



## PLANNING COMMISSION MEETING MINUTES

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

**APPROVED**

**Wednesday, March 9, 2011**

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

### **CALL TO ORDER**

The Planning Commission Regular Meeting of March 9, 2011, was called to order at 7:00 p.m. by Chair Kathy Narum.

#### **1. ROLL CALL**

Staff Members Present: Brian Dolan, Director of Community Development; Julie Harryman, Assistant City Attorney; Janice Stern, Planning Manager; Steve Otto, Senior Planner; and Maria L. Hoey, Recording Secretary

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

Commissioners Absent: None

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

##### **a. February 9, 2011**

Chair Narum deferred consideration of the February 9, 2011 minutes to the next meeting.

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

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

#### **4. REVISIONS AND OMISSIONS TO THE AGENDA**

There were no revisions or omissions to the Agenda.

#### **5. CONSENT CALENDAR**

There were no Consent Calendar items.

#### **6. PUBLIC HEARINGS AND OTHER MATTERS**

##### **a. Discussion of Historic Preservation Policies and Regulations in the Downtown Specific Plan Area.**

Brian Dolan indicated that he would like this presentation to be relatively informal. He noted that several projects had come before the Commission recently where historic preservation regulation has come into play. He noted that the subject generated a lot of interest on the part of the Commission, who then requested that this be agendaized.

Mr. Dolan stated that a good way to start the discussion would be to spend time to ensure that everyone had a good grasp of what is already in the books, which is a fair amount. He indicated that he intended to go through the materials provided and walk through various documents while concentrating on key areas; however, before getting into the documents, he would like to talk about the General Plan which is the basis of the policy, the Downtown Specific Plan (DTSP), and the California Environmental Quality Act (CEQA) and some other related documents. He noted that he would spend the most time on the DTSP because it gives the most direction on the subject.

Mr. Dolan stated that there is strong policy support for historic preservation in the Downtown area. He noted that the text in the DTSP, in particular, describes it as being one of the primary purposes of the Plan when it was initially prepared, and there were a lot of things identified as programs and commitments that the City made to itself that it was going to do things, and there were other fairly substantial parts that the City has not moved forward with for one reason or another, but the basic question is if these are even relevant anymore.

Mr. Dolan stated that the policies and regulations try and provide balance. He indicated that while there is a strong policy basis for historic preservation, there is language included that it understands this is the real world, and the perfect scenario in terms of preservation does not always make the most sense for the City. He added that there are avenues to explore where not everything has to be saved, and there are people on both sides of this issue, both have very valid concerns, one side really into significant preservation, and the other who look at it as an obstacle to individual property rights or economic development. Mr. Dolan indicated that the policy documents the City adopted reflect different threads of that input that existed even back when the Plan was developed. He added that there have been varying levels of success in resolving the conflicts that arise on a project- by- project basis as the City tries to use the tools that

have been provided to weave through this. He noted that both sides of the issue have been frustrated: people who are interested in preserving more, and people who are more interested in fewer regulations. He pointed out that there are definitely some improvements that can be made, and possibly have a dialogue that reaffirms where the City's positions really are with respect to community values because some of the policies and programs definitely need to be revisited.

Mr. Dolan indicated that he will not propose any ideas for change or any suggestions at this meeting, but rather, just concentrate primarily on what the City has and what it is working with now. He added that he has no preconceived ideas about where to go from here, and while he has given it a lot of thought, he has not yet come to any conclusion.

Commissioner Blank stated that to the best of his knowledge, the DTSP and the General Plan provide guidance on historic preservation, but this is not addressed in the Pleasanton Municipal Code (PMC), which is the enforcement document.

Mr. Dolan agreed. He indicated that the DTSP anticipated that the City would be adopting a historic preservation ordinance; however, it is not cut and dry because a specific plan can be prepared that is very regulatory. He noted that State law describes a specific plan as a document that borrows something from the General Plan level but can also incorporate zoning regulations in it.

Commissioner Blank stated that there have been many times when he has seen DTSP items overturned either by the Planning Commission or City Council for other interests, no matter how clear the language is. He indicated that it does not appear to him that specific plans carry the same weight that municipal regulations do. He noted that what the PMC states provides very strong guidance that is very hard to make exception to, while a specific plan is a plan and the General Plan is a plan, and when things are aligned properly, the Planning Commission or the City Council seem to be able to undo them.

Mr. Dolan acknowledged that this as a legitimate concern and stated that some materials are written in ways that are meant to be interpreted on a case-by-case basis. He noted that sometimes the direction is quite explicit, but the next page states something just as explicit but contradictory. He indicated that the intention is not to do that, although it does exist in some cases.

### General Plan

Mr. Dolan referred to page 7-35 of the General Plan and cited the Cultural and Historical Resources Goal 4: "*Designate, preserve, and protect the archaeological and historic resources within the Pleasanton Planning Area.*" and Policy 5: "*Preserve and rehabilitate those cultural and historic resources which are significant to Pleasanton because of their age, appearance, or history.*" He indicated that he would not focus on the archaeological topic which is altogether different and has not been problematic. He noted that both the goal and the policy are very straight-forward. He then read

Program 5.2: *“Follow the recommendations contained within archaeological and historical architecture studies regarding rehabilitation or preservation of archaeologically or historically significant structures and sites.”* He noted that this suggests relying on professional opinion.

