

# Planning Commission Agenda Report

April 25, 2018  
Item 6.b.

<b>SUBJECT:</b>	<b>P16-0288 and P16-1883</b>
<b>APPLICANT:</b>	Chabad of the Tri-Valley
<b>PROPERTY OWNER:</b>	Chabad of the Tri-Valley
<b>PURPOSE:</b>	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.
<b>LOCATION:</b>	3370 Hopyard Road
<b>GENERAL PLAN:</b>	Community Facilities - Other Public and Institutional
<b>ZONING:</b>	RM-2,500 (Multi-Family Residential) District
<b>EXHIBITS:</b>	<ul style="list-style-type: none"><li>A. <a href="#">Draft Resolution with Conditions of Approval</a></li><li>B. <a href="#">Written Narrative and Proposed Plans</a></li><li>C. <a href="#">Shared Parking Agreement</a></li><li>D. <a href="#">Health Risk Assessment Report</a></li><li>E. <a href="#">Outdoor Play Area Noise Report</a></li><li>F. <a href="#">UP-77-13 September 20, 2016, City Council modified Conditions of Approval</a></li><li>G. <a href="#">Public Comments</a></li><li>H. <a href="#">Letter from Daniel Dalton/ Dalton &amp; Tomich PLC</a></li><li>I. <a href="#">Location and Notification Map</a></li></ul>

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## STAFF RECOMMENDATION

Staff recommends that the Planning Commission make the Conditional Use Permit findings and Design Review criteria within Exhibit A and adopt the attached Resolution approving Case Nos. P16-0288 and P16-1883, subject to the Conditions of Approval listed in Attachment 1 of Exhibit A.

## EXECUTIVE SUMMARY

Chabad of the Tri-Valley ("Chabad") requests Conditional Use Permit approval to operate a religious institution as well as a childcare/preschool for 48 children aged 18 months to four years old, and for Design Review approval for site modifications including the installation of a playground and a terrace used for outdoor activities. Based on the application materials submitted for review, Chabad's operation includes synagogue services, Hebrew school, and up to 15 annual outdoor activities/events. Chabad will share the existing 65-space parking lot

located on the adjoining St. Clare's Episcopal Church (St. Clare's) site through the terms stipulated in a Shared Parking Agreement.

The project site is located in a residential zoning district, where religious institutions (also considered under the broader umbrella definition of "community assembly" uses) and childcare/preschool facilities, require review and approval of a Conditional Use Permit ("CUP"). Design review is required for exterior changes to the site including construction of a new outdoor play area, a new terrace area for outdoor activities, and new windows in the north elevation. As such, the CUP and Design Review ("DR") applications are before the Planning Commission for consideration. Subject to the draft Conditions of Approval, staff believes the proposed uses will meet the intent of the zoning district, and will be compatible with the surrounding uses, and the proposed architectural changes are consistent with the DR criteria included in the Pleasanton Municipal Code ("PMC").

## **BACKGROUND**

The project site at 3370 Hopyard Road was occupied by Pleasanton Masonic Center from 1980, when the building was constructed, until 2017. The Pleasanton Masonic Center was a private lodge and its operation at the project site was authorized by the City based on the required CUP approval (Case No. UP-77-13). In June 2016, to address issues associated with special events and activities conducted that were outside of those permitted by the 39-year-old CUP, the Masons' applied to modify the CUP. The Planning Commission approved the changes; however; the modified conditions were appealed to the City Council. In September 2016, the City Council further modified the conditions to include more explicit limitations on permitted activities, and to require physical modifications to the building to address noise and other issues. The Conditions of Approval for the Pleasanton Masonic Center include but are not limited to the following:

5. Hours of Operation at the Masonic Lodge shall be the following:  
Use of the Masonic Lodge Building: 9:00 a.m. – 11:00 p.m. daily  
No outdoor events are allowed.
8. The Masonic Lodge shall continue to share the event scheduling calendar and coordinate events with St. Clare's Episcopal Church to avoid scheduling conflicts that could affect the shared parking lot.
11. The existing double/French door shall be replaced by a solid door. The solid door shall be installed within 30 days from the date this approval becomes effective and shall be used for emergency exiting only.
12. The doors (exterior) of the building shall remain closed when not being used for ingress/egress purposes. The applicant shall install self-closing mechanisms within 30 days from the date when this approval becomes effective. A sign stating that the doors of the establishment shall remain closed during all hours of operation shall be placed on or next to all doors.
14. The total number of persons at the Masonic Lodge (staff and guests combined) for Non-Masonic Lodge activities shall not exceed 150 persons.

15. All exterior lights shall be shielded to reduce light spillage/glare onto adjoining properties. This modification shall be implemented within 30 days from the date this approval becomes effective.
16. All activities at the Masonic Lodge shall conform with Chapter 9.04 of the Pleasanton Municipal Code (Noise Regulations).
17. No music shall be allowed outside the building.
18. Live or pre-recorded music is allowed inside the building with doors closed.
19. An automatic timer with a motion sensor for safety shall be installed to regulate the hours of exterior light(s). Exterior light(s) on the north side of the building shall be turned off no later than 10 p.m. either manually or with an automatic timer.

The Masonic Center complied with these conditions during its remaining occupancy of the facility.

The City Council modified Use Permit is attached as Exhibit F. In August 2017, the Chabad acquired the property and began operating based on the Council-modified conditions.

Rabbi Raleigh Resnick, on behalf of the Chabad, filed applications for a CUP and DR to operate a community assembly facility with a childcare/preschool, and for site modifications including the installation of a playground and an outdoor activity/ terrace area. These applications are before the Planning Commission for review and action.

