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

DRAFT

Wednesday, October 14, 2015

CALL TO ORDER

The Planning Commission Meeting of October 14, 2015, was called to order at 7:00 p.m. by Chair Allen.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Chair Allen.

1. ROLL CALL

Staff Members Present: Gerry Beaudin, Planning Manager; Adam Weinstein, Planning Manager; Julie Harryman, Assistant City Attorney; Steve Otto, Senior Planner; Eric Luchini, Associate Planner; and Maria L. Hoey, Recording Secretary

Commissioners Present: Commissioners Nancy Allen, Jack Balch, David Nagler, Greg O'Connor, Gina Piper, and Herb Ritter

Commissioners Absent: None

2. APPROVAL OF MINUTES

a. September 9, 2015

Commissioner O'Connor requested the following corrections:

- Modify the second sentence of the last paragraph on page 8 to read as follows: "He indicated that in the past, the Commission has made recommendations when ~~streetscapes~~ view easements do not exist on properties...."
- Modify the first sentence of the second full paragraph on page 11 to read as follows: "Commissioner O'Connor stated that he has a two-story home which is

probably about 27 feet tall, and has 10-foot high ceilings with one foot between the ceiling and the roof upper floor."

Commissioner O'Connor moved to approve the Minutes of the September 9, 2015 Meeting, as amended.

Commissioner Piper seconded the motion.

ROLL CALL VOTE:

AYES: Commissioners Allen, Balch, O'Connor, Piper, and Ritter

NOES: None

ABSTAIN: None

RECUSED: None

ABSENT: None

The Minutes of the September 9, 2015 Meeting were approved, as amended.

b. September 23, 2015

Commissioner Ritter moved to approve the Minutes of the September 23, 2015 Meeting, as submitted.

Commissioner Piper seconded the motion.

ROLL CALL VOTE:

AYES: Commissioners Allen, Balch, O'Connor, Piper, and Ritter

NOES: None

ABSTAIN: None

RECUSED: Commissioner Balch (on Item 6.a.)

ABSENT: None

The Minutes of the September 23, 2015 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. REVISIONS TO THE AGENDA

Adam Weinstein advised that there were no revisions 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 items for consideration.

6. PUBLIC HEARING AND OTHER MATTERS

a. P15-0384, City of Pleasanton

(1) Consider an amendment to the Pleasanton Municipal Code to expand design review authority to include the first floor of historic homes in residential zoning districts within the Downtown Specific Plan (DSP) Area; and (2) review the Historic Resource Survey of the residential structures Downtown that were built before 1942.

Commissioners O'Connor and Piper recused themselves from participating in the matter due to conflicts of interest. Commissioner Nagler joined the Commission at the dais.

Steve Otto presented the staff report and described the scope and key elements of the project. He presented a brief history and overview of amendments the Council adopted, starting with the City Council's creation of a Historic Preservation Task Force, who was tasked with determining whether the existing policies and standards provided adequate protection for historic resources, clarifying existing policies and processes as needed, and making the process more predictable and streamlined to the extent feasible for applicants. He stated that after numerous meetings over a span of about a year and one half, the Task Force came back to the Council with a packet of amendments to the Downtown Specific Plan (DTSP), the General Plan (GP), the Downtown Design Guidelines (DTDG), and the Pleasanton Municipal Code (PMC). He then briefly described some of the amendments that were approved by the City Council:

1. Modified the existing criteria used for determining if a residential structure is considered a historic resource and would be protected from demolition: a residential building in a residential zoning district built before 1942 determined to be eligible for listing in the California Register using the "Pleasanton Downtown Historic Context Statement" is considered a historic resource by the City. The 1942 date shall be revisited every ten years to determine if a change is warranted.
2. Adopted a demolition definition for residential structures to be historic resources. It generally requires the preservation of the first ten feet of the structure, including the roof.
3. Changed an existing policy to require new homes to utilize or be based on one of the architectural styles found Downtown dating before 1942 such as Victorian, Craftsman, Mission Revival, etc.
4. Changed an existing policy and guideline to require that detached garages be utilized and placed at the rear of the site when the lot width exceeds 60 feet.
5. Modified the Residential DTDG to (a) discourage metal roofs but allow metal shingles with a dull finish and muted color that resembles shake or tile: (b) discourage the replacement of wooden windows, but allow replacement with

other materials if they match the original windows regarding operation, profile, height, width, and glazing pattern; and (c) be consistent with design policies in the DTSP.

6. Adopted PMC Amendments to (a) allow the City to require story poles for a new house or two-story addition when determined to be necessary; and (b) prevent demolition by neglect for single-family homes.
7. Accepted the Pleasanton Downtown Historic Context Statement as a resource to assist in determining historical significance.

Mr. Otto stated that the Council also initiated two additional items to be completed in the future: (a) the Historic Resource Survey to determine which structures are historic or not; and (2) a code amendment to expand the City's existing design review authority. He indicated that those two items are what will be discussed tonight.

Historic Resource Survey

Mr. Otto stated that one of the streamlining recommendations to come from the Task Force was to have the Historic Resource Survey done. He explained that currently, applicants who want to make modifications to existing structures built before 1942 would have to complete their own Historic Resource Survey to determine if the structure is historic or not. He indicated that the Task Force and the Council felt that having a comprehensive one done for the structures Downtown would be both time-saving and money-saving for applicants, as well as provide some information when people are potentially purchasing a property, such as whether or not it was historic, and purchase accordingly based on that.

Mr. Otto stated that the primary authors of the survey, which is a fairly thick document, are Katherine Petrin and Elaine Stiles working with Architectural Resources Group. He then presented the floor to Ms. Petrin to provide a brief description of their survey analysis on the structures.

Katherine Petrin stated that for some years, the City of Pleasanton has wanted to bring a greater level of consistency to its historic preservation efforts and sought to develop a Historic Context Statement which would lay out the significant themes and the historic development of Pleasanton and identify the general property types that are associated with each theme.

Ms. Petrin stated that most cities that have a historic preservation program will have one that has a multitude of different parts and pieces: it can be a preservation ordinance, a preservation element of a General Plan, or a historic context statement survey or districting. She indicated that the historic context statement and the survey go hand in hand, which is most definitely the case with the work that has been done in Pleasanton. She explained that the historic context statement lays out the themes, and the survey is a follow-up next step that is more intensive and specifically researches the specific properties within the area it surveyed.

Ms. Petrin stated that the methodology they used in the survey followed the National Register standards and the California State Office of Historic Preservations Standards. She indicated that in terms of the methodology for the survey, City staff gave them general parameters with the boundaries of the survey determined by the boundaries of the DTSP. She continued that they then looked at the specific buildings within that area that were built before 1941, a City-specified condition of the survey.

Ms. Petrin stated that they walked the residential areas, photographed every building, noted estimated date of construction and style of architecture, and made a preliminary activity assessment, a visual determination that had to be backed up with research. She noted that the most interesting pieces are the information that they gleaned from census records, ownership records, and the City of Pleasanton's building permits.

Ms. Petrin stated that for a building to be historic or not historic, it has to have two things: (1) historic significance - the building has to relate to some of the significance that is outlined in Historic Context Statement; and (2) integrity – it does not have to do with the building being dilapidated, but retention of original materials such as if it exhibits original construction techniques and craftsmanship, design, materials, and so on.

Ms. Petrin stated that each town and city, municipality and neighborhood, is really its own thing, and one of the things that really struck them about Pleasanton was the modest quality of the oldest buildings: the 1880's and early 1900's buildings and cottages, which were homes for newly arrived people, for working people. She noted that in their research they found that some of these hard-working people were illiterate or that they arrived from Portugal and Spain and other places; there was a concentration of Portuguese in the area. She added that it is kind of tricky that in the year 2015, people are looking to inhabit these houses, and there is the question of how to retain that special historic quality that is Pleasanton, a working town, a farm service town to support all of the agriculture that was around, and make modest buildings work for today's desires. She noted that this is a challenge that a lot of municipalities have and something that Pleasanton has grappled with for some time.

Commissioner Ritter asked for a good example or most common non-integrity-based example of a house and if it is more structurally related.

Ms. Petrin replied that one thing that is ubiquitous in Pleasanton, in California, and in the nation is window replacements, a change that can have a significant impact on the historic appearance of a building. She explained that a building then that has had its windows changed out would not necessarily no longer retain its integrity because that is such a common change, and windows can be changed back. She added that it might not necessarily require a wood window, but profile, size, and operability are good things to consider when thinking about window replacements.

Ms. Petrin stated that window replacements is ubiquitous but is not an integrity issue and does not weigh so much. She indicated that what is more important has to do with the scale and mass of a building; for example, enlarging a building over time such that it no longer conveys either its original footprint or overall form would be an easy way to lose integrity.

Commissioner Nagler presented a scenario where a house in town has been completely gutted on the inside such that nothing on the inside is the same when the house was built, but the exterior is perfectly well maintained to its original character and construct, and the windows are maintained. He inquired if the fact that the interior was gutted does not impact whether it has historical significance.

Ms. Petrin replied that was correct and added that most municipalities do not consider interiors. She noted that the City of San Francisco considers interiors for some publicly accessible buildings, but not for residences.

Chair Allen inquired if there is an example of a home that has historical integrity but did not meet the criteria because it did not have historical significance.