Referring to Program 5.2, Commissioner Pentin gave an example of someone who wants to take a house out, and someone else gets a historical architect who recommends that the house needs to be preserved for certain reasons. He inquired if the decision-makers then have to go back to the General Plan and state that they are following the recommendation of a professional. He further inquired if this Program is written in stone or is a gray area.

Mr. Dolan replied that he thinks it is a gray area but suggests that a professional opinion should be consulted. He added that the DTSP gets even more specific.

Commissioner Blank stated that one of the reasons it is a gray area is because an applicant can then find another expert witness who would state that it is not a historical or archaeological area of significance.

Commissioner Pearce stated that she assumes “historical significance” is a standard definition that something or someone significant happened in this place.

Mr. Dolan stated that these are standards provided for the City by the State, and cities do not necessarily have to stick with those standards.

Commissioner Pearce inquired if that was the intent of the statement.

Mr. Dolan replied that he was not sure whether this was the intent of the General Plan; however, in the specifics of the DTSP, it comes right out and references those.

Mr. Dolan then referred to Program 5.4, which clearly outlines a specific direction to which the City commits itself: *“Adopt a historic landmark preservation ordinance to protect individual buildings and sites of historic significance to Pleasanton.”* He noted that the terminology used is “landmark,” which refers to the best, and mentions “buildings” and “sites” but not districts.

Commissioner Blank noted that this appears to be in divergence from the DTSP which talks about districts or areas. He stated that without knowing the intent of the person who wrote the language, it would be difficult to determine if “protect individual buildings” implies taking inventory of every building in Pleasanton and going through them one by one to identify which are and which are not significant so there is no question.

Mr. Dolan stated that historic buildings are located in pretty isolated areas that have been identified. He noted that the Downtown Design Guidelines references four or five different neighborhoods, and the City has a documentation of a whole series of experts starting in 1978, done every five years and reviewed by different individuals with

different levels of expertise over the course of many years. He stated that the list is certainly far from perfect and needs to be updated. He indicated that staff has the tools to narrow them quickly, as most historic preservation ordinances identify a particular year when structures were built, and a search can be done for anything older and subject them to some evaluation criteria.

Commissioner Blank clarified that he was not thinking about the methodology, but the implication regarding how to arrive at that. He noted that this appears to be focused on this particular line of identifying individual buildings regardless of location.

Mr. Dolan agreed that the language is broad.

Commissioner Olson stated that it may be somewhat of a stretch, but he would relate this to heritage trees which are defined and not contained in a given district but are located throughout the City. He noted that if he buys a home with a heritage tree on it, he is not free to cut it down without deliberation; therefore, if he buys a historic house, it seems that he should have to meet certain requirements if it is considered historic. He stated that he believes what Mr. Dolan was saying is that there is a list which might need updating, as opposed to referring to a district and saying everything within that district is historic.

Mr. Dolan stated that this is something to consider at the point when something needs to be done differently, and it certainly is one of the key questions for later discussion.

#### Downtown Specific Plan

Mr. Dolan stated that the DTSP has a lot of background information that is useful and interesting, and includes pictures of some of our historic buildings. He then directed the Commission's attention to the Historic Preservation Goal on page 66, which reads: *"The primary Specific Plan goal for historic preservation is to provide for the protection and enhancement of the historic and 'small town' character of the Downtown Plan Area."* He noted that this is a fairly generic goal but certainly demonstrates an intent. He then referred to the Historic Preservation Objectives, noting that the first is a commitment *"to complete a thorough inventory of the Plan Area's historic resources, implement a program of designating such resources, and take the necessary measures to protect and preserve them through a historic preservation ordinance."* He indicated that this is even more generic in that it refers to resources and does not really specify between individual buildings or districts and does not preclude them either.

Mr. Dolan then proceeded to the second objective, which leads to the heart of one of the most difficult questions: *"To prevent the demolition of appropriately-designated historic resources which can otherwise reasonably be preserved."* He noted that there are two terms that need clarification: "appropriately designated," which will be discussed shortly, and "reasonably," which the Commission and staff struggles with. He noted that that staff came up with a policy shortly after the creation of the DTSP called the "50-Percent Rule," which he will also discuss later.

Mr. Dolan continued with the third objective which deals with what is supposed to be done with new buildings. He indicated that this should be of interest to the Commission, considering a recent application it discussed: *“To ensure that the design of new buildings and modifications to existing heritage buildings and heritage neighborhoods are compatible with the Downtown’s traditional design character and scale.”* He indicated that there are degrees to this and requires levels of interpretation that people do not agree on, particularly on a project-by-project basis.

Mr. Dolan indicated that last objective is one that the City has not necessarily done: *“To implement a comprehensive system of incentives to assist in the preservation of the Plan Area’s historic resources.”* He noted that this is brought up in different places and has an entire section on it, which he will address later on in this presentation.

Mr. Dolan stated that the next section of the DTSP introduces the “Historic Preservation Policies and Programs.” He noted that the policies and programs, adopted as part of the Plan and listed as 1 through 10 on pages 67 and 68, are lumped together in this section, and the problem is to determine which of them are policies and which are programs. He indicated that these are two different things and explained that a program is something that is permitted, an action that is taken proactively; while a policy is the guiding statement of what is supposed to be done in a certain circumstance. He noted that the final sentence in the introductory paragraph on page 67, *“This will require greater focus on these items in the future.”* is also problematic in the sense that it does not specifically state whether it means these items will be dealt with in the future or these items will take effect upon adoption of the Plan. He indicated that his interpretation is that these are in effect right now, except for those items that staff is clearly tasked to do but has not yet done.