#### **SITE DESCRIPTION**

The subject site (see Figure 1) is an approximately one-acre parcel located on the west side of Hopyard Road, north of South Valley Trails Drive. The site contains an approximately 8,000-square-foot, one-story building; a landscaped area and a concrete patio area to the north of the building; and vacant land with perimeter landscaping to the west of the building. Three storage sheds are placed against the west side of the building. An existing trash enclosure that Chabad shares with St. Clare's is located on St. Clare's site. Access to and from the project site is from South Valley Trails Drive, via the adjoining St. Clare's site. Chabad would share the existing 65-space parking lot located to the immediate south on St. Clare's property with St. Clare's.

Properties adjacent to the project site include residential uses to the north; St. Clare's Church and residential uses to the west and southwest; Harvest Valley Christian Church and residential uses to the south; and Zone 7 Water Agency offices and the Ken Mercer Sports Park to the east and southeast (across Hopyard Road).

**Figure 1: Site Location**



**PROJECT DESCRIPTION**

The proposal includes the following:

**Operations**

The Chabad Administrative Office - two people

Monday - Friday: 9 a.m.-5 p.m.

Sunday: 9:30 a.m.-1 p.m.

Synagogue Services - 30-60 people:

Friday: 6:30 -8 p.m.

Saturday: 10 a.m.-1 p.m.

Hebrew School - 20 students and six staff per class:

Sunday: 9:30 a.m.-1 p.m.

Three, one-hour classes; 15-minute break between classes

Miscellaneous meetings - 10-20 people per meeting:

- Bible study: Tuesday: 7:30-9:30 p.m.
- Monthly Strategic Planning Meeting: last Thursday of the month: 7:30-9:30 p.m.
- Monthly Youth and Teen Meeting: 2<sup>nd</sup> Thursday of the month: 7:30-9:30 p.m.
- Marriage & Family Counseling: Weekday evenings: 6-9 p.m.
- One-on-One Bar/Bat Mitzvah lessons: Weekday evenings: 6-8 p.m.

Miscellaneous indoor events – 50-120 people.

Childcare Facility/Preschool (operated by the Chabad): 18 months - four years old;  
48 students; 6-8 staff

Monday – Friday: 7:30 a.m.-6 p.m.

Preschool Playground (Outdoor): 24 children at one time:

Monday – Friday: 10:30-11:15 a.m.

11:15 a.m.-noon

3-4 p.m.

Other Outdoor Activities - 50-120 people:

Up to 15 events annually

All activities to occur in the outdoor terrace located to the west of the building.

All activities to conclude by 10 p.m.

No outdoor activities are proposed anywhere on the project site other than in the playground area and in the outdoor terrace area.

### **Tenant Improvements/Building Modifications**

The proposed use of the building includes: lobby area, the Chabad's administrative office, synagogue, an infant room, three classrooms, storage rooms, janitors closet, the existing kitchen, and restrooms.

The main entrance to the building is located on the south elevation. There are two existing doors located on the north elevation: a double door located in the middle on the north elevation providing direct access to the existing patio area, and a single door from the kitchen area is located on the eastern end of the north elevation. There is a single door located on the east elevation facing Hopyard Road. No existing door is located on the west elevation.

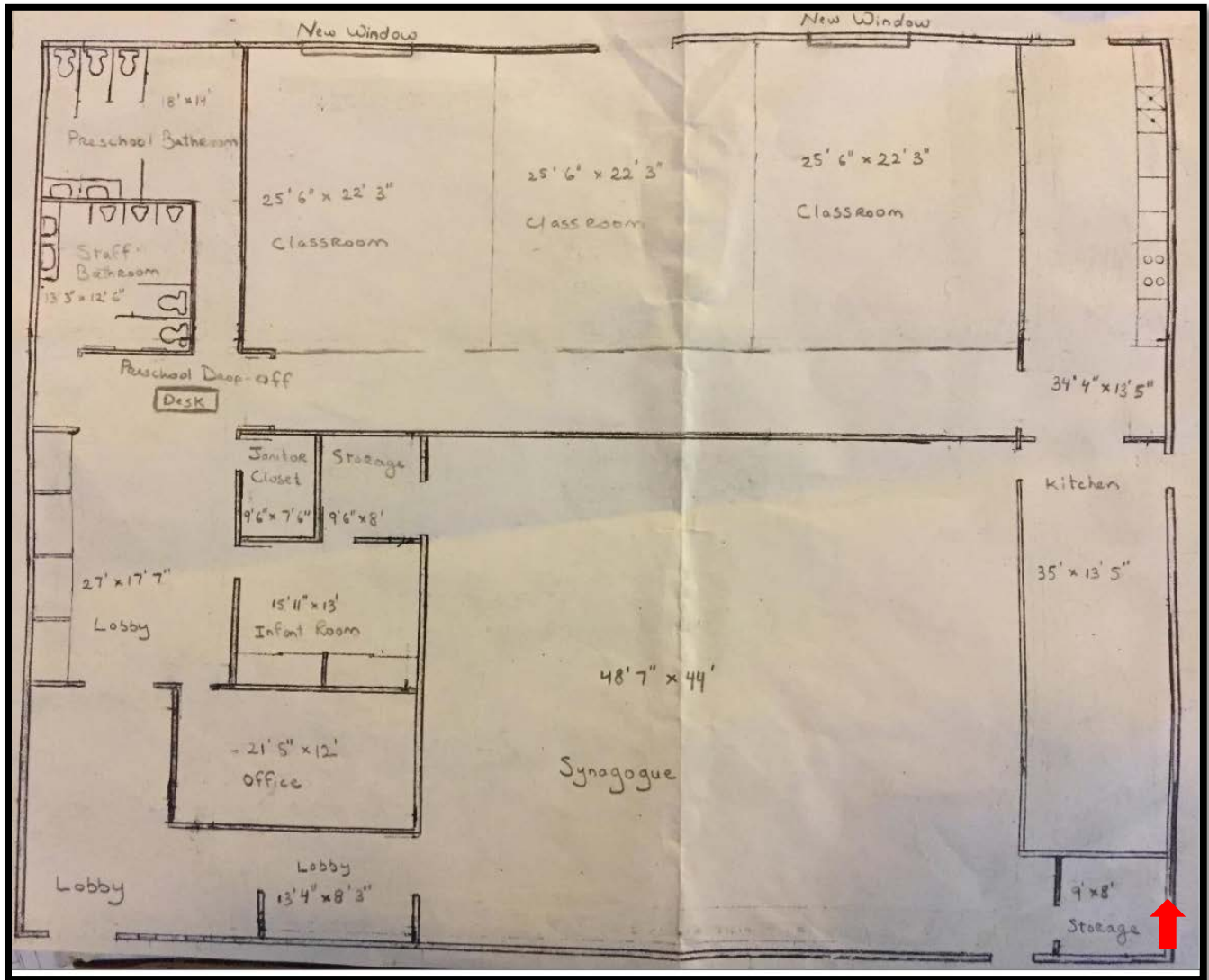
The Chabad proposes the following tenant improvements:

- Install partitions to divide an existing room located on the north side of the building into three smaller-sized rooms for the preschool. These rooms would be used for classrooms where the two-, three-, and four-year-old children would be; and
- Install two new windows on the north side of the building.

The Chabad would also convert one of the two existing restrooms to a preschool restroom. Please see Figure 2 for the proposed floor plan.

The Chabad is not proposing any new doors; however, a double door which currently does not exist is shown on the Site/Landscape Plan.

**Figure 2: Proposed Floor Plan**



**Outdoor Play Area and Outdoor Activity Area**

The Chabad is proposing to construct a fenced outdoor play area on the north side of the building for the childcare facility/preschool. The playground would not be used for any other functions/activities.

A playground, surrounded by five-foot tall tubular steel fencing, was initially proposed on the north side of the building. However, to mitigate neighbor concerns, the Chabad agreed to modify the proposal to relocate the proposed playground to the west side of the property, and to use five-foot tall solid wood, rather than open fencing. Play equipment would be installed in the playground. Please see Exhibit B for examples of the playground play equipment.

The proposal does not include shade structures at the playground. The Chabad stated to staff the shade structures will be provided.

The Chabad also proposes to construct an outdoor terrace area on the west side of the existing building. This outdoor terrace area is where proposed outdoor activities would take place. A six-foot tall wood fence would be installed along northern and western perimeters of the activity area.

### **Landscaping**

New landscaping, including trees, shrubs, and groundcovers are proposed. The majority of the proposed planting would take place along the east side of the property, along Hopyard Road. Planting is also proposed within the outdoor activity/terrace area, and along the westerly property line, separating the project site from the adjoining St. Clare's site. The landscaping plan erroneously indicates the relocation of redwood trees.

There is an existing approximately six-foot tall wood fence along the northern property line separating the project site from the residential uses. No changes are proposed to this fence.

Staff notes that a tree in the side yard, closest to Hopyard Road, was removed and a Menorah has been installed, in the same location as a previous monument sign for the Masons. Staff has included a Condition of Approval requiring that any necessary city permits be applied for within 30 days of the effective date of any approval(s).

