, Director of Community Development; Ellen Clark, Planning Manager; Dan Sodergren, City Attorney; Jenny Soo, Associate Planner; Jennifer Hagen, Associate Planner; Kendall Granucci, Recording Secretary

Commissioners Present: Commissioners Nancy Allen, Jack Balch, Justin Brown, Greg O'Connor, Herb Ritter, and Chair David Nagler

Commissioners Absent: None

2. APPROVAL OF MINUTES

a. March 14, 2018

Commissioner Allen moved to approve the Minutes of the March 14, 2018 meeting, as submitted.

Commissioner Ritter seconded the motion.

ROLL CALL VOTE:

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

The Minutes of the March 14, 2018 meeting were approved, as submitted.

b. March 28, 2018

Commissioner Ritter moved to approve the Minutes of the March 28, 2018 meeting, as submitted.
Commissioner Allen seconded the motion.

ROLL CALL VOTE:

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

The Minutes of the March 28, 2018 meeting were approved, as submitted.

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

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

4. AGENDA AMENDMENTS

There were no amendments to the agenda.

5. CONSENT CALENDAR

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

There were no consent calendar items.

6. PUBLIC HEARING AND OTHER MATTERS

a. PUD-125, Carpenter's Training Center

Application for Planned Unit Development (PUD) development plan approval to demolish an existing 67,000-square-foot building and construct a new 87,000-square-foot two-story Carpenter's Training Center with associated site improvements located at 2350 Santa Rita Road. Zoning for the property is PUD-O/C-C (Planned Unit Development -Office/Central Commercial) District.

Associate Planner Jennifer Hagen presented the agenda report.

Commissioner Balch referred to the parking demand condition during phasing and confirmed with Ms. Hagen that prior to receiving a building permit there will be enough parking for zoning and use.

Commissioner Allen asked about circulation, specifically traffic exiting left onto Santa Rita Road and questioned options if volumes worsened over time.

Ms. Hagen explained the current policy and procedures of the Traffic Engineering Division. If there is increased traffic, staff will work with the property owner and implement mitigation for a right-turn only if needed.

Chair Nagler asked and confirmed an increase in the number of students would result in additional turns out; however, there would be no impact to circulation.

THE PUBLIC HEARING WAS OPENED.

Architect Steve Guest spoke in favor of the project, echoing the comments made by staff and said he was available to answer questions.

Chair Nagler referred to page A0.2 and confirmed the trees reflected in the entryway are existing mature trees. Mr. Guest added that the island was designed around the existing mature trees.

Chair Nagler asked and confirmed the trees will mature upon completion of the project.

Commissioner Ritter spoke in support of the steel wall panels but was opposed to the gabion wall.

Mr. Guest explained the layout of the walls and Commissioners unanimously supported the idea of breaking up the gabion wall similar to the steel wall.

THE PUBLIC HEARING WAS CLOSED.

Commissioner Allen spoke in support of the natural, modern design and considered the streetscapes as a model for the City. She voiced concerns to the blue color of the statue and requested the applicant consider an alternative modern rustic metal which would compliment the natural stone wall.

Commissioner O'Connor spoke in support of the project, noting the applicant had provided everything the Commission requested in previous meetings. He commented he would still prefer the building be placed on the front of the site but was supportive of what has been submitted.

Commissioner Ritter echoed the comments of Commissioner Allen and reiterated his comment about breaking up the gabion walls.

Commissioner Balch spoke in support of the project and thanked the applicant team for taking into consideration the requests of the Commission and ultimately presenting a very well-designed project. He echoed comments of Commissioners O'Connor and Ritter relating to breaking up the gabion wall and the fact this is a compromise and that the building on the front of the site would have been more ideal.

Commissioner Brown echoed comments of other Commissioners and suggested the applicant consider bulb outs to accommodate benches or other pedestrian elements.

Chair Nagler echoed previous comments and thanked the applicant team.

Commissioner Balch moved to recommend approval of Case PUD-125 to the City Council.

Commissioner Ritter seconded the motion.