Mr. Dolan then proceeded to address the ten items:

1. Documenting buildings older than 50 years. This is a commitment to have some kind of documentation, list, or inventory of what the buildings are, starting with those that are older than 50 years.

Mr. Dolan stated that this does not necessarily make a judgment; it just suggests a commitment to keeping things current because as soon as a building turns 50 years, it is eligible to be on the State Register.

2. Engaging professional assistance. This identifies which standards to use when determining whether or not something is significant. The City is required to complete a Survey Form 523 of the State of California Parks and Recreation to develop and document a statement of historic significance prior to the issuance of demolition permits for any historic resource older than 50 years, and to evaluate these properties using the State of California criteria for California Register of Historic Resources.

Mr. Dolan stated that staff has done this with several projects in the past. He noted that the direction is clear on what is supposed to be done, but it is unclear with respect to what to do with the results and if staff has the ability to ignore them. He added that there is language that suggests that the City has the opportunity to make its own judgments if it is not satisfied with the conclusion; however, if a professional opinion is obtained, the inclination, when making a recommendation, is to defer to the person more qualified because that professional is more likely to be correct than staff. He added that in a legal matter, the expert's opinion would be more valuable than that of staff.

3. Demolition. This prohibits the demolition of any building found to be historically significant with regard to the California Register criteria unless such buildings is determined by the Chief Building Official to be unsafe or dangerous and if no other reasonable means of rehabilitation or relocation can be achieved.

Mr. Dolan indicated that determining a building to be unsafe or dangerous does not happen very often, because even if the house is in bad shape, it is difficult to say it is unsafe or dangerous because sometimes there is a whole area in a building which may be unoccupied. He noted that relocation is not a viable solution because there is no place to relocate; there are not a lot of vacant lots in historic areas available to take these buildings.

Mr. Dolan stated that in determining whether or not other reasonable means of rehabilitation or relocation can be achieved, staff uses the "50-Percent Rule" which basically means that the cost to rehabilitate the building should not exceed 50 percent of its current value. He noted that this is a good attempt but not perfect because it involves an assessor to determine the value of the current structure minus the land, a contractor to determine the costs of improvements and rehabilitation, and the ability of staff to verify whether or not an expense listed is justified or actually necessary.

Mr. Dolan stated that another item that arises is the definition of "demolition." He noted that there is no law that defines a demolition; some people say everything has to go down, and others say they are not demolishing because they are leaving one wall up. He stated that staff receives applications which are essentially remodels, with the demolition plan showing the extent of what will remain and what will be new. He added that sometimes only the studs and foundation remain. He indicated that staff uses the 50-percent standard, related to the "50-Percent Rule," which is an imperfect system because a plan can show that only 50 percent of the house is being taken down, and then during reconstruction, it is discovered that there is dry rot in the remaining studs. He indicated that this becomes a difficult matter because the whole issue is to take care of the neighborhood so it looks like the historic place that the community values.

4. Demolition in Ray Street/Spring Street Neighborhood. This prohibits the demolition of primary buildings in the Ray Street/Spring Street Neighborhood unless such buildings are considered to be unsafe or dangerous and if no other feasible means of rehabilitation can be achieved.

Mr. Dolan stated that there is a map associated with this policy which was generated when policy was put in place. He indicated that the policy does not affect the entire neighborhood but only a small, specific geographic area which is one of the original subdivisions in the City and includes some nice older homes.

5. New Buildings. Mr. Dolan stated that despite a recent example of the problem with the Harvey home, he does not consider this a huge issue. He noted that there has not been a lot of activity in this area, but staff finds fitting new homes into existing, older neighborhood a challenge.
6. Additions and Other Modifications. This section states that additions and modifications to buildings over 50 years old should match the original building in terms of architectural style and exterior design elements.

Mr. Dolan stated that adding on to a historic home presents a struggle regarding to what extent the addition should match the existing building. He noted that people have different thoughts about this, and some have misinterpreted the National and State policies that drive a lot of these decisions. He indicated, for example, that there is a National and State policy that suggests that one should never mimic something old in a new building or in an addition; the idea is that one should be able to distinguish between the periods. He noted that there are people who want to add on to an old building and think that they should try to make the addition look exactly like the old building. He stated that true historic preservationists do not believe that, but it should not be an exaggerated implementation of that principle either. He pointed out that some think that the Firehouse Art Center is an exaggerated implementation of that principle.

Mr. Dolan stated that he thinks it is all right to make the addition dramatically different; the Plan has policies that require additions to stay within the general style of the building, but this can be achieved without making the addition exactly like the existing building. He noted that the purpose appears to contradict itself when it talks about matching the building yet being different; however, sometimes there are easy solutions, and in most cases, it is a relatively easy design fix.

7. Existing On-Site Street Frontage Homes. This section provides that future residential development should generally provide for the preservation and rehabilitation of existing on-site street frontage homes which exceed 50 years in age or which otherwise, substantially contributes to the "small town" character of the neighborhood in terms of architecture and scale.



Mr. Dolan stated that this is one of the key policies for evaluating the DiDonato project recently considered by the Commission. He indicated that this was the essence of the argument; however, one should not be hard and fast about this rule and understand that there are situations where this does not work. He noted that there are exceptions, and one of them allows for the demolition and replacement of such homes which are specifically found by the City to demonstrate minimal redeeming historic and/or architectural significance. Mr. Dolan stated that staff hired an expert to evaluate the project, and the house qualified for that exception.