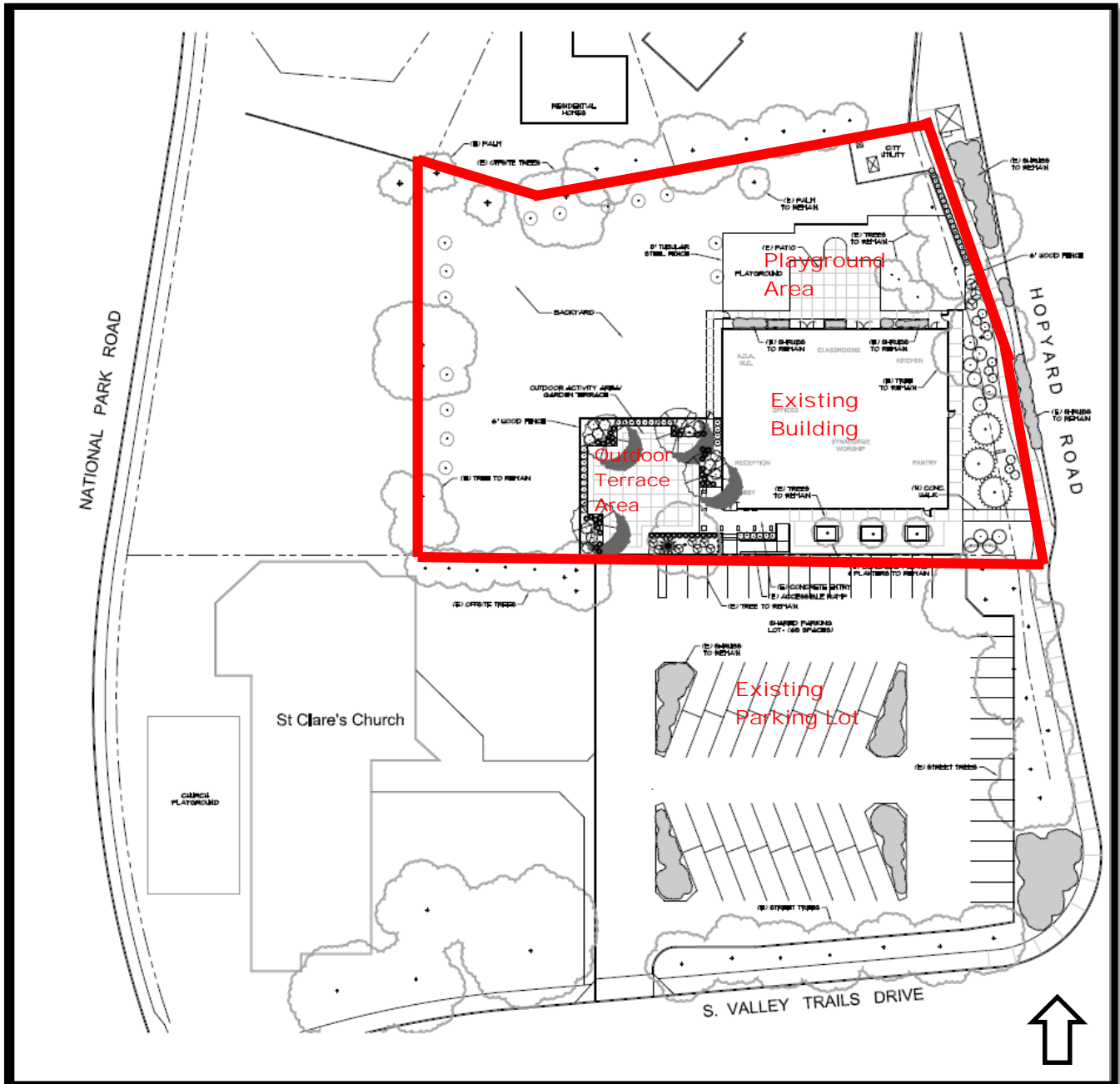
### **Parking**

There is a 65-space parking lot on the adjacent St. Clare's site to the south, which the Chabad would share with the church via an existing Shared Parking Agreement ("Parking Agreement"). The Parking Agreement has been in effect since July 26, 2017, and will be in effect for the following 50 years. The Parking Agreement indicates that both the Chabad and St. Clare's agree that when one party needs to use most or all of the parking lot, both agree to work together to avoid conflict. A copy of the Parking Agreement is part of Exhibit C.

No modifications are proposed regarding vehicular access to and from the project site or the layout of the existing shared parking lot.

Figure 3 shows the proposed Site/Landscaping Plan for the project site.

Figure 3: Site/Landscape Plan



Staff notes, the playground will be relocated to the west side of the existing building. The existing storage sheds placed against the west side of the existing building would relocate sheds somewhere on the project site.



## SCOPE OF PLANNING COMMISSION ACTION

### Design Review

Pleasanton Municipal Code (“PMC”) Section 18.20.030 outlines the scope of design review, indicating that the reviewing body shall review “site plans, landscape plans, building architecture, and other such plans as may be required to preserve and enhance the city’s aesthetic values and to ensure the preservation of the public health, safety, and general welfare.” Note that, even though a proposed project may comply with applicable zoning standards (e.g. setbacks, height limits) the design review process allows the reviewing body to approve conditions which may be more restrictive than normal Code standards, to ensure that the above objectives are met. As outlined in Section 18.20.030, the reviewing body’s scope of review shall include (but not be limited to) the following design criteria:

1. Preservation of the natural beauty of the city and the project site’s relationship to it.
2. Appropriate relationship of the proposed building to its site, including transition with streetscape, public views of the buildings, and scale of buildings within its site and adjoining buildings.
3. Appropriate relationship of the proposed building and its site to adjoining areas, including compatibility of architectural styles, harmony in adjoining buildings, attractive landscape transitions, and consistency with neighborhood character.
4. Preservation of views enjoyed by residents, workers within the city, and passersby through the community.
5. Landscaping designed to enhance architectural features, strengthen vistas, provide shade, and conform to established streetscape.
6. Relationship of exterior lighting to its surroundings and to the building and adjoining landscape.
7. Architectural style, as a function of its quality of design and relationship to its surroundings; the relationship of building components to one another/the building’s colors and materials.

### Conditional Use Permit

PMC Chapter 18.124 describes the purposes, procedures and findings for issuance of a CUP, with the intent of the regulations to allow for special consideration of certain uses due to their unique characteristics “so that they may be located properly with respect to the objectives of [the Zoning Ordinance] and with respect to their effects on surrounding property.” As such, the Planning Commission may grant or deny applications for use permits, and impose “reasonable conditions” upon the granting of the permit.

Specific Findings for granting of a CUP include the following:

1. That the proposed location of the conditional use is in accordance with the objectives of the zoning ordinance and the purpose of the district in which the site is located.
2. That the proposed location of the conditional use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to the properties or improvements in the vicinity.
3. That the proposed conditional use will comply with each of the applicable provisions of the Municipal Code which apply to conditional uses.

## **ANALYSIS**

The following sections outline the key issues and analysis with respect to the project.

### **Land Use and Zoning**

The Land Use Element of the General Plan designates the subject property as “Community Facilities – Public and Institutional.” It allows a broad range of public or institutional uses, including religious facilities, cemeteries, corporation yards, sewage treatment facilities, utility substations, hospitals, post offices, community centers, senior centers, libraries, and City Halls. The community assembly facility and proposed childcare/preschool are consistent with the type of uses permitted within the Community Facilities – Public and Institutional land use designation.

The project site is located in a multi-family residential zoning district. Section 18.36.040(C) of the PMC conditionally allows religious institutions, and childcare facilities/preschools (categorized as nursery schools) to be operated in the zoning district.

One of the primary concerns in reviewing a CUP application is the effect of a proposed use on surrounding uses. Community assembly uses, including religious facilities, have become a common use in and around residential neighborhoods, and many childcare centers, pre-schools or private schools are associated with such facilities. The uses surrounding the project site consist of religious uses (St. Clare’s and Harvest Valley Christian Church) and residential uses. Both St. Clare’s and Harvest Valley Christian Church have preschool programs that have operated, to the City’s knowledge, without issue for a number of years.

However, there was a history of complaints and issues associated with the previous use and activities allowed to occur at the project site, which resulted in enforcement actions by the City, and ultimately with a requirement for modifications to the original approval with a set of additional, more specific and restrictive, Conditions of Approval required to be implemented. These past issues have led to heightened concerns, particularly from some proximate neighbors, about the operation of the Chabad and the future childcare facility/preschool. As a result, staff has carefully considered potential impacts of the proposed project and drafted Conditions of Approval to address them and ensure the project will be compatible with surrounding uses and to minimize potential impacts.