ROLL CALL VOTE:

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

Resolution PC-2018-08 recommending approval Case PUD-125 was entered and adopted as motioned.

Commissioner Balch recused himself from participating in Item 6.b. due to an economic conflict of interest and he exited the Council Chambers.

b. P16-1883/P16-0288, Chabad of the Tri-Valley

Applications for Conditional Use Permit and Design Review approvals to operate a religious institution with a childcare facility/preschool and for site modifications including a playground and outdoor terrace at 3370 Hopyard Road. Zoning for the property is RM-2,500 (Multi-Family Residential) District.

Associate Planner Jenny Soo presented the agenda report.

City Attorney Dan Sodergren acknowledged comments received with regard to the federal Religious Land Use and Institutionalized Persons Act (RLUIPA) and said he had provided the Planning Commission with a confidential memorandum regarding legal advice pertaining to this application.

Commissioner Ritter referred to Figure 1 and asked staff to identify where other daycares are located. Ms. Soo then pointed out nearby daycares in the figure.

Commissioner Allen asked about General Plan versus zoning which are different. Ms. Clark responded that in this instance they are consistent because both the General Plan designation and zoning allow for the proposed use.

In response to a question from Commissioner O'Connor, Ms. Clark explained that based on staff's calculations the Chabad property distance is 70 feet from the northern property line and about 108 feet to the nearest home. It would be about 83 feet to the nearest residence and about 20 feet between the home and rear property line of approximately 63 feet.

Commissioner O'Connor asked about tenant improvements, specifically the conversion of the bathroom to one youth bathroom for 48 children, one bathroom with no separation for men and women for up to 120 individuals during events, and asked if this would be adequate and also meet zoning requirements.

Ms. Clark replied that this issue would be resolved through the building permit process. The applicant will need to provide adequate bathroom facilities to accommodate all needs of the entire project, in accordance with the building code.

Commissioner Brown asked about the RM-2,500 multi-family residential district zoning and if someone were to operate a day care out of their home, he asked what would be the limitation before a CUP would be required. Ms. Soo replied that the maximum is 8 children for small daycares and 14 children for a large daycare which requires City approval but no conditional use permit.

Chair Nagler asked if there was anything out of the ordinary for this application. Ms. Clark replied that preschools and daycares are common throughout the city; most churches and religious facilities have daycare facilities associated with them.

In response to Commissioner Brown, Ms. Clark stated not that she was not aware of any limitations to the number of people which may gather in a residential backyard at any given time.

Commissioner Brown disclosed that he has two children that attend St. Clare's preschool but he has no financial interest in the project and he also met with the applicant and with the Millers.

THE PUBLIC HEARING WAS OPENED.

James Schwartz, attorney representing the applicant, introduced Neil Newman and requested the Commission not look at previous commercial tenants in the building which rented the facility out extensively, and stated the Chabad is a house of prayer and education. He referred to the City Attorney's memo regarding RLUIPA and did not believe many of the restrictions that have been put on Chabad as a religious organization are the least restrictive and did not believe they comply with RLUIPA.

Mr. Schwartz spoke to the layout of the property, said they are willing to accept the condition to move the playground to the west side of the property as staff requests but do not accept the fact that one-third of the property cannot be used at all. They propose a biblical garden in this location that would be used for small group contemplation, counseling and prayer. They are opposed to restriction of playground hours and do not agree with the condition that they cannot open doors or windows.

He explained that Chabad has been using the building for two years for all kinds of events and there has never been a parking problem or complaint. They also have a parking agreement with St. Clare's Episcopal Church. He was opposed to Condition No. 52 relating to loitering which he thought was unconstitutional and which is not prohibited by city ordinance.

Neil Newman, Director of Security and Building Development, Chabad of Tri-Valley, said he understands the neighbors' concerns given the Masons as previous tenants and questioned why the Chabad should be subjected to the negative reputation and commercial rental operations of the Masons. He provided support for the project and spoke to the character of the Chabad community, said they will improve the community and asked for the Commission's support.

Rabbi Resnik introduced his wife, Frumah Resnik and briefly provided a historical account of the Chabad of Tri-Valley and described the use of the backyard area.