Commissioner Pearce inquired who determines which type of significance is going to be evaluated. She inquired if the DiDonato project was evaluated more for the historical significance of someone significant who lived there or a significant period in time that the house was associated with, rather than for the architectural elements of the house.

Mr. Dolan said it was evaluated relative to the State criteria which includes both.

8. Relocation of Historic Homes within the Downtown. This relates to the relocation of historic homes to the Downtown area, which does not come up that much.
9. Staff Representatives to Review Applications Relating to Historic Resources. This presents instruction on the implementation of reviews by specific individuals from Building, Planning, and Fire people who have actually had exposure in historic preservation training.

Mr. Dolan indicated that Planning staff has done this, and when it gets to complicated matters, Building staff has been involved. He noted that no one from Fire is specifically assigned to this. He added that the City is committed to doing more to the extent that the budget allows staff training.

10. Public Information on Application Submittal Requirements. This section requires that staff prepare public information documents for applications to modify historic buildings, including submittal requirements, review process, and historic preservation incentive programs.

Mr. Dolan noted that this is something the City has not done to date. He indicated that the City needs to be more public about the rules so that people who go into neighborhoods like Second and Third Streets and love the great urban design and older homes in the neighborhood, then find a small house and decide to have their dream house there, are made aware of City policies for historic buildings. He stated that this is something staff needs to address, which might provide relief for people interested in historic areas.

Mr. Dolan then referred to "Historic Building Preservation Incentives on page 69" and noted that this is something staff has not addressed. He pointed out item 11.B., which provides for the establishment of a National Register Historic District (NRHD) in the

Downtown. He stated that he believes this section was included because it makes the City eligible for Federal tax credits; however, it also comes with a huge responsibility. He noted that a NRHD requires a lot of time and effort, and if the City becomes one, it must become a locally certified government; establish an entirely new Commission to regulate the District, otherwise, all decisions are done at the State level which can be cumbersome; and the new Commission must have a certain percentage of Commissioners with specific background and training on historic preservation. He likened it to reinstating the Architectural Review Board, which the City has eliminated, but only for historic preservation matters.

Mr. Dolan stated that there are other incentives not necessarily included here that are much easier, such as the Mills Act. He explained that through this Act, people can obtain relief through the County and their property bills in exchange for a commitment to do some preservation efforts that cost money. He indicated that this has not been adopted in the City but is something that does not take great effort to adopt and can be explored without a NRHD designation.

Mr. Dolan then referred to the chapter on Design and Beautification, which relates mostly to urban design guidance. He indicated that it makes a lot of reference to historic preservation but does not add anything new that has not already been provided in the chapter on Historic Preservation chapter.

#### Downtown Design Guidelines

Mr. Dolan indicated that Downtown Design Guidelines (DTDG) is related and called for as part of the implementation of the DTSP. He stated that staff refers to this document when doing an architectural review. He noted that it is similar to the DTSP chapter on Design and Beautification but presented in a more generic fashion, with a little more detail on specific issues, and does not apply only to historic properties.

#### CEQA

Mr. Dolan stated that one of the last two documents is the California Environmental Quality Act (CEQA), which is an overlap of State regulation. He indicated that this CEQA regulation for demolitions would exist whether or not staff has a Downtown Specific Plan or is having a historic dialogue. He explained that this section of CEQA basically evolved over time, and in the last 10-15 years, it got very explicit that some adverse impact to a historic resource would be considered an environmental impact under CEQA. He noted that this would require a CEQA analysis on many projects, including single-family residences, that would otherwise be exempt from consideration. He added that a structure cannot be demolished if the impacts are not mitigated, as demolishing a historic home presents a significant adverse environmental impact. He stated that the only way to move forward on something like this is to do an Environmental Impact Report (EIR), certify the EIR, and then adopt a Statement of Overriding Considerations. He stated that procedurally, this becomes a significant obligation.

Mr. Dolan stated that a focused EIR can be done in place of a full EIR, for example, for a small commercial or residential building, and the analysis can be focused only on the historic elements because there will be no notable impacts on elements normally covered such as traffic or schools; however, the procedures and review time frames are identical, with producing the document, establishing a 45-day review period to receive comments, and preparing a Response to Comments.

Mr. Dolan stated that when the proposal is only to alter a historic building, an analysis needs to be made regarding whether or not the alteration is diminishing the resource, and the Secretary of the Interior's Standards for Historic Preservation, which is a Federal document started in the Park Service and adopted by the State, needs to be complied with in order to avoid getting a determination that a significant impact is created. He explained that these same standards are followed for the rehabilitation of commercial building, and if the City makes the finding that the rehabilitation is consistent with these standards, the project would be considered mitigated, and the applicant would not have to go through an EIR process. He noted that this is an entire additional level of review which will exist and to which projects relating to historic buildings will be subject regardless of what the City does locally.

Commissioner Blank stated that he finds the historic guidelines are by far either related to the DTSP or the 50-percent rule. He noted that the DTSP basically deals with the preservation of commercial buildings, and with businesses moving in and out of the Downtown, comments have been made about bringing in too many businesses that are destination rather than service types. He inquired if there are any other ordinances which, in the context of historic preservation, address an area of specific historical interest that has a certain character, not just by the type of building but by the mix of businesses, with an intent to preserve that mix.

Mr. Dolan replied that he was not aware of any specific ordinances but noted that there have been land use regulations which try to address this issue.