Ms. Petrin replied that Pleasanton has a lot. She stated that there are two houses across the street from each other; one is within the boundary of the (DTSP) area, and the other is outside of it. She noted that the house that is outside of the boundary has a perfect exterior and perfectly conveys an original early 20th century structure; it has all original materials in perfect condition, a high level of integrity, and obviously built before 1941-1942. She pointed out, however, that it is outside the boundary and, therefore, outside of their purview.

Chair Allen inquired if there are similar homes within the boundary that has historical integrity but did not meet the Register because it did not meet the second criteria of historical significance.

Ms. Petrin replied that there is a large quantity of buildings that were built after 1942 that have a high level of historic integrity, but they are not part of this survey.

Chair Allen inquired if all of the 200 or so houses that were reviewed were built before 1941-1942, with the exception of about eight or nine.

Ms. Petrin replied that they were all supposed to be, but there were a few that fell through the cracks either because City records had an incorrect date or they were unable to sort out the correct dates.

Mr. Otto then continued his presentation and talked about the survey and its results.

1. The survey included all homes in residential zoning districts in the DTSP area that were built before 1942, and based on these parameters, staff found 201 structures that were provided to Ms. Petrin and Styles to survey. The structures were analyzed to determine whether they were historic or not based on the Council-adopted definition, and 88 homes qualified as historic resources. Some homes were found to have been built later than 1942, and more than half did not qualify because they had had significant changes done over time to the point where they lost their integrity and didn't qualify as a historic resource.
2. The survey will have several beneficial qualities. It will save property owners some time, about one to one-and-a-half months, since they will not have to hire

their own consultant to prepare the individual evaluations. It will also save them money upwards of \$5,000, depending on the consultant that they hire. The survey lets property owners know whether a structure is considered historic or not and allows them to plan any modifications or additions accordingly. It will allow people to make informed real estate decisions before they purchase the property and it will also aid staff, the Commission, and the Council in the review of structures that were constructed before 1942.

Mr. Otto then discussed the PMC Amendments, stating that the PMC currently requires a staff-level Administrative Design Review approval for additions to single-family homes which exceed ten feet in height. He noted that the City does not currently have design review authority for exterior modifications, such as changing the wall material and replacing windows regardless of where they are on the house, and some of those changes could significantly affect character-defining features on historic homes, such as the wall material, the size and shape of the windows, and the design and material of porches. He added that any changes made in this regard could result in loss of integrity, such that they will no longer qualify as historic resources.

Commissioner Balch referred to the size and type of windows and asked for clarification that changing the size of windows does go through the Design Review process.

Mr. Otto said yes, but only if it is above ten feet in height.

Commissioner Balch followed up that changing the size of the window on the first floor would not have to go through the Design Review process.

Mr. Otto replied that was correct.

Mr. Otto stated that staff has drafted a PMC Amendment to require Administrative Design Review approval for exterior modifications on any floor or height to single-family homes in residential zoning districts in the DTSP area that are determined to be historic resources as defined by the DTSP. He indicated that following approval of the survey, staff will know whether structures are historic resources or not. He added that when Council tasked staff with this PMC Amendment, it directed that staff ask the Planning Commission to discuss what changes would trigger design review. He presented the following two options for the Commission's consideration:

1. Option 1 – would include all exterior modifications, alterations, or additions to single-family homes in residential zoning districts and the DTSP area that are considered historic resources as defined by the DTSP. This could be onerous as almost anything on the outside would require design review, such as changing the mailbox or the house number. Staff, therefore, looked at the existing items that are discussed or covered in the DTSP and DTDG and put them in Option 2.
2. Option 2 – would specify only certain exterior modifications that are subject to design review, basically exterior wall and foundation cladding, porches and balconies, windows and window surrounds, roofs, chimneys, front doors and architectural trim and details. Staff believes this is a reasonable list and language to use and is recommending it for Commission approval.

Commissioner Ritter inquired which of those two options staff currently uses when a citizen comes in for design review, and if that would be the same as Option 2. He further inquired if a citizen needs approval to change his mailbox if his house is not a historic home.

Mr. Otto explained that if a citizen is proposing something that currently triggers design review, such as an addition or a new two-story window or changing the roof from a flat roof to a gable roof, that would be submitted to staff for review under the parameters and guidelines in the DTSP. He indicated that it would be closer to Option 2, depending on exactly what is being proposed.

Commissioner Nagler inquired if this would be more restrictive than for a 1942 home.

Mr. Otto replied that was correct.

Commissioner Balch inquired how much a Design Review application fee is.

Mr. Otto replied that the Design Review application fee is \$250.

Commissioner Balch further asked if Design Review can be at done staff level.

Mr. Otto said yes. He added that this is drafted to follow the Administrative Design Review process, which is a staff-level process.

Commissioner Balch inquired what the fee is for over-the-counter approvals.

Mr. Otto explained that this is not an over-the-counter process: it entails submitting the application form with a set of plans, notices are sent out to the adjacent properties, and if nobody objects to the proposal within seven days, it gets approval.

Commissioner Balch inquired if this applies for all design reviews.

Mr. Otto said yes; the Administrative Design Review process applies to any addition to a house anywhere in the City.

Commissioner Balch inquired if a Design Review application is needed to install a seven-foot tall fence, which is over the six-foot tall required limit.

Mr. Otto replied that fences had a special PMC Amendment done about ten years ago, and fences up to eight feet in height can be approved with an over-the-counter Administrative Design Review process.

Mr. Otto continued with his presentation that the PMC Amendment does not address design review authority for the homes that are determined not to be historic. He stated that a couple of former Task Force members and a member of the public felt it essential to also include the non-historic homes built before 1942 in the Code amendment as those structures, if modified without review, could affect the value of historic homes that are nearby or the character of the neighborhood in the Downtown. He noted that if that

is adopted, it would add time and cost to owners wanting to make minor changes to their non-historic homes, but that could ensure that the modifications to those homes are compatible with the architectural style and detailing of the existing home. He added, however, that it may not necessarily have a significant effect or benefit on the surrounding homes that are historic. He indicated that staff is willing to entertain this amendment; however, because of the way the hearing was noticed tonight which did not include language for non-historic homes, if the Commission wanted to pursue this, the Commission can make a recommendation to Council to do so. He indicated that if the Council wished to pursue it, the Council would basically refer the matter back to the Commission for a noticed public hearing, and the Commission can then make a recommendation to the Council on the exact language to be used and any other parameters the Commission would want to include with that. He noted that the Council would make the final decision on the matter.

Commissioner Nagler commented that the matter could also just be continued and then have it noticed appropriately.

Mr. Otto replied that it could be done that way, but staff did not want to delay the current Code amendment for historic homes or the adoption of the historic survey so they could be implemented immediately; homeowners would not have to do their own survey, and the historic structures in the City can be protected.

Chair Allen clarified with Mr. Otto that the Commission could recommend to the Council either Option 1 or Option 2, and if the Commission desired, to look at expanding the design review; and the Council could potentially approve or disapprove the amendment, and either direct or not direct the Planning Commission to do further work in defining what Commission wants to do with the houses that did not meet the Register criteria.

Mr. Otto clarified that was correct.

Commissioner Nagler referred to Commissioner Ritter's earlier questions on the idea to expand is really tied to what the current differences are between the review for historic resource properties and post-1942 homes. He asked, if an applicant comes in wanting a change to a home built in 1952, what exactly would need to come to the City for design review and what would not. He indicated that if the intent is to maintain the integrity of the original architecture of the home and have it remain appropriate to the neighborhood, that would take some significant architectural change to the home to have a negative impact on the architectural integrity of that house, and that level of change already requires design review. He noted that what is really being talked about here is the delta being things like first-story window size or bannisters.

Commissioner Balch noted that the amendment also has demolition, so if someone theoretically lets his or her home go, it could make an impact in value, and without that Code amendment, the City could not enforce the owner to maintain it.

Chair Allen inquired if it is only the first ten feet.

Mr. Otto replied that demolition by neglect would apply to the entire structure.

Commissioner Nagler inquired if the other alternative being considered is still only within the DTSP area and not Citywide.

Mr. Otto said yes.

Commissioner Nagler stated that the point is where that tipping point for post-1942 homes that require design review is.

Mr. Weinstein noted that there are two options here: (1) This new design review process encompasses buildings that were built prior to 1942 that do not have architectural integrity and are not significant historic resources. He explained that, as Mr. Otto pointed out earlier, if a homeowner who has an older house with no architectural integrity or that is not a historic resource wants to change the front door or windows on the first floor, it would go through this process. (2) Buildings that were built in 1942 or later that again are not historic resources but may be older than 40 or 50 years or some sort of threshold would have to go through this process as well. He added that the Planning Commission could ultimately design a different process that does not look necessarily at architectural features that relate to the historical significance of a building because that might not be applicable for newer structures or structures that do not have architectural integrity.

Commissioner Balch stated that what he is hearing is that all houses built before 1942 with some type of historical significance on the survey that made it into the list, and all the things in the initial Option 1 or 2 that are being considered – first floor, less than ten feet – design review is required to change a window because it has been deemed historical. He added that the offset to that is that the owner would not have to do a survey because now the City has done it in a larger group of surveys. He requested confirmation that this alternative is to say all the other homes that were built just before 1942 is also in that mix with this alternative.