Frumah Resnik spoke of the importance of early childhood years and the childcare center which is the foundation of every child's strength and involvement of families.

The following individuals spoke in opposition to the application:

- Stuart Flashman, attorney for the Millers, voiced opposition, spoke to provisions of the RLUIPA, questioned the maximum occupancy of the enclosed area, voiced concerns with the right to hold two large events per year with amplified music, 10-15 events for up to 120 people, BBQs, picnics, and other events spilling to the outdoors running up to 10 p.m., unlimited use of the terrace by groups of less than 25 people and without consideration of noise impacts. He said the only analysis of noise was for the preschool and he asked for balance.
- Derek Watry, acoustical engineer hired by the Millers, argued that the Chabad noise study took an average reading and did not consider a maximum. He argued that large assembly events were not reviewed and spoke in opposition to the project due to noise impacts, argued that the six-foot fence would not mitigate noise issues and pointed to the Young Ivy project which was denied due to noise issues.
- Darlene Miller, neighbor, acknowledged support for Chabad as tenants and explained their objection was to noise impacts of outdoor use, and said they now have up to 25 immediate households who have signed a petition for no outdoor activity. She noted that Chabad is also aware of the City Council's unanimous decision to vote for no outside activity.
- Michael Miller, neighbor, spoke to significant noise impacts, specifically outdoor uses requested by Chabad which they claim are required by their faith.
- Usha Gurazada, neighbor, asked to know what recourse citizens have if the noise becomes a nuisance.
- Connie Cox, neighbor, spoke about lack of communication and neighbors' concerns regarding noise, traffic and parking, lighting and location of sheds.
- Bhaskar Maddi spoke in opposition to the project with regard to parking and noise.
- Kartnik, neighbor, spoke in opposition to the project due to noise and was opposed to the 100-foot buffer zone which is drawn to his bedroom. He did not oppose project in its entirety and was supportive of daycares but said noise will be excessive and he asked for equity. He was also opposed to parking behind his house and asked that consideration be given to the location of the playground.
- Shyamal Gurazaoa, neighbor, spoke in opposition to the project for noise on weekends and evenings.
- John Nutterfield, voiced support for the Millers and the problem regarding noise and future amplified outdoor events. He is a retired police officer and spoke to the burden placed on police to enforce noise, and said he also loves having Chabad in the neighborhood as compared to the Masons.

Members of the Chabad community spoke in favor of the project, explaining the character and philosophy of the Jewish faith and provided personal comments in support of the application.

- Rebecca Banks, high school student, spoke of the Rabbi's guidance and assistance to the elderly and tutoring children.
- Sue Mallah, Pleasant Hill, spoke of the foundational teachings of the Chabad and asked the Commission to listen to both sides as they want to bring peace and harmony.
- Paul Levinson said he came from Russia where his family could not practice Judaism, stated his daughter goes to Hebrew School and believes the entire community is inclusive and peaceful.
- Steve Deselms voiced support for the project.
- Rev. Ron Colmer, St. Clare's Church, voiced support of Chabad over the Mason's operations and thinks it is important to show good relations between Christians and Jews.
- Fran Herts, San Leandro teacher, cited Pleasanton as an all-inclusive community, thinks neighbors are misguided regarding noise, and voiced support of the application.
- Ilene Cooper echoed Ms. Herts comments.
- Leonard Cooper said he was a reserve police officer for Pleasanton and spoke of the noise meter police use in measuring sound based on the ordinance. He has never been to a Jewish event where noise was a problem, but if it were, he suggested contacting the Police and/or closing down the event.
- Michael Fluss said his five children make noise and noted that breathing requires 10 decibels and human speech 50 decibels. He suggested neighbors move if they cannot tolerate listening to children talking and laughing.
- Lloyd Felix said he is a realtor and has witnessed changing City demographics with more and more young children. He asked the City to evolve, accommodate more needs and voiced support of the application.
- Douglas Banks spoke of his children's attendance to preschool and Hebrew School which have benefitted them and the community. He agreed the site is large and said it could have accommodated multiple homes instead and he asked that Chabad not be compared to the previous use by the Masons.
- Dr. Jason Belk spoke of his children who have attended Chabad since a young age and who questioned him why there is an issue about playground noise. Parking has never been a problem at events and to be courteous to neighbors his family walks and parks from afar to accommodate neighbors.
- Jonah James, high school student said he has been active in Chabad and thinks exposing children in their early years to the Jewish culture is important and vital for fostering Judaism.
- David James spoke of the Jews' history of unwillful confinement which now seems to also extend to young people. He spoke about definitions of disturbances of peace, said licensed preschools and religious centers have a higher noise sensitivity requirement than actual residences, and no complaints have been received from the minister across the street.
- Naomi Bloom, student at Chabad, spoke about her learning from Jewish preschool and said they will be peaceful and respectful neighbors.
- Todd Katz agrees that people are concerned with neighborhood noise but jokingly suggested relocating all neighbors' houses about 70 feet to the north, keeping barking