Commissioner Blank referred to the preservation of the primary building's exterior mentioned in Item 4 under "Modifications to Historic Buildings" on page 67 of the DTSP and inquired if there is a definition of "primary building" versus "secondary building."

Mr. Dolan replied that he does not believe there is a definition but that what is often referred to is having the house in the front and the garage in the back.

Commissioner Blank noted that reference was made to the use of an assessor in the implementation of the 50-percent rule to determine the value of the property versus the value of the land. He asked Mr. Dolan if he was referring to market value rather than the assessed value.

Mr. Dolan clarified that he meant to use the term "appraiser" rather than "assessor."

Referring to comments made by homeowners that they were not made aware of regulations prior to the purchase of their homes, Commissioner Blank inquired if realtors are required to disclose the DTSP to homebuyers in the Downtown area. Mr. Dolan said no. He added that he has never heard of a specific plan being a required disclosure document or who would be required to disclose it.

Commissioner Blank stated that it was his understanding that when someone purchases a house, the previous owner is required to disclose certain things, for example, that getting approvals may be problematic.

Commissioner O'Connor noted that Mr. Dolan had earlier mentioned the need to publicize this more for clarification purposes.

Commissioner Blank stated he would maintain that, whatever form this historic preservation document takes, whether soon or years from now, buyers be noticed of what they are getting into.

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

Jerry Hodnefield, Downtown property owner, expressed his frustration with what he believes is a very subjective process. He stated that they were not informed of how difficult their renovation experience would be and that there is so much inconsistency, ambiguity, and unnecessary costs and paperwork. He noted that when his children tried to navigate the process for their property on Spring Street over the last year, they were told that the house had no historic value but that it was in a historic district. He questioned the need for the numerous requirements in the process to a point where nothing can get done.

Linda Garbarino, Downtown property owner and President of the Pleasanton Heritage Association (PHA), stated that she wonders how much disclosure is provided to homeowners from City documents, business promotions, advertisements, and real estate brochures. She indicated that she has owned two historic homes in Pleasanton and sees it as her responsibility to take care of them and expects future owners to assume that responsibility as well. She stated that while she does not support punitive ordinances, she suggested that the City look at the entire neighborhood and not just at one building, as moving into a community of historic homes is a responsibility because the surrounding economic vitality of a Downtown is supported by strong and attractive neighborhoods. She clarified that the PHA is an advisory group and has no authority to tell people what they can and cannot do and that the group is in the process of working through an educational component to provide people with information on restoration, maintenance, and upkeep. She indicated her support for staff's suggestions to move forward with a process for more disclosure.

Commissioner Olson asked Ms. Garbarino if she thinks it is reasonable to distinguish between old historic homes and old homes, noting that that he does not think it is reasonable to tell people they cannot tear down a house after expert opinion has indicated that the house has no historic value.

Ms. Garbarino replied that she believes the problem relates to disclosure. She indicated that she disagrees that the State is tasked with telling people that older homes have no historic value based upon someone living or something happening on the property. She added that she likewise disagrees with the 50-percent rule. She noted that if people choose to go into a historic neighborhood and build a house there, and they have to destroy an existing house in the process, there should be some reasonable criteria on how and why the house is to be demolished.

Commissioner Blank asked Ms. Garbarino if she was suggesting that whatever eventual form the historic preservation ordinance takes, it should be as non-specific as possible to offer those judgments, or whether she preferred a clear and concise ordinance that gives specific guidance.

Ms. Garbarino replied that she was not sure she preferred an ordinance. She reiterated that it is a matter of disclosure, transparency, and informing people. She indicated that she believes there is already very good language in the DTSP and the DTDG and that staff probably believed there would be a subsequent ordinance to further clarify the two documents.

Commissioner Blank asked Ms. Garbarino if PHA's position and preference are to have no ordinance because ordinances contain punitive language.

Ms. Garbarino replied that she would like the City to rely on existing language and clearer guidelines with educational components and transparency, which are things the City does not currently have.

Louis Rivara, Downtown property owner, referring to Commissioner Blank's comments on disclosure, stated that he has been licensed realtor in seven states and has sold properties in over 60 cities, and he has never encountered this type of disclosure. He suggested not going in this direction, given the paperwork involved. With respect to the ordinance, he stated that it is not so much the history as the experience people have when they come into the Downtown. He added that there are a number of creative and inspired ideas that would contribute to a vibrant Downtown. He noted that the Firehouse Theater has become a great gathering place. He indicated that the design is good but not historic for the most part, and that keeping history to the extent that it supports people being able to share experiences during the times they are together is valuable.

Mr. Rivara stated that he does not think the City should be locked into only history in the preservation of the Downtown. He noted that the Downtown is not very vibrant as a whole right now, and people give up because they are encumbered by the process. He

described his experience with the building inspection processes and expressed the need for the City's support, trust, and respect of businesses and potential tenants for success in the Downtown.

Margene Rivara, Downtown property owner and realtor, spoke of property owners' rights and design and expressed deep concern with what is happening in the Downtown. She indicated that more than the historic place, she values the unknown future of new, good design. She expressed concerned that the historic preservation policies and future regulations in the DTSP area will eventually result in a watered-down, make-believe of times past, with no longer any interesting and exciting properties because the City will work too hard to require conformity. She cited costly, lengthy, and frustrating design review requirements and processes, and pointed out that individual property owners and architects should be able to interpret the Code while preserving the character of the Downtown as it relates to style, setback, landscape, and health and safety issues, without needing to morph into Queen Anne, Colonial Revival, Vision Revival, Cottage, or a cheap imitation with no style or character. She stated that she believes the City should be respectful of individual rights and should not add layers of cumbersome studies, committee review processes, and arbitrary City design changes to the approval process. She spoke of non-traditional colors and new trends being formed, and asked the City to allow new possibilities and to keep an open mind for the future as well as the past.