Mr. Beaudin explained that the survey covers 200 and some old resources; the 88 homes that were identified as historic resources would be the ones that would qualify for Option 1 or Option 2. He added that the conversation about whether there should be an additional step for structures that were not part of the 88 homes analyzed and/or structures that were built after 1942 could also be given some kind of a look because they are in the DTSP area. He noted that there is a certain character that people have come to love about the Downtown area, and the question is, if these criteria should be applied more broadly and should there be a look at exterior changes in the DTSP area. He clarified that the staff recommendation has been set up as Option 1 or Option 2 or any variation that the Commission finds appropriate, and the Commission is making a recommendation to the City Council that those criteria should be applied to the 88 that are identified in the survey, and there could be a subsequent conversation. He explained that what staff is suggesting is that if the Commission is interested in that subsequent conversation, the Commission could move the survey and the recommendation on the criteria to the Council with an additional component which would suggest to the Council that the Commission would encourage additional review. He continued that if the Council then wants to entertain that conversation, staff would go to work and come back through this process to build up or further enhance the review that goes for structures in the DTSP area.

Chair Allen commented, for clarification, that what staff is looking for the Commission to do tonight is not to define the criteria for this subsequent item that was not noticed, but just to say whether the Commission cares about it and thinks it warrants further discussion; then staff would do the staff report that would lay out the options, how many homes are in each bucket, and what the costs could be to undertake that.

Mr. Beaudin stated that staff would evaluate the process and the criteria, and staff would encourage the Commission not to do that tonight because that was not what staff was recommending and in fairness to the people who live in this area, got the notice, and thought that it did not involve them. He asked the Commission, if it desired, to take the staff recommendation or some version of it and move it to Council. He noted that some among the Commission mentioned the idea of delaying it to evaluate this more comprehensively; however, he indicated that staff is comfortable doing this in two steps, and the reason for that, as Mr. Otto pointed out earlier, is that there is an existing survey for people who want to do things to their homes, and staff wants to protect that resource as soon as possible.

Commissioner Ritter inquired if staff is already currently doing this kind of evaluation for the non-88 homes that are in here to see if they fit the area should their application come through.

Mr. Beaudin replied that there are certain changes that happen to the exterior of homes that the City does not have a planning review for; they could just be a building permit review.

Chair Allen clarified for those is the audience that the City has Downtown Design Guidelines that talks about some of the things and principles that Commissioner Ritter was referring to earlier that talk about what the City wants the historic Downtown residences to look like. She indicated that as Commissioner Ritter just confirmed with staff, for changes that are below ten feet on single-story homes, the owner does not always have to check to see if some of these principles are followed; and potentially if these amendments are approved and the Commission says it is interested in exploring this additional part, it would allow the Commission to further define what that design review process might look like for the houses that do not otherwise make the list.

Mr. Otto clarified that if the improvement the owners want to make is not triggering design review, those guidelines do not get picked up by staff because the applicants do not even come in to see Planning because the City has no authority over those. He added that, as Mr. Beaudin mentioned earlier, there may be some things that require a building permit but are not subject to Planning discretionary review.

Chair Allen noted that this is why the Task Force wanted this to be looked at.

Commissioner Balch inquired if the scope of what is being discussed now is the 106 homes that did not make the criteria that it is not historic prior to 1942.

Mr. Otto confirmed that was correct.

Commissioner Balch further clarified that the subject of the subsequent matter is the other homes in the district that did not make the scope of historic, the 88 homes, but were in the survey.

Commissioner Nagler asked if this is an item that is either directly brought back to the Commission for further discussion or recommended to the Council that it be brought back for further discussion.

Chair Allen proposed that the Commission wait until after the Commission gets the public comments.

THE PUBLIC HEARING WAS OPENED.

Linda Garbarino stated that she was a member of the Historic Preservation Task Force and supports the adoption of the Historic Resource Survey, which is a very well done and quite interesting document. She indicated that the City really did a fabulous job on the Downtown historic preservation, starting with the Pleasanton Downtown Historic Context Statement and moving through the process to the Survey.

Ms. Garbarino stated that she supports Option 2 as it certainly speaks to the issues that need to be addressed in terms of going back to what was said about the conditions and the looks of the City's neighborhoods. She expressed concern that there were 103 homes that did not qualify as a historic resource for reasons ranging from a very minor to major and significant changes, as outlined by Ms. Petrin. She indicated that when the Task Force first talked about this almost three years ago, the members were told that replacing or relocating a second-floor window of a two-story home in the DTSP area would trigger design review, which seemed understandable; but knocking out a window in the first story of the house and putting in a sliding glass door or something similar would not trigger a design review. She noted that the Task Force found it very inconsistent that the upper story was scrutinized but the first ten from the ground level up was not. She added that the reason given for this was that historically, most homes had fencing and significant foliage around it so most of the lower part of the house was really never shown; it was the issue of what was seen by neighbors of the upper story and the significant impact that would have in terms of other people's rights to privacy.

Ms. Garbarino stated that ten feet on a one-story home can be pretty much the whole house, and people have had the experience here in town of waking up one morning and finding out that the lovely little one-story house next-door has been stripped to the studs, and the City knew nothing about it. She noted that there is a major impact for those 103 homes that did not make the list as some of these are beautiful homes that have a significant look to them but could then potentially have some major changes overnight. She indicated that this is a little frightening to those who live in the historic area next to homes that were not approved for whatever reason. She noted that most people tend to want to do the right thing, but sometimes really critical errors are made that are expensive to change. She asked the Commission to consider making a recommendation to the Council to have staff review this and come back with some alternatives that do protect property values and historic property that citizens hold dear in this City.

Emilie Cruzan stated that she was also a member of the Task Force and that some of the big ideas on the Task Force were helping to preserve historic homes because they were being lost and picked off one by one, and to preserve the feel of the neighborhoods in the DTSP so they continue to retain their charm and their interesting and unique vitality. She indicated that she agrees with the adoption of the survey, which is a wonderful document that provides historic information. She noted that she was surprised that 88 of the homes qualify for the California Historic Resources, which is a real tribute to the people who maintain those homes. She added that this survey also gives information about the 100 or so homes that did not qualify for the California Registry but are important to the City locally. She indicated her support for Option 2 and extending the design review into the first ten feet of the home because she noticed that some of those homes that did not qualify were for reasons that changes that were made to the homes did happen within those first ten feet: the porches, the steps, the windows, and some of the cladding. She stated that this is important and supported the Commission's recommending to the Council that there be further discussion about what could happen with the other homes within the historic district with respect to the design review that could be extended to them.

Bob Nickeson inquired if the design review that is proposed would apply to the 88 of the 201 houses and then Option 2 would apply to the design review of the other 103 homes.

Chair Allen clarified that Option 1 and Option 2 applies to the 88 homes, and the Commission will be voting on recommending one of those two Options. She added that separate from that is another point that staff brought up to the Commission that in addition to the 88 homes, the Commission could potentially pursue to apply the design review beyond the 88 homes if it so desired, but that will not be discussed in any detail tonight except to say whether it is worth exploring.

Mr. Nickeson inquired if that would apply only to houses that are near one of the 88 homes.

Chair Allen replied that that is something the Commission would have to discuss, but not tonight. She added that the Commission would like to know from the public whether they think it is a good idea for the Commission to explore this further, and if the Commission does explore it further, there would be an opportunity again for the public to provide input.

Karla Brown stated that she was speaking tonight as a citizen who also loves the Downtown. She indicated that one of the reasons the Task Force was originally formed was to stop the possibility in the DTSP area to have a house that looks like it belongs in Arizona or Tahoe next to a house that looks like it is a historic resource in the City of Pleasanton. She noted that the variability within the DTSP area is one of the reasons the Historic Context Statement was developed where it isolates and points out there are nine styles of homes in the DTSP area. She added that with regard to the houses that did not qualify as a potential California Historic Resources, as well as those that were built after 1942, there have been discussions that they adhere to the nine styles that were identified in the Historic Context Statement.

Dan McCarthy stated that he lives in one of the 88 houses that qualified as a historic resource. He indicated that he downloaded and looked at the 778-page Historic Resource Survey report; he found it to be very well done and appreciated the energy that was put into creating that document. He stated that he is a big believer of retaining the historical significance of the historic homes in Downtown and appreciates Option 2 versus the Option 1 because "all" could include anything in any legal document which would mean they may not even be able to mow their lawn because that could be an alteration to the front.

Mr. McCarthy stated that they purchased their home, which is located right across the street from the bandstand park where the Concerts at the Park are held, less than a year ago. He requested that, if the Commission is possibly taking away or asking for additional review of any modifications made to the front of the house in that first ten feet, there be consideration to waive the design review fee associated with any modification they wish to make. He noted that some of the things they have done since they have been in the house, such as change the numbers, repair part of the banisters, and things like painting is part of their job as owners to help preserve one of these 88 historic homes.

THE PUBLIC HEARING WAS CLOSED.

Commissioner Nagler inquired what the implications are, other than more design review scrutiny, of being considered a historic resource both from a permitting perspective and beyond, and if there are benefits that come to the homeowner for being listed as an historic resource.

Mr. Otto replied that there is no direct benefit and that being the historic resource basically subjects the house to additional regulations that the City has already adopted. He added that the Council and the Task Force discussed other potential programs that the City could implement, such as the Mills Act, but the Council ultimately decided not to do that.