This analysis and the resultant draft Conditions of Approval are outlined in more detail below.

Issues most frequently associated with community assembly, including religious facilities and preschools, are topics like parking and traffic (especially during weekly services/events and, for schools and preschools, at pick-up and drop-off times), and exterior noise associated with outdoor play spaces, and outdoor activities. Staff has found that this limited range of impacts can generally be addressed through project conditions that address operational aspects of the project (such as limitations on the number of students and class scheduling), parking management strategies, and limitations on location, size and/or use of outdoor play areas.

Staff has included a condition of approval that should the Chabad’s operation and activities generate noise, traffic, or parking shortages such that surrounding uses would be adversely affected, the City would have the ability to revisit the application with the Planning Commission for mitigation, or possible permit revocation, if necessary. Therefore, from a land use

perspective, staff finds the Chabad application to be appropriate for the subject property, as conditioned.

## **Noise**

The Pleasanton Municipal Code states that a proposed conditional use must be in accord with the objectives of the Zoning Ordinance. One of those objectives is to “promote the stability of existing land uses that conform with the General Plan and to protect them from inharmonious influences and harmful intrusions.”

The project site is zoned multiple-family residential and it abuts single-family homes to the north. Section 9.04.030.A of the PMC states:

*“No person shall produce or allow to be produced by any machine, animal, device, or any combination of the same, on residential property, noise level in excess of 60 dBA at any point outside of the property plane, unless otherwise provided in this chapter.”*

Section 9.04.070 of the PMC also states:

*“Any noise which does not produce a noise level exceeding 70 dBA at a distance of 25 feet under its most noisy condition of use shall be exempt from the provisions of Sections 9.04.030, 9.04.040 and 9.04.060(A) of this chapter between the hours of 8:00 a.m. and 8:00 p.m. daily, except Sundays and holidays, when the exemption herein shall apply between 10:00 a.m. and 6:00 p.m.”*

Noise was the primary concern from nearby neighbors with the previous use at the project site. Potential noise impacts associated with the Chabad’s operation are analyzed in the following areas:

### Preschool Playground

As proposed, the playground would be located on the north side of the existing building, facing north. The preschool’s outdoor playtimes are 10:30-11:15 a.m., 11:15 a.m.-noon, and 3-4 p.m., with a maximum of 24 children outside at one time.

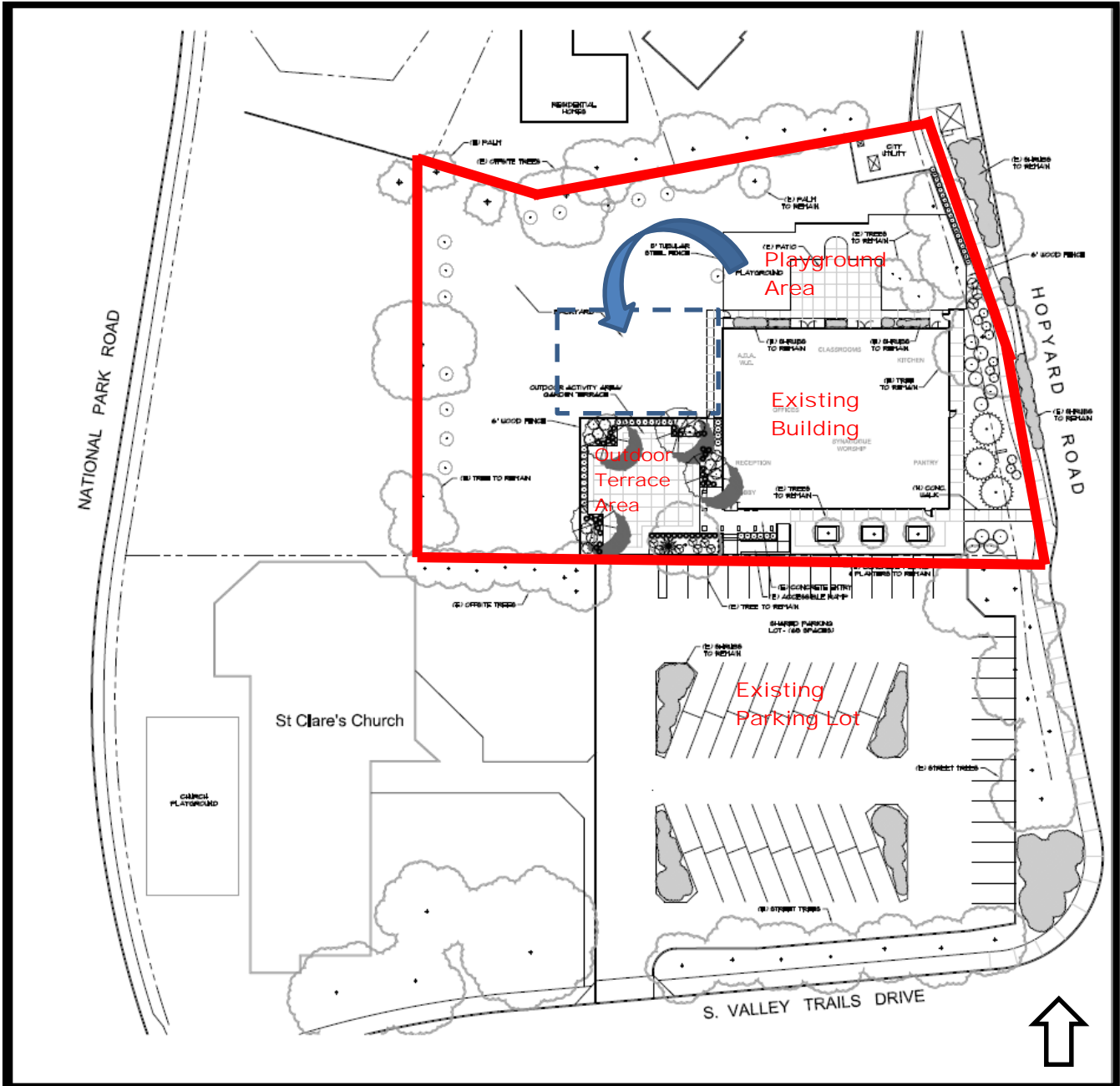
Children playing would generate sound from human voices and from the use of equipment and play structures. While the City’s Noise Ordinance does not regulate non-amplified human voices<sup>1</sup>, there is a history of the adjoining residents to the north expressing concerns related to noise from the project site associated with prior uses. The proposal shows the playground would be located to the north of the existing building. Staff has discussed and the Chabad has agreed to relocate the playground to the west of the existing building, approximately 70 feet from the northern property line, and to use a six-foot tall wood fence, rather than open fencing. Staff has included conditions (Conditions No. 7 and No. 9) to reflect these changes.