Peter MacDonald, Pleasanton Downtown Association (PDA), stated that interest in the Downtown is welcome and overdue, and to narrow the focus to history would completely miss neglected and important issues affecting the Downtown. He asked that the City broaden its goal to read, "Review the Downtown Specific Plan and the Downtown Design Guidelines and update those documents to encourage increased vitality, historical preservation, and property improvement." He pointed out that the PDA's Downtown Hospitality Plan has a series of recommended actions and asked the Commission not to make things worse by fossilizing the Downtown. He noted that there is no significant historical matter that is not already addressed in a policy or guideline already in place. He added that the more rigid rules are written, the more home improvements will stop in the Downtown. He requested the Commission to adhere to the broader goal of updating the DTSP and DTDG and consider all issues of history, hospitality, and economic vitality.

Charles Huff, architect and City historian, read a letter from Bonnie Shamblin into the record as follows:

*"I am unable to attend tonight's meeting so please accept this letter in my absence. I was the chairperson of the Downtown Specific Plan's Historical Preservation Ordinance Task Force. We spent countless hours working with staff and residents to provide Pleasanton with an ordinance to preserve our historical downtown. As you can see in the minutes from November 28, 2001, several of the residents expressed concern over the scope of the plan.*

*“While many expressed a desire to make the process more user friendly for homeowners in the downtown, other downtown property owners shared their concern for what felt like ‘control and meddling’. Unfortunately since that time, citizen committees have been formed creating a layer of confusion and bureaucracy. To many property owners the process has now become exactly what was feared back in 2001. The ‘neighborhood preservation groups’ formed downtown have now become another stumbling block for modifications and improvements to our downtown.*

*“The Downtown Improvement Association hopes to truly and finally clarify and streamline this process for property owners in the downtown area. Thank you for taking the time to listen and understand our position. We look forward to working with residents and staff to make a more concise process a reality in our downtown.”*

Mr. Huff inquired what the various information about historic districts in the Downtown means in terms of creativity for designers, if this would allow designers to add onto the rear or sides of structures, or if there would be limitations that would restrict the ability of architects. He indicated that the process should be made clear and questioned restrictions placed on residences and their repercussions. He noted that the Department of the Interior’s standards were meant to be for national buildings and now have been applied to all projects. He thanked staff for what builders have been able to do on a case-by-case basis.

Commissioner Blank stated that part of why he was thinking about the ordinance route is that over the years, some homeowners have made it clear that they have given up because of a convoluted system. He indicated that he can cite developers who have come to the City and have asked to make the guidelines specific and clear so they can move forward. He asked Mr. Huff whether this is what he supported in a historic ordinance or something different. He further asked if homeowners would continue to come to the City if the process that exists today remains in place.

Mr. Huff replied that he is not supportive of a historic ordinance. He stated that what exists today is what has been in place from 2001, and it needs to be re-defined so it does not handcuff designers and planning staff in evaluating the historic nature of houses. He noted there are groups in town that would look at every single house in the historic Downtown district that is older than 50 years as something that cannot be touched, which he feels is not right because this would not be truly appropriate if it were applied to the entire City.

Commissioner Blank stated that his intent with the ordinance is not to handcuff developers but to cut through some of the other bureaucracy the City has encumbered itself with.

Mr. Huff stated that he felt a historic ordinance in the Downtown would pretty much shut down the Downtown.

Commissioner Pearce asked Mr. Huff if he has had any experience with the concept of neighborhood conservation districts.

Mr. Huff said yes. He added that he believes such a district should still rely on the bureaucracy of staff in terms of interpretation and should not have the ability to regulate. He stated that he thinks it has similar enforcement ability as a historic preservation ordinance, and the ultimate authority of whether a structure can be added onto should lie with staff.

Mike Carey, Downtown property owner and real estate broker, stated that his family owns two homes built in the 1800's, two in the early 1900's and three over 50 years old. He indicated that he is not in favor of a historic preservation ordinance until the Planning Division becomes more user-friendly. He noted that he, along with many others, worked on a Customer Service Review Task Force (CSRT) sponsored by the City which was commissioned to streamline the work of the different City departments, and he thinks the document produced by CSRT would be a great instrument to help expedite the Planning Division's efficiency.

Mr. Carey stated that the notification process for this meeting did not adequately notice property owners who will be affected by the altering of their property rights. He noted that many of his clients indicate that staff does not follow any clear set of rules and that there are confusing criteria for development. He indicated that Mr. Dolan's comment regarding utilizing outside experts and agreeing with their findings is untrue, noting that in the last 100 days, there have been three applicants required by the City to perform a historic evaluation, and results have been disregarded by the Commission, City Council, and staff. He stated that this is very discouraging for the applicants and that staff has been unfriendly, subjective, and unclear to work with. In conclusion, he asked that the City survey Downtown applicants of the last two years to obtain feedback and documented responses.

Jon Harvey, Downtown property owner, stated that said he came into the process having the experience of having built a custom home in Kottinger Ranch in the late 1990's. He noted that he was on the Planning Commission for a year and on the Zoning Board with the County for six years; he has attended urban design conferences, has friends who are land use attorneys, and feels he is pretty well-informed.