Commissioner Nagler presented an example with a question of what would happen if this amendment is ultimately adopted: A homeowner comes in to apply for design review approval for a modification to one of these 88 homes, and prior to this being implemented, a window was changed out that is a non-original window frame to the house; but the owner is not asking for change to be made to that but some other change to the house. Does this review give staff the opportunity, as part of the approval, to basically require fixes that are not part of the application, particularly in the first ten feet that were previously exempt from review but now subject to review?

Mr. Otto replied that staff might suggest it but definitely could not require it.

Commissioner Balch added to the scenario: A homeowner has the window changed out to a vinyl window, and the design review requirement now comes down like a curtain. The owner wants to change the stucco or cladding or the exterior siding, and the building inspector comes out and says that the window be changed as well. Does the owner have to prove that the window was done before the design review process?

Mr. Beaudin replied that there would be a permit history for windows that were installed with permits and even a window change out would require a building permit. He added that if there was not a building permit on file for the window and it looked like a newer window, the building inspector would definitely ask the question and a conversation would be had about when the window was installed and whether it is consistent.

Commissioner Balch commented that there would be no permit if it is the first ten feet.

Mr. Beaudin replied that there are two distinct process: a Planning process and a Building and Safety permitting process. He explained that that there would have been no design review process required to change that window, but a building permit would have been required. He then commented on the historic character of the neighborhood in relation to the question from Commissioner Nagler about the value. He noted that there is certainly not a tangible, financial benefit for this kind of regulation, but there is a community character and neighborhood aesthetic for really high quality historic structures in a neighborhood, and people take pride in that. He indicated that there is an intangible value that comes with this, a kind of pride within the neighborhood, a kind of community character and neighborhood preservation of design and policy.

Chair Allen stated that the Task Force was formed three years ago because of the recognition that there is a quality of life value that keeps Pleasanton unique. She indicated that she was talking to the manager of the Pleasanton Hotel a few weeks ago, and asked how her business was doing, and the manager replied that it was great and that the surprise to her is that almost every visitor who comes in tells them that they never realized how unique Pleasanton was. She indicated that these are visitors who come to Pleasanton to do work at a business in town, and almost all of them have commented about the value and uniqueness of the City, a big part of which was the historical character in the City's buildings.

Commissioner Nagler stated that he completely agreed with Chair Allen. He noted that this is a terrific, important, valuable, Herculean effort which completely speaks to the underlying character of the community and is an important effort that matters and he applauds; and, as one person commented, to stop the incremental degradation over time with the character of the community is incredibly important to look at. He indicated that he supports the inclusion of review for the first ten feet because not covering that would lead to inconsistency. He stated that the trick in all of this seems to be how the City strikes the balance between encouraging the maintenance of these 88 homes which would necessarily periodically require remodeling, reconstruction, shoring up, residing, replacing front doors, etc., on the one hand, and maintain the historical integrity of the building on the other. He made an anecdotal, historical comment that it is hard to live in this community and care about the town enough to get into conversations with people about architecture and construction and preservation and all that, without the conversation at some point turning to how difficult it is to work with the Planning Division when they want to make any changes to their historical structure and how it can easily become a nightmare. He indicated that he is not suggesting that it is true, but it does beg the question: What is the City's attitude towards again, on the one hand, encouraging the maintenance of buildings so that they do not become dilapidated and maintain their historical integrity, but on the other hand, doing it in a way that discourages people from applying for changes to avoid what could be a nightmare and

difficult encounter with the City and, therefore, avoid making the improvements to the home which ironically will maintain that home's integrity over time and bring value to the community? He noted that it is a comment that is not necessarily on point with what is being recommended this evening, but it certainly raises the issue of how this gets implemented in the real world in the individual experience of people approaching the City to make changes to one of the 88 structures.

Commissioner Nagler stated that he thinks the survey is terrific, and that he completely supports the changes and would highly recommend it to the Council. He indicated that the changes and the color are entirely appropriate and necessary, but asks, going forward, how all this gets implemented in a way that strikes that balance.

Mr. Beaudin stated that in the community survey that was done this past summer, people's perception and the survey results show that the satisfaction rate for the permitting process is actually fairly high, that in general, people have had a fairly positive experience with the Community Development Department and with the Planning Division in particular, and that is statistically relevant survey results that were done. He acknowledged that there are a lot of anecdotal stories and that there are certainly realities to the situation. He noted that the City is always looking for ways to improve the permitting process and will continue to do that.

Mr. Beaudin stated that a lot of what was done here tonight or in the survey itself was an effort to identify the resource, to create a system that does streamline the review so people do not have to do this themselves every time; there is a baseline for what this structure is, there is an architectural style, and there are important details that have been recognized so staff knows what to look for when reviewing the applications. He noted that there is a time savings and a cost savings, considering that it takes about a month or so and costs about \$5,000 for a survey like this to be done on an individualized parcel basis. He added that there will be a process efficiency with the review of applications on the historic side of things because the report is so detailed; people would have clear expectations about what is important for their house, and their architect will know that when they come to the counter, it will be a better conversation with the planner.

Mr. Beaudin stated that there is the in-house Design Review process which, as mentioned earlier, the City is always looking for ways to make more efficient. He noted that there is permitting software in place to keep things moving, and new technology will be brought forward that will help in this regard as well. He pointed out that there are some anecdotal issues and some history with the Planning Division, but there are also some new ideas and new tools staff is using to do their job, all the way down to the resource that is before the Commission tonight.

Commissioner Nagler clarified that something is obviously working because the integrity of the Downtown area has been maintained, other than the degradation that this is attempting to address; that he, for one, is not suggesting it is not. He stated that the question only is – periodically a good one to ask and is not meant to be a criticism but a reflective question going forward – is the City advocating the maintenance of these buildings by being a partner to those who want to make improvements to make sure they are within the guidelines and historical context? Are applicants asked to justify

what they are doing in a way that discourages potentially a continued effort to improve these structures?

Mr. Beaudin replied that it is the former question and that this document will just help staff to do that better. He stated that when applicants come to the counter and are told that they have a potentially historic structure, the \$5,000 it would cost them to figure that out was an impediment to what they want to do with their house. He pointed out that this document is designed to solve that and to do it all very quickly for the homeowners.

Commissioner Nagler stated that he would argue that it is the latter and that the homeowner would say: "What do you mean I have a historical home? Just tell me now what my window looks like."

Commissioner Balch stated that he remembers the meeting where the Council talked about a historic overlay and when the Task Force brought it back. He recalls there were a lot of speakers who were very much concerned about government intervention or government involvement in things they did not think were necessary because in their opinion, the residents who own these homes own them because they like that style, and by the nature of owning one, they want to keep it up. He indicated that he does not necessarily agree with that, but that was just generally a comment that was frequent at that meeting. He stated that he also remembers the Council really having difficulty trying to do a "one size fits all" approach, which the Council realized was not going to work. He stated that for that reason, he personally applauds this survey and thinks it is outstanding because it clearly shows how it is going to translate out. He noted that the devil's advocate approach to how staff works out is a good question; however, he really does think that staff tries to balance it.

With regard to the first question of Option 1 or Option 2, whether design review is applied on everything or only on a specific number of things, Commissioner Balch stated that he is actually grappling that, although a lot of speakers went for Option 2, he feels that after listening to that Council meeting, when people are going to be in design review and everything is in design review, they just know they are in design review, and it is pretty easy and they learn it. He noted that when people start to say what specifically is in, it lends to subjectivity as to what is not in and what is in, and they do not know if they are in; they have to interpret that they are in for design review versus they are in carte-blanche from the start. He stated that he agrees with that, maybe with some clarification or ideas, but he also understands that it could be overarching or overreaching such that he wonders what the negative is.

Commissioner Balch stated that Option 1 would be everything is in except what would look like in Option 2, which says only these are in. He asked how far apart these two are: if everything is in "except," how long is that list versus the list that staff has come up with that only says only "these things" are in? If only mailboxes and signage are excluded in terms of the address sign, why does it not state "except for those two things?"

Mr. Weinstein stated that the complete list of items is probably a subject of one's imagination, as there are probably things that can never be anticipated that would be captured by the more comprehensive approach to regulating the first floor of historic

buildings. He noted that obvious suspects are things like the color of the house or the address number on the wall, and there are probably a lot of other things like mailboxes and other features that would not be encompassed in Option 2. He pointed out that the intent under Option 2 is to make it easier for the applicant by making the features that would be subject to additional review as precise as possible. He added that maybe some work can be done on those, but the City does not want to review house numbers and paint color; the preference is for applicants who wants to make a change to their first floor to look at this list and figure out whether their project is subject to this additional review or not.

Mr. Otto added that there are currently no guidelines or regulations to help staff review, for example, mailboxes and things like that, so it would be getting to the point where staff is reviewing things and coming up with their own subjective comments on those things. He pointed that one of the criticisms for starting this Task Force process was to try to get predictable results each time so people at least know what they are subject to being reviewed on or not.