With the proposed outdoor terrace and playground areas, the existing storage sheds would need to be relocated elsewhere on the project site. Staff has added a condition (Condition No. 17) to address this item.

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<sup>1</sup> The PMC Noise Ordinance (Chapter 9.04) does not regulate non-amplified human voices.

**Figure 4: Playground Location**



Staff notes, the playground will be relocated to the west side of the existing building. The existing storage sheds placed against the west side of the existing building would relocate sheds somewhere on the project site.

**SCOPE OF PLANNING COMMISSION ACTION**

Outdoor Activities/Events

The Chabad proposes up to 15 annual outdoor activities/events to take place in the outdoor activity/terrace area located west of the building. Outdoor activities/events would start no earlier than 10 a.m. and conclude at 10 p.m. In order to avoid any ambiguity as to what constitutes an “event” subject to the limitation on number, staff proposes to define an outdoor activity/event as a scheduled activity/event with an attendance between 25 and up to a

maximum of 120 persons. This definition would not, for example, include small groups of staff or students taking a break in the outdoor terrace area from Hebrew classes. Staff also wants to clarify, except for the playground and outdoor terrace areas, no outdoor activities of any size are proposed or would be allowed (with the exception of maintenance activities such as landscaping) anywhere else on the project site, beyond the outdoor terrace and playground. Condition No. 5 addresses this item.

### Music

The Chabad proposes that music, including both amplified and non-amplified music, may be part of some indoor and outdoor activities. The Chabad indicated to staff that amplified music would be played outdoors twice a year, and when amplification is used, the speakers would be directed away from adjacent neighbors. Knowing the sensitivity of the neighborhood concerning noise, staff included a condition requiring the twice a year amplified music for outdoor activities to end at 8 p.m. (Condition No. 10). Staff recommends all exterior doors and windows remain closed at all times when the building is in use, to avoid noise spilling out of the building. Staff has added a condition to address this item (Condition No.12).

### Other Noise Sources

All other proposed activities, such as meetings, classes, counseling, would occur inside the existing building with doors and windows closed but not locked; thus, reducing noise impacts to surrounding neighbors. However, to further minimize potential noise impacts, staff is recommending that the Chabad inform their members and visitors to not loiter outside of the building and to be respectful of neighbors and to be quiet when entering or leaving the parking area (Condition No. 28).

With the inclusion of the draft Conditions of Approval referenced above, staff believes the Noise Ordinance limits would be met. Staff has also included a standard condition of approval that would allow the City to review the project again to add mitigating conditions should any future noise complaints occur. Such conditions could include modifying the hours of operation, reducing the number of people allowed inside or outside of the building, and requiring soundproofing of the subject building.

### **Parking and Circulation**

As noted, the project site and St. Clare's share the existing 65-space parking lot that is located on St. Clare's site. Chabad has entered into a Parking Agreement with St. Clare's. As written, the Parking Agreement will be in effect for the next 50 years.

### Parking During Religious Worship/Services

For religious facilities, PMC requires one parking space per six fixed seats or one parking space per 60 square feet of floor area usable for seating if seats are not fixed, in all facilities in which simultaneous use is probable as determined by the City's Zoning Administrator. Since the seats are not fixed, floor area is used to calculate parking demand: Chabad's proposed floor plan shows the synagogue area is approximately 2,112 square feet. Based on this floor area, 35 parking spaces would be required for the synagogue service. As proposed, Chabad's synagogue services on Friday evenings and Saturday mornings would have an attendance of 30 to 60 people (no activities occur at the same time as religious services). St. Clare's worship service occurs on Sunday. Additionally, St. Clare's does not have scheduled meetings (such as bible studies, youth group meetings, etc.) on Friday evenings or Saturday mornings. Based

on this data, there appears to be sufficient parking to meet demand during synagogue services.

On Sundays, there would be some simultaneous parking demand since St. Clare’s has worship services and the Chabad holds Hebrew school classes. St. Clare’s holds two worship services on Sundays with an average of 25 people for the first service at 8 a.m.-9 a.m., and an average of 60 people for the second service at 10:15 -11:15 a.m. The Chabad’s Hebrew school on Sundays has three sessions with 20 students in each session from 9:30-10:30 a.m.; 10:45-11:45 a.m.; and 12 noon -1 p.m., meaning that the first two Hebrew classes overlap with St. Clare’s second worship service.

In discussion with Chabad, staff was informed that Chabad, prior to acquiring the property, had rented rooms from the previous owner, the Pleasanton Masonic Center, to teach Hebrew lessons for the past two years, which staff understands were of a similar size and at similar times to the proposed classes. Staff has not heard from surrounding neighbors or St. Clare’s that there has been a history of parking issues on Sundays, likely because some proportion of attendees of both activities carpool, or students are dropped off for classes rather than occupying parking spaces while on site. Based on this historic data, it does not appear that there would be parking issues associated with Hebrew class times overlapping St. Clare’s worship service. However, should parking problems occur, staff has included a draft Condition of Approval (Condition No. 46) which allows the Director of Community Development to refer the CUP back to the Planning Commission for modification (Exhibit A).