dogs inside, turning off air conditioners and limiting neighbors' use of their backyards to 30 minutes a day between 2 and 3 p.m.

- Jim Shiffer, Treasurer of St. Clare's, said he negotiated the 50 year parking agreement with Chabad, said the playground needs to remain on the north side of the building and asked that Chabad put a parking lot between their two parking lots for access reasons.
- Sagir Weiss-Ishai said he is an architect/engineer for the City and County of San Francisco and he issues many fire permits and occupancies for daycares. His job is to ensure places are safe and he said there are hundreds of similar projects in San Francisco with no problems and voiced support of the project.
- Shira Weiss-Ishai, 13 year old student and student of Chabad, said she did not see that residents living next to preschools and schools were complaining of noise from children.
- Marina Abreckov, junior at Amador Valley High School, said Chabad is the only Orthodox synagogue in Pleasanton and is very much needed.
- Alex Roshal said he has two grandchildren attending Hebrew School, is the Chief Building Official for a Bay Area city, and 70 dB noise levels are those encountered from construction equipment which cannot be compared to children playing. The project is straight-forward and he asked for approval.
- Karina Abreckov questioned why people would be opposed to the project and said if the application is denied the real disappointment will lie in the community.
- Ariel Burstein, 12 year old student, spoke of her positive experiences and influence from her teachings of Chabad, and asked for support.
- Viktoria Garo said the beauty of Pleasanton is the ability to celebrate the outdoors, noise is a normal part of family life, and Chabad is an investment for the community.
- Leia Ziropiannis, 3rd grader and Hebrew School student, supported the playground and project.
- David Silberman said this is about NIMBY and thinks neighbors should be required to have permits for all outdoor activities at their homes. If noise levels are excessive he suggested neighbors call and also suggested Chabad have a noise monitor for neighborhood homes to be fair.
- Amit Noble, high school student, said Chabad is trying to connect people to their roots and what being Jewish means. He was part of a Chabad Teens program and could not have learned many things in his journeys without Chabad.
- David Grossbaum said he moved from New York to Pleasanton and thinks the sounds of little children are beautiful.
- Daniel Jontof-Mutter said Chabad needs the playground for children, noting he lives next door to an elementary school with a lot more noise than Chabad would ever produce outdoors.
- Judie Lawrence said she worked for the Rabbi in the same building as they housed their preschool and she was never disturbed by noise from children.
- Natasha Radovilsky said she is from the Soviet Union and to practice religion is forbidden. She voiced support of Chabad and the noise of children's laughter.
- Alina Ostrovsky said she was surprised to hear of noise issues. She lives near the fairgrounds and simply closes her windows if there is excessive noise, and said she looks forward to her 4 year old attending the preschool.
- Aden Ziropiannis, 6th grader and attends the Chabad, thinks the playground will be great for preschoolers and that everybody will be peaceful and good neighbors.
- Gabriel Ziropiannis echoed support of Chabad and cited noise is not a true issue.
- Mark Hoffman spoke of Chabad's valuable and essential service to the community which should be allowed to fulfill its mission to provide religious services, education,

preschool and programs. The immediate neighbors' position is one of zero tolerance and complete silence even though they moved in after the building was in place. The issue is one of compliance of code and reasonableness, and he cited noise from a variety of other noise-generating activities in the nearby neighborhood.