Commissioner Balch rephrased his statement: The applicants are in design review except that their mailbox, their address numbering and lettering and the color of their house are not in. He stated that he really liked the structure of Option 2, but what he is also trying to realize is that the smartest position he can take is that he does not know what he does not know. He asked what would happen if something comes up that is not in Option 2 that should have had a design review that was not foreseen today? If specific items that are pointed out as excluded, which are very good examples, how far is that from Option 2 the other way, going positive of things that are in?

Mr. Otto replied that staff looked at things that were important enough to establish guidelines for.

Commissioner Balch agreed that listing what the City finds important made sense. He indicated that he is fine with supporting Option 2. He stated that he is open with moving forward with exploring the topic of expanding design review authority to non-historic homes, but indicated that he was not sure how he will ultimately vote on such an amendment. He added that if he felt it was too overreaching, he will vote no.

Commissioner Ritter stated that he is not supportive of over-regulation as there is already a lot of that. He indicated that he is supportive of empowering staff to make good decisions, and the design guidelines would provide that everything that comes is would be reviewed that way. He added that he supported the Survey as it saves costs when purchasing or remodeling a house. He noted that he does not want to penalize the 88 homes, but rather to work with homeowners to maintain their homes and encourage them to keep the historic value of their homes. He added that he liked the fee waiver idea. He indicated that he supports Option 2 and agrees with Commissioner Balch regarding Staff Recommendation No. 4.

Chair Allen asked the Commissioners if they are open to have the No. 4 recommendation come back to the Commission for review.

Commissioner Ritter said yes, as long as it complies with the nine designs in the Historic Context Statement and encompasses all houses regardless of whether they were built before or after 1942.

Commissioner Nagler indicated that his is fine with having No. 4 come back to the Commission with any home within the DTSP area.

Commissioner Balch stated that he believes non-historic homes significantly adds to the quality and value of the 88 homes and agreed that No. 4 be recommended to the Council.

Chair Allen agreed with the Commissioners. She stated that the Survey is well done, Option 2 is good and consistent with the guidelines, and that it is important for the Commission to have another discussion on the houses beyond the 88 historic homes; however, she does not know if 1942 should be the cut-off date or if it should apply to all homes.

Commissioner Ritter moved to find that the proposed amendment to the Pleasanton Municipal Code is statutorily exempt from the California Environmental Quality Act (CEQA); to recommend that the City Council accept the Historic Resource Survey; to recommend approval of Case P15-0384, amendment to the Pleasanton Municipal Code, as shown in Exhibit A of the staff report; and to recommend that the City Council discuss the merits of pursuing a separate Pleasanton Municipal Code amendment to expand design review authority to the exterior of non-historic single-family homes in residential zoning districts in the Downtown Specific Plan area. Commissioner Nagler seconded the motion.

ROLL CALL VOTE:

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

Resolution No. PC-2015-31 recommending approval of P15-0432 was entered and adopted as motioned.

Chair Allen called for a break at 8:40 p.m. and thereafter the Commission resumed its meeting at 8:50 p.m.

Commissioners O'Connor and Piper re-joined the Commission at the dais.

**b. P15-0432, Gerard Sobrero, Appellant; Denise Alioto, Applicant
Appeal of the Zoning Administrator's approval of a Conditional Use Permit to operate a Large Family Daycare for a maximum of 12 children at the existing residence located at 3763 Muirwood Drive. Zoning for the property is R-1-6,500 (One-Family Residential) District.**

Mr. Weinstein indicated that he would step down from this discussion as he was the Zoning Administrator at the initial appeal hearing for this application. Mr. Otto assumed his position at the staff table.

Eric Luchini presented the staff report and described the scope and key elements of the application.

Commissioner Balch stated that he was aware State law regulates family daycare homes. He requested verification that a Conditional Use Permit (CUP) is required so the City can determine the spacing in relation to other existing daycare homes, and the CUP also lays out elements for which the Commission could deny the CUP.

Mr. Luchini replied that was correct.

Chair Allen requested Julie Harryman, Assistant City Attorney, to comment a little bit more on State law. She indicated that she has been doing her own research on this matter as this is her first experience with family daycare homes, and it appears that the State does really limit the Commission's ability to regulate this.

Ms. Harryman replied that most people are surprised to learn that the State comes in and pre-empts local municipalities' ability to zone in many areas, and one example where cities are precluded from any kind of regulation is in the area of small family daycare homes. She noted, however, that the State gives cities some latitude for large family daycare homes and allows them to condition large family daycare homes in five specific areas as laid out in the staff report to determine whether there are appropriate, reasonable mitigations: spacing to avoid over-concentration; traffic control so as not to create a hazard; parking requirements so they are within a reasonable distance from the homes; noise control based on the City's noise ordinance; and Fire Code requirements.

Ms. Harryman stated that another area that the State has pre-empted cities from regulating is elderly care homes, which are located in residential neighborhoods and provide assisted living for seniors. She added that the State also controls rehab facilities, such as the one on Sycamore Road for memory care and people with head injuries, as well as sober living facilities. She explained that there are certain areas that the State allows to locate in residential communities and protects from municipal regulation because these are unpopular or there have been neighborhood objections to them.

Commissioner O'Connor asked Ms. Harryman if the State makes it difficult to deny applications within those areas and if the State really wants cities to define conditions that will make it appropriate to limit the exposure of those areas.

Ms. Harryman replied that is a fair statement and interpretation. She stated that per legislation, the State absolutely and strongly encourages these, and cities shall approve these unless they can show and make findings that they will create hazards. She noted that the Commission actually had one such case in 2006 where a large family daycare wanted to go in at Paseo Navarro, and there was strong opposition and argument from the neighbors about double-parking and speeding, and there was a lot of evidence in the record. She stated that the applicants were operating a small family daycare at the time and were applying to do a large family daycare similar to this situation. She noted that the item went all the way to the City Council; the Council denied the application; the operator sued the City; and the judge ruled in favor of the operator. She indicated that the operator essentially got the approval from the judge, who found the administrative record not to be sufficient in the City's favor to properly reject.

Chair Allen commented that it appears the City has much more authority over daycare centers and tutoring facilities in commercial centers, and a number of them have come up in the last year or two. She noted that the Commission has a lot of control over defining parking and similar things than it does in this type of family daycare.

Ms. Harryman said yes. She stated that there is language about wanting to promote this particular type of use in residential neighborhoods. She noted this is a good thing for children, as opposed to putting them in commercial centers.

THE PUBLIC HEARING WAS OPENED.

Daniel Alioto, husband of the applicant, stated that the staff report is absolutely on point and that he and his wife whole-heartedly agree with it. He pointed out, however, that the staff report says that the daycare only passed a Fire Department pre-inspection, but Department representatives actually came out and did their final inspection of the home, and the Fire Department has given them their fire clearance for the home to be a large family daycare. He added that the Commission will hear a lot of testimony that there are a lot of negative impacts to the neighborhood, and he indicated that from their perspective, that is really not the case. He noted that they have a very few number of trips coming in and out of the home, and parking is very adequate and very safe. He indicated that all the parents have been instructed which parking spots they should use in front of the home and which ones they should not use around the neighborhood; that they recognize these are residential areas and that they should drive carefully, slowly, and respectfully, turn down their radios as they drive through the neighborhood, and not use other neighbors' parking or driveways as turn-arounds.

Mr. Alioto stated that they are aware that their presence in the neighborhood is not really wanted or desired and that a lot of the neighbors have objected to their presence there. He indicated that he spent some time in the last couple of weeks walking around the neighborhood to meet some of the neighbors and to discuss their neighbors' specific problems with the existence of their daycare in their neighborhood; but he was unable to talk to most of them because they were not home during the hours of the day he was walking around. With respect to those neighbors with whom he was able to speak, he indicated that there were two classes of neighbors: (1) Those who are directly affected by the existence of their daycare, which are the neighbors directly to their left, their right, and behind them. He stated that they want to maintain a positive relationship with these

neighbors specifically so they can be good neighbors. He added that they are totally open to talking to these neighbors and coming to reasonable solutions on any problems they would have. He noted that they want to be a positive force in this neighborhood, to be looked at as people who care about this neighborhood and are trying to provide a positive service. (2) Those who are not necessarily directly affected by the existence of their daycare, which are the neighbors who are supporting the other neighbors who are their friends or neighbors who have been around for many, many years. He stated that in talking to this group of neighbors, it was pretty clear that the existence of their daycare was not really affecting their life in any negative way during the day, and they were really only signing the appeal and appearing here today to show support for the neighbors who are directly affected. He noted that the Commission may hear some anecdotal evidence about how there may have been impacts of noise, traffic, and parking, but he would just like to say that the staff report really has it right: the noise generated by the daycare is not above the Code limit; additionally, State law indicates that the normal noise that children make must be taken into consideration.

Mr. Alioto stated that with respect to parking, the parents do not all come at the same time, so the number of parking spots available are very adequate for the amount of people coming to the home. He added that they park directly right in front of the home or in the driveway, and there are no safety issues with transferring the kids to and from the home as they are not crossing any streets.

Regarding traffic, Mr. Alioto stated that there are comments that this is a really high traffic area, particularly during school times, and the daycare will make it worse. He indicated that there is no backup of traffic along Muirwood Drive anywhere near their home, and the only traffic backup is up by the high school for about 35 minutes in the morning, and it moves fairly well. He noted that he takes his children to school every morning, and it takes him only a couple of minutes to navigate through that traffic. He noted that they have asked parents to avoid dropping off their children during those particular times. He added that they have also given them a map of the area showing alternate routes to the home in case they do need to come during those times of traffic.