Parking during preschool/childcare drop-off/pick-up

St. Clare’s and Chabad’s preschools operate a similar schedule Monday through Friday. Their drop-off/pickup schedules overlap each other. St. Clare’s has two specified drop-off and pickup times; Chabad has four specified drop-off/pick-up times. Table 1 shows school capacity and drop-off/pick-up schedules.

**Table 1: School Capacity and Schedules**

	<b>St. Clare’s</b>	<b>Chabad</b>
<b>Capacity</b>	79 students; 17 staff members	48 students; 8 staff members
<b>Hours</b>	7 a.m.-6 p.m.	7:30 a.m.-6 p.m.
<b>Drop-Off</b>	7-9 a.m.	7:30 a.m.; 8 a.m.; 8:30 a.m.; 9 a.m.
<b>Pick-Up</b>	3-6 p.m.	1 p.m.; 2:30 p.m.; 4 p.m.; 6 p.m.

Per section 18.88.030 (E) (*Schedule of off-street parking space requirements*) of the PMC, this type of use would require one parking space for each employee, including teachers and administrators, and one space for each four students in grade 10 or above. The student parking requirement is not applicable since the children in both preschools are below grade 10. With a combined 25 staff members, 25 parking spaces would be required for the proposed use. No other non-school activities are scheduled during weekdays for both Chabad and St. Clare’s. The 65-space parking lot would meet the parking demand per the PMC.

Staff notes that section 18.88.030 of the PMC does not address parking demand during drop-off/pick-up times, which would be the most impacted time from a parking standpoint. Staff believes that there would be adequate parking for drop-off/pick-up given that parents/guardians are only parked in the spaces for a short period of time. Omitting the 25 parking spaces occupied by staff, there would be 40 parking spaces available during the

drop-off and pick-up times which occur at the same time: drop-offs between 7:30-9 a.m. and pick-ups between 4-6 p.m. Staff conducted several site visits during morning and evening times over the last several weeks to observe drop-off/pick-up activities at St. Clare's, and there appeared that the majority of the parking spaces were available during those times. Therefore, staff believes that the parking should be sufficient to accommodate the proposed use. However, should parking problems occur, staff has included a condition of approval (Condition No. 46) which allows the Director of Community Development to refer the use permit back to the Planning Commission for possible mitigation measures (Exhibit A). Possible mitigating conditions could include: reducing the number of children, modifying the arrival/departure times, etc.

#### Parking during Holidays and Special Events/Celebrations

The Chabad has agreed to share an activity calendar with St. Clare's so as to avoid scheduling two events at the same time. As such, the existing parking lot would provide parking for one event at a time. As proposed in the narrative, there would be up to 120 people attending Jewish holidays, religious events, community BBQs and picnics, and Bar/Bat Mitzvahs. Based on information in the application, approximately 30-40 percent of Chabad members and guests do not drive or use any type of transportation on the Jewish Sabbath, or on Jewish Holidays, or Bar/Bat Mitzvahs, and would instead walk to the synagogue. The remaining 60 to 70 percent of members and guests may drive. People attending religious services often attend as a family or otherwise carpool to the congregation. Assuming 30 percent of the people would walk to the synagogue and assuming 25 percent of the remaining attendees would carpool, the 65-space parking lot would meet the parking demand of 63 vehicles<sup>1</sup>. Therefore, staff believes the 65 parking spaces should be adequate during religious events.

Staff has also discussed parking demand during other times such as during non-Jewish holidays and events such as weddings where guests tend to drive to the function instead of walking to the function (Jewish weddings are generally not held on the Sabbath or on a holiday). Chabad indicated that, in the past they have been granted permission from Harvest Valley Christian Church to use their parking lot. While the Chabad's past requests were granted by Harvest Valley Christian Church, there is no guarantee that parking at Harvest Valley Christian Church would always be available to supplement parking needs. Therefore, staff has added a condition (Condition 21) requiring the Chabad to secure additional off-site parking prior to booking events with attendance that may exceed parking available at the project site. Further, as stipulated in the shared parking agreement, the Chabad and St. Clare's share a common scheduling calendar to avoid conflicts in using the shared parking lot. Staff has included a condition (Condition No. 18) to enforce the use of the shared calendar so that scheduling conflicts are avoided and allow staff to audit the shared calendar when needed and necessary.

On occasion, depending on the two religious calendars, the Chabad and St. Clare's may have a religious holiday on the same day. In discussion with the Chabad, the Chabad has indicated that Jewish holidays are celebrated in the evening while most Christian holidays are celebrated during the day. And, the Jewish and Christian calendars are quite different, meaning that coinciding major religious holidays will be rare. A review of the 2018 calendar indicated only

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<sup>1</sup> Assuming 30% of 120 people would walk, there would be 84 people arriving by vehicle to attend Jewish holidays ( $120 \times 0.3 = 84$ ). Assuming 25% of the 84 people (21 people) would carpool, there would be 63 vehicles driving to attend Jewish holidays ( $84 \times 0.75 = 63$ ).

one Christian holiday, Pentecost on May 20, and the Jewish holiday of Shavuot, which starts on the evening of May 19, and ends on May 21, that would coincide.

In addition, staff has added a condition (Condition No.19) requiring the Chabad to monitor the shared parking lot to ensure no parking conflicts would occur during operation of St. Clare's and the Chabad. If necessary, the Director of Community Development could refer the use permit back to the Planning Commission for possible mitigation measures such as reducing the number of guests or students, modifying the arrival/departure times, etc.

### **Tenant Improvements**

Proposed tenant improvements include installing partitions to divide a large room into three smaller-sized classrooms and installing two windows for classrooms on the building's north elevation. Although these modifications are indicated on the floor plan (Figure 2 above), the applicant did not provide a scaled floor plan and it was not possible during the course of staff's review to provide comments on whether the proposed improvements would meet required Building and other Codes and it is possible that other interior or exterior improvements may be needed.