Rabbi Resnik said they met with City staff and are willing to accept some compromise, but wants to see the conditions of the approval modified to reflect the following:

1. Elimination of condition not allowing windows or doors to be open;
2. Allow for a biblical garden in the back third of the property;
3. They want a seamless playground in the back for kids which can be accessed from the classrooms;
4. Allow for the playground to be open whenever the preschool is open and that it not be limited to certain hours;
5. Allow balloons; and
6. Not have to hire staff to monitor parking.

THE PUBLIC HEARING WAS CLOSED.

Commissioner Ritter addressed the comments regarding lack of outreach to neighborhood and questioned whether the application should be continued to allow outreach to happen.

Commissioner Allen echoed Commissioner Ritter's comments, was supportive of continuing the application.

Chair Nagler asked for the Commission to first express their position, recognizing that neighbors want no outside activity and the applicant would like some outdoor activity.

Commissioner Brown voiced support of the outdoor activity and thinks it would be unreasonable to restrict operations for a property with a RM-2,500 zoning designation, thinks the ruling should not be based on the actions of the previous property owner and voiced support of some form of preschool playground operations and outdoor provisions in order for Chabad to use their property much like everyone else. With regard to comments on noise he supported staff's direction and interpretation of code which restricts amplified and synthetic noise.

Commissioner Ritter agreed with Commissioner Brown's perspective. He acknowledged the neighboring residents and Chabad property owners understanding of the community and zoning when the properties were purchased. He was inclined to follow the code and not impose additional restrictions.

Commissioner O'Connor agreed with previous comments and acknowledged the history and basis for the neighbors' concerns with the previous use. He expressed a preference for compromise and conversation between neighbors to eliminate the potential for conflict and mitigate any noise concerns.

Commissioner Allen agreed with previous comments. She believes it was unreasonable to restrict outdoor activity and said other churches have playgrounds that are as close or closer to residences. She supported the request for an outdoor playground but was unsure of the right

location, thinks play hours are reasonable but asked staff to determine what the other church playground hours are to be consistent in this application.

Regarding outdoor events, Commissioner Allen believed that 15 events per year equaled about 3 events per month during prime months, which appears to be excessive when compared to similar events held by neighbors. She asked to see this pared back at most to one event per month or less, asked staff to provide information on numbers of events of other churches and generally more data to better understand operations.

Chair Nagler agreed with comments from Commissioners. He acknowledged the history of the use of the property, the differences between the previous tenants and this tenant, and the prior decisions that he thinks has influenced the use of the property today which are completely different. He asked staff to gather information from churches, requested Chabad recognize that neighbors have legitimate concerns and asked to conduct outreach to neighbors and find compromise to be closer to resolution.

**Chair Nagler moved to continue Cases P16-1883 and P16-0288.
Commissioner Ritter seconded the motion.**

ROLL CALL VOTE:

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

Cases P16-1883 and P16-0288 were continued to a future meeting.

7. MATTERS INITIATED BY COMMISSION MEMBERS

No items were discussed or actions taken.

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

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

Commissioner Ritter reported out on the Bicycle, Pedestrian and Trails meeting.

Commissioner Brown reported out on the Downtown Specific Plan Task Force meeting. Commissioners Ritter and Allen agreed with his recap.

Commissioner Allen attended a meeting in Sacramento regarding proposed housing legislation.

b. Future Planning Calendar

Ms. Clark provided overview of the tentative agenda for the May 9 meeting.

c. Actions of the City Council

No items were discussed or actions taken.

d. Actions of the Zoning Administrator

There were no actions.

e. Matters for Commission's Information

No items were discussed or actions taken.

9. ADJOURNMENT

Chair Nagler adjourned the meeting at 10:04 p.m.

Respectfully submitted,

Kendall Granucci
Recording Secretary