Mr. Alioto concluded by saying that while the neighbors do not want the daycare in their neighborhood, this is clearly something that the State of California has said is not an acceptable reason to deny them the permit.

Commissioner Piper stated that she read there was an issue with the garage, possibly due to some flooding, and asked if that is still happening.

Mr. Alioto confirmed that the flooding in the house cause the problems with the garage but that the work was completed last Saturday and the problems have been fixed.

Commissioner Piper inquired if they are able to park their two cars in the garage at this point.

Mr. Alioto said no. He pointed out that the work has just been completed on Saturday but that they are definitely looking to move their things out of the garage soon.

Commissioner Piper inquired if they have furniture from inside the house in the garage because of the flood.

Mr. Alioto said yes.

Commissioner Piper asked Mr. Alioto whether they parked their cars in the garage or in the driveway or the street when they were operating the small daycare and before his wife applied for the Conditional Use Permit to operate a large family daycare.

Mr. Alioto replied that the law requires them to live in the house while operating a large family daycare, and, therefore, the house is not just for the business; there are multiple people living there who are not part of the daycare: his wife runs the daycare, and he and his mother live in the house as well. He added that for that reason, his car and his mother's car are not parked in the garage because it would be difficult for them to leave the house if there were parents parked in the driveway; he and his mother would then typically not park in the garage, but his wife's car might be parked in the garage.

Commissioner Piper inquired if they were using the garage as part of their small daycare before the flood occurred.

Mr. Alioto replied that they had just moved into the house when they applied for the large family daycare, and they had been operating the small daycare only for some days.

Commissioner Piper noted that the Condition No. 4 of the Conditions of Approval requires them to park two cars in the garage. She asked Mr. Alioto what their intention is with the garage.

Mr. Alioto replied that they intend to make it available for one car to be parked in there. He stated that they had put in the report that they wanted to make the parking spots in the garage available for the tenants of the house and not necessarily for the daycare because the staff and the parents will not be parking in the garage.

Commissioner Piper stated that the occupants of the house currently have two cars at the home and asked Mr. Alioto is it was their intention to park the cars in the garage since it is part of the Conditions of Approval.

Mr. Alioto replied that he did not think it is the idea of the Commission or staff to require them as owners or tenants of the home to park in the garage; that the intent is not to force them to park in the garage but to ask them to make the garage available for them to park there.

Commissioner Piper requested staff to comment on that.

Ms. Harryman replied that the applicant is making a good point and that the Commission can consider the language of Condition No. 4, which reads: *"The garage shall remain available for parking of two vehicles, as required by the Pleasanton Municipal Code. A business license shall not be issued until the garage is clear and available to park two vehicles and renovations are complete to the satisfaction of the*

Community Development Director.” She stated that the applicant is following the language of the condition; however, staff’s intent was to actually require two cars of the occupants of the house to be parked in the garage to free up space in the driveway and on the street. She indicated that if this is something the Commission is interested in clarifying that or if the Commission is fine with having just one car parked in the garage, the Commission can discuss that after the public comment period.

Commissioner Piper commented that she felt that was staff’s intent when she read it.

Ms. Harryman replied that she did not write the condition but that she is seeing nods from Planning staff that that was the intent.

Commissioner Piper asked Mr. Alioto if he can park two cars in the garage if the Commission approves the application with the condition requiring them to do that.

Mr. Alioto said yes. He stated, however, that the point is that there are lots of parking spaces available for public parking in front of the house that are not part of the plan and have nothing to do with this application. He indicated that he can personally choose where to park his car because it is convenient for him as a resident of the home to be able to take his children to school or to work in the morning without having to try to get through or wait for parents to drop off their children. He reiterated that there is no parking problem in the neighborhood with parking, that there is plenty of on-street parking available in the house, and they are doing as a facility is trying to leave the five parking spots that they have included in the plan available for the parents to use when they drop-off or pick-up their children. He pointed out that staff even mentioned in the staff report that they came back during high traffic time or high school times to look at the parking issue and had determined that there is plenty of parking available for the parents to be there. He noted that he understood the reason why the Commission would ask them to park in the garage, but he did not think forcing them to not use a parking spot in front of the home they live in is necessarily appropriate. He added that residents are free to choose where they would like to park, including in front of their homes, and he did not see why they should do any differently.

Commissioner Piper stated that she thinks the intent is that because of the neighbors’ complaints with the number of cars that will be coming for pick-up’s and drop-off’s, it would lighten the load in front of the house if two cars were parked in the garage.

Mr. Alioto replied that he would totally understand that if there was an issue with the amount of parking space available in front of other people’s houses or if they were obstructing other people’s parking spaces, which is not the case. He mentioned once again that there is plenty of parking available, and there does not seem to be any impact to the neighbors at all where parents are coming and going. He noted that the current situation or the status quo of where they are parking their cars right now and have been for the last couple of months has not created a problem for any of the neighbors, with the exception that the neighbors on Northwood Court had asked them to park farther away from the intersection so that they could see on-coming traffic more easily, to which they totally complied and are happy to do so. He reiterated that they are willing to work with the neighbors to make sure everybody is comfortable, happy, and safe, and the neighbors can come talk to them anytime they have a problem with

the daycare. He stated that he could see forcing them to park two cars in the garage as an issue if there were not adequate parking in the area, but that does not seem to apply in this case, particularly since staff has already looked at the parking situation and determined there is adequate parking.

Commissioner Balch stated that he can actually see parking two cars in the garage as a requirement. He noted that the difference is that the small family daycare has six children, and going to a large family daycare would require more parking. He asked Mr. Alioto if he agreed.

Mr. Alioto said yes.

Commissioner Nagler asked Mr. Alioto if he worked at the home.

Mr. Alioto said no.

Commissioner Nagler asked what time he goes to work.

Mr. Alioto replied that he is currently not working; that he stays home.

Commissioner Nagler asked how many cars the tenants use during the day.

Mr. Alioto replied that they own three cars and two of them are being used during the day

Commissioner O'Connor asked Mr. Alioto if what he is saying is that he wants to have the flexibility to come and go without being impeded by a parent who might be in the driveway.

Mr. Alioto replied that was correct.

Commissioner O'Connor asked Mr. Alioto to confirm that there is another teacher working with his wife at the daycare.

Mr. Alioto said yes.

Commissioner O'Connor asked Mr. Alioto, if it were a requirement to park two cars in the garage, and he personally did not want to be blocked in, if it would be typical for the teacher to park her car in the garage, assuming the teacher would be at the home before the children arrived.

Mr. Alioto replied that the teacher is not always at the home before the children arrive as she starts a little bit later; his wife opens the facility. He indicated that having the teacher park in the garage would depend on the day and is not something that is set in stone. He stated that he could not answer the question as it could sometimes be possible for her to park in the garage but could be difficult at other times.

Chair Allen asked if it would be possible for the teacher to park behind the spot in the garage where he would be parking so that she could be asked to move her car if necessary.

Mr. Alioto replied that there are five parking spots specifically designated for the daycare. He noted that that is plenty of parking for a large family daycare because of the staggered drop-off and pick-up times. He indicated that he understands the need to make sure that the daycare is not taking up spots in the neighborhood; however, there is plenty of parking available for the neighbors during the day when the parents come and go, even with his car parked there. He stated that the daycare is not causing any sort of traffic hazard or impacting parking availability with the current configuration.

Commissioner Piper noted that the daycare is expanding so the impact is not really known at this time.

Mr. Alioto replied that he actually knows because they have done large family daycare homes at other places. He indicated that there will be two or three more cars, or four at the most, resulting from the expansion from a small family daycare to a large family daycare. He added that he thinks it is not that big of an impact.

Commissioner Balch asked Mr. Alioto to describe the drop-off process and how long it takes.

Mr. Alioto replied that they ask the parents to minimize the drop-off time to about five minutes: they come in, they sign-in their child, and then hand them in to one of the teachers to acknowledge that the child is now in the care of the home. He added that the parents might have some discourse with the teacher regarding any of the child's activities or anything about the child, and then they leave.

Commissioner Balch inquired if staggered drop-off's and pick-up's could be accommodated if they were made part of the Conditions of Approval.

Mr. Alioto replied they happen naturally; parents do not coordinate when they drop-off their children; they just come at any time, and they are there for a short period of time. He noted that there will be cars coming and going for a short amount of time, and then it is all over.

Jerry Sobrero, Appellant, stated that he is appealing this approval because the original recommendation for the large family daycare was for denial. He noted that the staff report states that, based on the best-case scenario about the parking, there would be three sets of siblings currently at the daycare center, with one parent dropping off multiple children. He stated that if that should change, traffic and parking could substantially be impacted by having 12 parents, as opposed to six or seven parents, dropping off their children.

With respect to the noise impact, Mr. Sobrero stated that he is recently retired, and the noise impact for him and his wife is pretty substantial because they stay home all day. He added that the noise impact to the neighbors on the other side is very substantial as well, as he is an airline pilot and sleeps during the day when he can. He noted that they

currently have seven children at the home, so that would either double the amount of time the children are in the yard playing or it would double the noise level while they are playing, and either scenario would not really be conducive and would have a large impact on them.