Mr. Harvey stated that he purchased a lot on Neal Street, studied the DTSP, DTDG, zoning ordinance, and second unit ordinance, and hired an architect. He added that he met with the former Planning Director Jerry Iserson and Principal Planner Donna Decker, who recommended that he talk with the neighbors, who while recognizing that he had the right to build a house on the property, did not want a house built there. He indicated that he submitted the plans, went through design review and the PHA forms, and got through the process after changing the door, roof, and trees based on neighborhood feedback.



Mr. Harvey stated that he does not support the notion of adding a brand new ordinance to that process, particularly for someone who is fairly knowledgeable about getting through the design review process, noting that a historic ordinance is a solution looking for a problem. He noted that Mr. Dolan made good points about revisions to the DTDG that have some problem language and suggested that the document be revisited to fix its inconsistencies.

Commissioner Blank asked Mr. Harvey if he thinks disclosures are a non-issue as items like tree species and roofs are not contained in any of the four documents.

Mr. Harvey replied that these were subjective comments that happen and will continue to happen through the design review process.

Commissioner Blank stated that the City is trying to come up with a process that is clear and flexible such as checking off a series of boxes so that people know what the rules are without making it too restrictive.

Mr. Harvey stated that he thinks staff can minimize the number of boxes that do not get checked by clarifying some of the language and fixing some of the inconsistencies between the various documents. He added that he thinks the City should already be at 90 to 95 percent of the way by the time applicants come before the Commission instead of applicants coming before the Commission with opposing neighbors.

Alan Robinette, Downtown property owner, stated that he owns a home built in 1940 and a business Downtown built in 1950. He indicated that he heard of the meeting today and was surprised that there was not more advertisement or notice of it. He expressed concerns about having additional restrictions. He discussed his house remodel which was in keeping with its original character and noted that he was much more concerned than anyone else about how that would turn out. He likened some older houses that are really worth preserving to classic cars, where some are really classic and worth saving, while others are junk and always will be.

Referring to the notification of the meeting, Mr. Dolan clarified that he envisioned the item as being simply a conversation between staff and the Commission on current rules and directives. He indicated that tonight's presentation did not include a proposal for a historic preservation ordinance and that the public has access to all existing rules and regulations as does the Commission.

Scott Colson, Pleasanton resident and architect, stated that he is new to Pleasanton, having moved to this community from San Francisco, where he and his wife own historic property No. 79 on the San Francisco City Register. He noted that he has done residential work in San Francisco, practices in San Jose, and is conversant with issues of preservation and conservation. He indicated that he was very impressed with Mr. Dolan's articulation and was struck by Mr. Carey's statements. He noted that some of tonight's speakers are people who bring fresh and vital energy to the community. He stated that he moved to Pleasanton during the construction of the Firehouse Arts

Theater, which he considers to be a very successful project in the sense that it is not widely different from the general character of the Downtown. He indicated that it is a successful civic statement not only of what Pleasanton was at one point but also the direction it is headed toward.

Mr. Colson noted that there are some very important values the community is wrangling with and there is opportunity for diversity and debate to occur, and the decision-makers need to come back to those values. He stated that the question is whether to fossilize or create vitality. He indicated that he felt Planning staff understands the importance of allowing that variety to occur, which creates a rich and lively environment. He stated that this is where he would like to see Pleasanton move toward and noted that it is important to listen to professional opinion because there is a lot of subjectivity.

Mr. Colson stated that the City should identify those properties that are classic and significant either culturally or architecturally, and then allow for room for new things to occur. He complimented whatever process was in place which allowed for the Firehouse Arts Theater to happen because therein lies the key to where the City should go. He indicated that the danger of creating very strict ordinances is an issue of economics as well, as there are economic realities in doing preservation as opposed to conservation.

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

Commissioner Pentin expressed his appreciation for the materials received, staff's presentation, and public comment received. He stated that he does not believe the system is broken, but some updating could be done on the DTSP and the DTDG. He noted that addressing this in the near future would answer some of the questions raised regarding streamlining and alleviating residents' frustration.

Commissioner Olson complimented Mr. Dolan on his presentation and indicated that he would not support an ordinance. He stated that there is enough on paper now which can be refined and believes that some diversity in the area is called for. He indicated that he likes the analogy about the Firehouse Arts Center project having something old and something new and noted that he would not be surprised that this is where the Commission is headed.

Commissioner O'Connor agreed with Commissioners Pentin and Olson. He indicated that there are documents in place that get applicants where they need to go, although, there are some inconsistencies that should be updated to flow properly. He stated that he does not believe "old" and "historically significant" are the same thing and that he would also not support another ordinance to layer on top of those the City already has. He noted that people who buy historically significant homes would know it when they see it and hoped they do not buy one just to tear it down.

Commissioner Blank started that he generally agrees with what has been said, although he thinks the system is broken but was not sure fixing it with an ordinance is necessarily the right thing to do. He noted that the Commission has heard this tonight from a couple of speakers, and perhaps it was broken by the creation of so much vagueness and contradiction in the guidelines that contributes to a lengthy and frustrating process. He also acknowledged the great deal of process re-engineering and work that went into the CSRT.

Commissioner Pearce stated that as the Commissioner who pushed for this conversation to begin, she is appreciative of the Planning Commission, the public, and staff's time, noting that she believes everyone agrees that resources in town and the character of the community are very important. She noted that the form it will take is up for debate, but based upon the reading she has done and the conference she attended on historical preservation, a lot of innovation has occurred in the last ten years, and there are many new things out there that can really help to alleviate some of these issues.