The existing building was built for and used as a private lodge for a fraternal organization. Chabad's proposal includes a preschool that would have an infant room and three classrooms for children aged two to four years old, which would have a different Building Occupancy Classification (per PMC 20.04.410.). Therefore, improvements to the existing building would be required in order to meet both Building and Fire Code requirements. One of the improvements required by the Livermore-Pleasanton Fire Department is installation of an automatic fire suppression system (fire sprinklers) prior to the opening of the preschool. Staff has included conditions requiring the building to meet Fire Code (Condition No. 34) and that scalable, full-sized plans, prepared by a professional (Condition No.13), be submitted for review as part of the building permit review process.

### **Landscape Plan**

The proposed landscape plan shows the planting of seven new 15-gallon to 24-inch box sized trees and a variety of shrubs and groundcover. These plants would be planted adjacent to Hopyard Road, in the outdoor terrace area, and near the westerly property line. The plant palette shows four tree species and symbols; however, only two species are proposed on the plan. Staff has included a condition (Condition No. 26) requiring plan consistency.

Staff has also included a condition (Condition No. 43) requiring landscaping be installed prior to the operation under this conditional use permit approval.

### **Health Risk Assessment**

Given that the proposed play area and school is adjacent to Hopyard Road, which has average daily traffic of more than 10,000 vehicles, a health risk assessment was required and prepared by the applicant (Exhibit D). The report estimates the health risks that children would be exposed to from nearby sources of air pollution to determine if the health risks would be below the thresholds established by the Bay Area Air Quality Management District (BAAQMD). The assessment determined that the play area and school would not be exposed to significant health risks from existing sources of air pollution and the health risk would be below BAAQMD's thresholds.



### **Plan Consistency and Accuracy**

The plans submitted are not consistent with each other. For instance, the floor plan shows two openings and two windows on the north elevation while the site/landscape plan shows two double doors and one single door on the north elevation. Additionally, the plans do not show the existing ADA parking stalls in St. Clare’s parking lot or the existing sheds on the west side of the building. Staff has included a condition (Condition No.14) requiring all plans to be accurate and consistent with each other.

### **Rental Uses**

The applicant states that the existing kitchen would only be used to prepare food for Chabad’s functions, including weddings, celebration of life, etc. and not for commercial purposes. Staff’s interpretation of this statement is that Chabad will not rent out its kitchen to a separate party such as a catering company (as had been the case with the previous property owner). Except for the activities in the narrative, the Chabad would not be able to use or rent its site or building for other users and the kitchen could only be used for the Chabad’s functions and not used/rented by others. Staff has included a condition to address this item (Condition No.12).

### **Signage**

The proposal does not include any signage. Currently there are existing signs (a banner sign on the building which do not have prior City approvals. (The freestanding menorah on the project site is exempt from the requirements of the Sign Ordinance, per Section 18.96.030.E) Staff has included a condition (Condition No. 25) requiring separate sign design review approval for exterior signage.

### **Design Review/Exterior Changes**

The Chabad proposes to construct an outdoor, fenced-in playground. The playground area would be furnished with play structures suitable for the ages of the children. The Chabad also proposes to construct a terrace area for the Chabad’s outdoor activities. This area would be enclosed with a wood fence. No parking or existing trees will be removed as part of these proposed outdoor improvements. With the relocation of the playground area to the west side of the building and the change of the playground fence from the proposed tubular steel style to solid wood, staff finds that the proposed outdoor areas would not have significant adverse aesthetic impacts to the adjacent residential uses or surrounding areas.

The Chabad proposes to install two new windows on the north elevation. A Condition (Condition No.16) has been added, requiring the Chabad to submit window details (style, operation, and dimensions), which would ensure their compatibility with the existing building.

### **PROJECT PROS AND CONS**

<b>PROS</b>	<b>CONS</b>
Provides a place for congregation	Increases traffic and parking demand at this project site (however, circulation and parking impacts would not be adverse)
Provides childcare services to support a growing community	Increases noise due to more intense use of the site.
Consistent with zoning regulations	

## **ALTERNATIVES**

As noted, it is staff's recommendation that the Planning Commission approve the CUP and Design Review, subject to the draft Conditions of Approval. However, should the Planning Commission determine that the Findings or Design Criteria cannot be made based on the current version of the project and conditions, the Commission can pursue one of the following alternatives:

1. Direct further modifications to the project, and/or further conditions of approval, such as further limitations on the operation of the facilities or modifications to the site plan to address potential operations issues. If modifications or new conditions are extensive, they may need to be brought back to the Planning Commission for review at a continued public hearing; or
2. Deny the Use Permit and Design Review applications. If the Planning Commission pursues this alternative, the applicant would be required to submit new applications, reflecting a substantially modified project design. Since a resolution for denial has not been prepared, if the Planning Commission selects this alternative, staff would recommend that the item be brought back to the Commission at a future date with a resolution that includes findings for denial.

## **PUBLIC NOTICE**

Notices regarding this item were mailed to the surrounding property owners and tenants within a 1,000-foot radius of the subject site. A map showing the noticing area is attached to this report. The public notice was also published in *The Valley Times*. At time this report was published, staff received emails in support of the applications, and they are attached to the staff report as Exhibit G.

## **ENVIRONMENTAL ASSESSMENT**

This project is categorically exempt from environmental review pursuant to California Environmental Quality Act Guidelines, Section 15301, Existing Facilities, Class 1. Therefore, no environmental document accompanies this report.

## **CONCLUSION**

Staff believes that the required CUP findings and DR criteria for the project can be met if the project is approved as conditioned. Conditions of Approval have been drafted, which will ensure that the safety and general welfare of the surrounding area is maintained. Staff believes that the proposed uses and site modifications would provide a service to the community and that the proposed location is appropriate.

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