Mr. Sobrero stated that another thing he is concerned about is if he decides to sell his house, he will have to put on his disclosure statement that there is a large daycare next-door, which will impact the marketability of his house. He pointed out that the petition was signed by almost every neighbor in the area who may be indirectly impacted by the traffic and the nuisance created by the daycare home. He questioned whether there would be an additional full-time teacher there with the expansion to a large daycare. He also questioned the intent of the garage and noted that during the process when the daycare was first started, the intent came out that the garage was going to be used as part of the daycare, and, therefore, no cars were going to be parked there. He added that there generally is one car parked in the driveway and three cars parked across the street from their house.

Robin Neal stated that she has lived in the area for 33 years and is five houses away from the applicant's residence. She indicated that she and her husband are both retired, and they can hear the children at play. She noted that while it is nice to hear them playing, children screaming is not something they, as retirees, want to hear all day.

Ms. Neal stated that traffic on Muirwood Drive is also dangerous. She indicated that she is aware the children are not crossing the street, but noted that last year, a young driver coming down the street ran into the back of a car parked in front of the applicant's house and in front of the Sobreros' home, totaling the car. She stated that she is fine with having daycare around, but making it a large daycare is not acceptable in their neighborhood.

Bonnie Kramer stated that there are a couple of things she wanted to address after hearing everyone speak. She noted that Mr. Alioto had indicated that there was no hazard with the current way the cars are being parked, but she would like to argue that point because she believes there is a traffic hazard with the cars they have parked across the street from the house as they block the view coming out of Arrowwood Court, and drivers cannot see down the street. She stated that she has made three phone calls to Mr. Weinstein because she and her neighbors could not get out of the court. She noted that she has to be probably a good three-fourths outside the court before she can see around the applicants' cars. She indicated that she was counting on the fact that the garage would be used for parking so that two of those cars would now be in the garage and the employees' cars can be parked on the driveway.

Ms. Kramer stated that the other thing she just wanted to address is Mr. Alioto's statement that there were two groups of people directly or indirectly affected by the noise. She indicated that they live across the street and can also hear the noise when their windows are open. She stated that she works from home and has conference calls at 6:00 a.m. with East Coast people, and she has to shut her windows so car door slamming and similar things do not disrupt the call. She emphasized Mr. Sobrero's point regarding property values, noting that for the vast majority of the neighbors, their

homes are their largest retirement investment, and to have to disclose a 12-children daycare next-door or across the street when they sell their home is certainly going to decrease the value of the sale of those homes. She added that it is particularly disturbing that someone renting a property can come and decrease the value of homes that neighbors have lived in for 20 years and for which they have worked hard and paid. She indicated that as a property owner, she feels that their needs are reasonable and should be met by the Planning Commission. She noted that they are paying the property taxes that keep Pleasanton beautiful, that have created and maintained their neighborhood in a beautiful and appealing way, and that it is disconcerting when people who do not have ownership in the property have more rights than the people who have been long-established in the area and have been dutifully paying their property taxes.

Ms. Kramer stated that she is having trouble understanding the logic of allowing the daycare to expand if none of the property owners are in favor of increasing the size of the daycare, and if the original City evaluation itself stated not to permit the large daycare. She noted that a fair compromise at best to appease the homeowners and the applicants is to keep it as a small family daycare: the applicants get a daycare with their seven children, and the neighbors at least get half the noise and disturbance that it is causing.

Commissioner O'Connor asked Ms. Kramer if she was implying that there is noise coming from car doors slamming at 6:00 in the morning.

Ms. Kramer replied that her conference calls to the East Coast usually occur from 6:00 through 11:00 in the morning. She stated that she does not hear car doors slamming at 6:00 a.m., but she does hear them by the time she is on her 8:00 a.m. conference calls.

Mr. Alioto stated that he would like to address a couple of things:

1. The most important thing is that he heard a couple of people say they like daycare and do not have a problem with that. He noted that this is exactly why the State of California has chosen to protect family daycares because this is something that everybody thinks is necessary and needs but nobody wants in their backyard.
2. They understand that parking their cars across the street from Northwood Court creates problems for the residents of the Court, and they politely have backed their cars off. He noted, however, that these are publicly open parking spots which other people also use, such as the neighbors' friends who come over, so he does not understand why all of a sudden it is not acceptable for them to use the public parking spaces but it is acceptable for the neighbors to use them. He indicated that there are lots of cars parked up and down Muirwood Drive on the edge of the other courts, and none of the other neighbors are complaining about that. He noted that this is one of those small minor things that the neighbors can put their little hook into and say they do not want them parking there because it is the daycare; however, the truth is they, as owners of the daycare, are not doing anything different than what anyone else in the neighborhood is doing.

3. One of the statements made was that the noise is going to double. He stated that it is easy to say that expanding from six to 12 children doubles the amount of noise, but that is really not the case. He indicated that they have four spots for infants and eight spots for older children; one of the spots that would be filled by increasing from small family daycare to a large family daycare would be an infant spot, so that also has to be taken into consideration when thinking about the number of the children on the playground at once. He noted that it will not be 12 children all at once out in the playground; additionally, as he mentioned earlier, the State specifically states that the normal noise children make should be taken into account. He referred to one of the neighbors' comments that she can hear the children when she opens the window, and he noted that that is basically what would be happening if a person living in this residence had children and they were playing outside.

THE PUBLIC HEARING WAS CLOSED.

Commissioner O'Connor inquired if the house has a two-car or three-car garage.

Ms. Harryman replied that the car has a two-car garage.

Commissioner O'Connor stated that he recalls there was a proposal to use part of the garage for the daycare and assumes from the current proposal that that has not been considered.

Mr. Luchini replied that his understanding was that due to some flooding issues within the house, they had to temporarily use a portion of the garage for the small family daycare and that once that issue was resolved, everything would be moved back into the house.

Commissioner O'Connor inquired if staff's original intent in Condition No. 4 was that the garage remain available for their own parking so there would be five other spaces for parents coming and going.

Mr. Luchini replied that that was the intent of the Zoning Administrator.

Ms. Harryman clarified that the Zoning Administrator for this hearing was Adam Weinstein, and these are conditions that were approved by the Zoning Administrator. She referred the Commission to Exhibit B, which shows a nice floor plan with two garage spaces, three spaces in the driveway, and two cars right in front of the home by the front lawn. She noted that this provides an idea of what is immediately available on the site and right in front of the site.

Commissioner O'Connor noted that this is not to prevent someone from parking on a public street where anyone can park anywhere, but really to accommodate a business that is going on in the home by having adequate area for drop-off, pickup, and the ongoing part of the business.

Ms. Harryman replied that was correct. She stated that Mr. Beaudin and she were discussing that the Pleasanton Municipal Code has language in it that requires people

to use their garages for parking. She indicated that it is common knowledge that a lot of people use their garages for storage; however, when staff puts specific conditions on this because of things like this business where parking is necessary, staff can condition the project to make sure it is not used for storage. She added that this is the purpose of these kinds of conditions and that this is a perfect example of where it is appropriate to firm up what is already in the Municipal Code with conditions stating that a specific amount of garage space shall be used for parking.

Commissioner Balch noted that that was one of the conditions the Commission added for another daycare on the other side of town by the Walmart area. He recalled that parking was a big issue because that complex had a requirement that the residents use their garage for parking because there was no additional parking available. He stated that this is an older home and assumed the PUD did not have the requirement that the garage be used for parking, and that the Commission can still impose it as part of the Conditions of Approval.

Commissioner O'Connor noted that five spaces were marked as available for parent drop-off. He asked if staff was aware that the tenants of the home actually have three vehicles of their own, such that even if they parked two of their cars in the garage, there would really be only four places for drop-off and pick-up.

Mr. Luchini replied that at the Zoning Administrator hearing, there was mention of only two vehicles. He stated that he believes the third vehicle came to light after the Zoning Administrator hearing, and the neighbors brought to staff's attention that the tenants had an additional vehicle, a van, that was being parked on the street.

Commissioner O'Connor noted that if a teacher parks in in front of the home or in the driveway, there would be only three spaces available for the drop-off and pick-up.

Ms. Harryman stated that the Municipal Code talks about parking with a reasonable distance and does not necessarily mean in the driveway or immediately in front of the home. She noted that while staff probably does not have to require them to have the two parking spaces in the garage to be used for occupants, it makes sense here given this particular neighborhood. She added that staff has seen applications elsewhere where there was no driveway for pick-up and drop-off or any street parking, and that would not be an appropriate place to locate a daycare because there is nowhere for the parents to park. She further added that this neighborhood is not situated that way.

Commissioner Ritter inquired if there is any State regulation requiring square footage inside the house for a large daycare.

Ms. Harryman replied that that is regulated by State law and the licensing department; cities do not have the ability to look at that. She stated that she understands the applicants did receive their license, and the Fire Department would look at certain things relating to fire safety.

Commissioner Ritter asked if for the Commission to not approve this, it would need to make a finding other than the potential parking issue that the house is not suitable as a daycare for 12 children.

Mr. Harryman replied that if the Planning Commission was inclined to deny this application, it would have to make findings based on one of those five criteria mentioned earlier: spacing to avoid over-concentration, and staff's already confirmed that there are no other daycares in the immediate vicinity; traffic so as not to create a hazard; parking if they were within a reasonable distance to the home; noise if they are able to meet the City noise ordinance; and Fire code, which the Livermore Pleasanton Fire Department apparently has inspected and has found adequate.

Commissioner O'Connor inquired if the State actually approves home size.

Commissioner Ritter questioned if a 500-square-foot house could have 12 children in it.

Ms. Harryman replied that she was not familiar with the State requirements.

Commissioner Ritter stated that he did a quick calculation that there are 897 square feet of inside space being used for these 12 children up to five years of age, including four infants. He noted that the layout of the house is perfect for a small daycare, but it does not seem very logical for a large daycare based on the layout of the house, and they cannot use the 441-square foot of garage as daycare space. He noted that he had an 1,800-square-foot house with two children under five years old, and there was not enough space for them. He added that he is trying to get some other ideas and knows that the State is telling cities what they have to do, but he wanted to know if those are options to look at.

Mr. Beaudin stated that daycares are very carefully regulated by the State: there would be a home inspection, and the permitting process would include an inspection of both indoor and outdoor spaces for the number of children the applicants are requesting.

Commissioner Ritter inquired if the Commission did not approve the application, if the applicant could appeal the decision to the State and if the Staff would come back and review the application once more.

Mr. Beaudin replied that what the Assistant City Attorney is saying is that we would not be able to deny the application based on our understanding of how much space is available for the children. He explained that the State, as part of its review which is completely separate from the City's, would look at the application for a large family daycare and make a determination about whether or not this site has the necessary space and other requirements to have a large family daycare.

Chair Allen inquired how much flexibility the City has to further mitigate noise issues if they were to occur and if there were complaints from residents, for example, potentially limiting play to indoors only.

Mr. Beaudin replied that the applicant is correct in saying that there has to be a baseline level of noise from children playing in a yard, and the City cannot say that the children could not go outside during the day. He noted that the General Plan identifies a noise level of a moderate 60 dBA. He added that there are conditions of approval that do limit the number of children in the yard at one time, so it is almost like there would be a shift

depending on the number and age of children, or maybe the younger children are outside at different times than the older children. He indicated that the condition is for seven children in the yard at a given time, which is equivalent to what they could have done with a small family daycare. He noted that what staff has tried to do is make sure the impacts are similar to a small family daycare based on State regulations.

Chair Allen noted that the applicant mentioned they have four slots for infants, which would leave eight slots for non-infants, who would be old enough to play outside. She inquired if there is a possibility to re-consider having only four children outside at a time, which would be half the number of eligible children.

Mr. Beaudin replied that what staff is trying to do is not stretch its ability to regulate, which is really limited, so staff is trying to keep the conditions of approval relatively consistent with a small family daycare and those kinds of impacts. He indicated that is why staff went out to seven children because that is kind of the threshold that is set at this small family daycare level, and the idea of creating two separate play times seemed like a reasonable attempt to address the potential impacts.

Commissioner O'Connor stated that there seems to be concern over noise. He inquired, assuming this daycare were approved with the conditions of approval as written, and down the road, staff receives a lot of complaints about the noise and things are getting worse, say, the noise goes over the 60 dBA, if the Commission would be able to look at requiring further noise mitigation, as opposed to trying to solve that today.

Mr. Beaudin said yes. He stated that things like this become Code Enforcement discussions first, and the problem is addressed in a reasonable way to meet the City's standards. He added that there is a condition of approval included in the packet, as with all of the City's Conditional Use Permits, that states that if there is an ongoing problem, the project can be brought back before the Commission for additional review and modification of the conditions at a noticed public hearing.

Commissioner Balch stated that he generally supports daycares being sporadically spaced throughout the City, and he is questioning the applicant heavily to gain understanding. He indicated that he could easily get hung up with the number of cars the applicants own, per se, but there could be neighbors who have an abundance of cars and park 15 cars on the street, over-using their per se implied allocation of parking just as much. He stated that he liked the condition regarding having the applicant park their two cars in the garage because he does not like the idea that the applicants' parking presumes that the two spots in front of his home are available only for him, as these are obviously public parking spaces similar to any other spots on the street. He added that he also does not like the implication that property taxes and the fact that the applicant is a renter versus a resident/owner are being factored in, because he is sure everyone generates sales tax revenue for the City by buying groceries at a local grocery store, and to imply that property tax should be factored into any opinion one makes on this dais would be to imply that the voting majority at Ruby Hill should be more so than the voting majority at a lower-value home within the City limits. He concluded that, that being said, he supports the application to deny the appeal and support the applicant.

Commissioner O'Connor stated that one of the other concerns seems to be around traffic and that there is already so much traffic from Foothill High School at these same times of day, and whether or not that traffic makes it all the way down to this particular residence. He indicated that he did not think an increase of 12 to 15 cars in the morning and another 12 to 15 cars in the afternoon would be a noticeable change in traffic patterns on an already busy street such as Foothill Road. He indicated that he is also inclined to support the denial of the appeal with the understanding that if problems do arise with the small daycare down the road, the use can always be brought back and reviewed at a later date.

Commissioner O'Connor moved to deny the appeal and uphold the Zoning Administrator's approval of Case P15-0432, subject to the Conditions of Approval attached as Exhibit A of the Zoning Administrator's approval letter, dated August 19, 2015, Exhibit A of the staff report, with a modification that the applicants be required to park two or their three cars in the garage.

Commissioner Piper inquired if there are CC&R's associated with this property. She indicated that she was thinking of this in terms of the number of vehicles parked on the street.

Ms. Harryman replied that she did not know if there were CC&R's and that if there were, that would be a totally separate issue and not in the City's purview either.

Mr. Otto advised that State law indicates that CC&R's that prohibit daycares are void.

Commissioner Piper stated that when she first read through this project, the most disturbing thing she read was the fact there was non-transparency with the tenant and the owner of the property, but that was clarified after a talk with Ms. Harryman. She indicated that she is a big fan of property rights, and property owners should have the right to have a say in what happens in this property. She stated that she also was not sure she can necessarily state whether this daycare would bring down property values, but what she can say is that people who choose to sell their home the seller have a legal obligation to disclose anything and everything that materially affects the property or its value, including any neighborhood nuisances. She noted that the people in the room clearly feel that this is a nuisance, which means it would need to be disclosed and could deter a buyer from purchasing the home.

As far as traffic is concerned, Commissioner Piper stated that she lives close by and thinks that there is significant traffic on Foothill Road and that people cut through Muirwood Drive instead of going up West Las Positas Boulevard, and that affects the residents on Muirwood Drive. She noted, however, that she did not think the additional 26 trips per day would necessarily have a significant impact. She added that all in all, she is under the impression that her hands are tied because of the State.

Commissioner Ritter stated that he hopes that when the State inspection comes around, it will deem that the home meets compliance with State law based on its size. He added that he also thinks his hands are tied and so he will have to support to deny the appeal.

Commissioner Nagler stated that he had nothing to add.

Commissioner Ritter seconded the motion.

Commissioner O'Connor stated that he wanted to confirm that staff will amend Condition No. 4 to require two cars to be parked in the garage.

Commissioner Piper stated that she is huge favor of mandating that the two cars be parked in the garage, but Mr. Alioto brought up an interesting point that if there is an emergency at the day care and there are cars blocking the car of the person in that home, then they will not be able to get out to get the child to wherever they need to go.

Commissioner Balch commented that they could call 911.

Commissioner O'Connor noted that the cars in the driveway are going to be at drop-off or pick-up, so there is going to be someone there with the vehicle. He added that the applicants have three vehicles, and one of them would be parked where they can come and go at will and would not be blocked in.

Commissioner Nagler stated that he supports the two cars being parked in the garage and understands that applicants' position that they should not be obligated to park in the garage. He noted, however, that he feels that is something the Commission should strongly support for the benefit of the fact that they will be impacting parking elsewhere and all the other neighbors more than their pro-rata share, had it not been for the large daycare.

Commissioner Piper agreed and indicated that she is absolutely in favor of that.

Chair Allen stated that their hands are tied and need to follow State law on this. She addressed the applicants, saying that it is her hope that they do continue to reach out to all the neighbors and really take the concerns seriously and try to make it a win/win situation, both for the neighbors and for their reputation as their business grows and hopefully gets future clients who want to bring their children to their daycare. She added that it would be the greatest thing if after a year, people are saying and writing the Pleasanton Weekly that you are really great neighbors.

ROLL CALL VOTE:

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

7. MATTERS INITIATED BY COMMISSION MEMBERS

Commissioner Ritter stated he will be unable to attend the next Planning Commission meeting.

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

a. Future Planning Calendar

Lund Ranch II

Mr. Beaudin advised that the Lund Ranch II project has been scheduled to come before the City Council at the October 20, 2015 meeting, but there is a possibility that the item will be continued, pending a Fair Political Practices Commission (FPPC) determination regarding whether one of the Councilmembers can participate in the deliberations. He indicated that the expectation is that the Council will ask for a continuance to a date certain.

Commissioner O'Connor inquired if this would not be determined until Tuesday night.

Mr. Beaudin said yes.

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.

d. Matters for Commission's Information

No discussion was held or action taken.

9. ADJOURNMENT

Chair Allen adjourned the meeting at 10:10 p.m.

Respectfully submitted,

Adam Weinstein
Secretary