Commissioner Pearce stated that she is in favor of private property rights, in favor of streamlining, and in favor of having information be out there so the City is not enveloped in a morass of several ordinances. She noted that if the Commission has difficulty understanding all the documents provided on historic preservation, she can only imagine what it is like for the average homeowner in a Downtown district to figure out what to do. She indicated that she knows there are implementation changes the Commission can look into to help fix this for everybody and can preserve what the community thinks is important to preserve. She noted that she is not interested in a National Historic Register or whether someone of significance has lived in a home, but rather starting a conversation in the broader community about what is important to the City as a community and streamlining the process to arrive at that goal. She added that she thinks if this is done and information is provided up front, it will result in a goal that people can rally around. She indicated that she is not sure what the answer is but knows that in hearing experts talk, there is a lot of great things that can be utilized in the community.

Chair Narum agreed with her fellow Commissioners' comments and stated that she does not support an ordinance at this point. She thanked Mr. Dolan for his presentation, noting that there are a number of things identified in the DTSP that have not been completed and need to be done. She indicated that at this point, her thinking would be to refine the DTSP and DTDG and take into account the things that Mr. Peter MacDonald stated regarding looking at economic vitality and including the hospitality ordinance. She stated that she would like to see a district created in the future only from the standpoint of drawing people to the Downtown, and suggested refining the DTSP and DTDG to provide enough specificity so it is clearer, along with some flexibility.

Commissioner Pentin stated that he has heard a lot of good feedback in the last year from neighbors who have been pleased with the streamlining process; however, he admitted that not one of those people built a house on Second Street or has tried to build Mr. Jon Harvey's house.

Commissioner O'Connor noted that there are broken pieces and adding another ordinance on top is not the answer. He agreed that there are things that need fixing in the documents as well as in the process areas. He noted what some speakers tonight stated that there has been a pattern over the last five years where someone is told get a paid expert's opinion, and then the City does not follow that opinion, which he believes is wrong.

No action was taken.

#### **b. Discussion and Recommendations for City Council Priorities.**

Mr. Dolan stated that the Commission's packet included a list of the Council Priorities adopted in 2010. He indicated that the past year has been incredibly productive; a draft of an update to the Priorities has been prepared, and the status of many projects have been changed from "Ongoing" to "Completed." He indicated that the City Manager has requested staff to get recommendations from the different Commissions, and he suggested that if the Commission wishes to make a recommendation on how to focus its energies, it should formulate a short list.

Commissioner Blank noted that the last time the Commission did this, it set up only two priorities.

Commissioner Pearce suggested that the conversation on historic preservation on the previous item be summarized as a priority.

Chair Narum noted that "Historic Preservation Ordinance" and "Downtown Specific Plan Implementation and Outreach" were included as "Downtown" goals on page A-6 of the City Council Work Plan. She suggested combining those two goals, basically eliminating the "Historic Preservation Ordinance" and redoing the Downtown Specific Plan (DTSP) and the Downtown Design Guidelines (DTDG), with focus on updating the DTSP relative to historic guidelines, efficiency, and consistency.

Commissioner Pearce stated that she thinks using language to include only what is contained within the DTSP is limiting in that it would exclude something that might incorporate the DTSP but is not specifically contained within it. She suggested that the goal start with the DTSP and then allow it to encompass whatever mechanism may be available that could be utilized.

Chair Narum noted that going through the DTSP may garner support from the Pleasanton Downtown Association because updating the DTSP will take into account some of the things it wants.

Commissioner Pearce concurred as long as “Conservation” or the “District” are prioritized.

Commissioner Blank suggested creating efficiency and consistency between the General Plan, the DTSP, and the DTDG and streamlining this process so that people who buy homes in the Downtown area know what they can expect and not be caught by surprise two years or so down the line.

Commissioner Olson agreed with Commissioner Blank.

Mr. Dolan suggested the Commission not make too many wide policy judgments on one individual’s experience as there is always a back story.

Commissioner Blank agreed but indicated that this is not the first time the Commission has heard of people’s frustration with the process.

Commissioner Olson directed the Commission’s attention to page A-2 and stated that he believes the first priority for the year should be City Finances and maintaining fiscal sustainability. He indicated that without money, all these priorities are like whistling in the wind.

Commissioner Pearce noted that the Commission has been specifically told that this is out of its domain and that the Commission’s recommendation should be something that the Commission can work with.

Commissioner O’Connor agreed and noted that the Council is asking for Planning Commission-related priorities, in the same manner that the Parks and Recreation Commission would choose its priority from its own perspective.

Commissioner Blank agreed with both Commissioner Pearce and Commissioner Olson. He indicated that he is thinking of attending the City Council Workshop on the Priorities as an individual because he believes the City Council should prioritize and do a zero-budget exercise, which it has never done here, which might result in some interesting potential efficiencies.

Commissioner Olson agreed.

**THE PUBLIC HEARING WAS OPENED.**

There were no public speakers on the item.

**THE PUBLIC HEARING WAS CLOSED.**

Commissioner Blank suggested that the Priority language indicate that the Commission wants to create efficiencies, and streamlining and removing inconsistencies and confusion that appear to be contained in the DTSP and DTDG, especially as it relates to historic buildings.

The Commissioners agreed.

**Commissioner Blank moved to have only one item on the City Council Priorities, to create efficiencies, and streamlining and removing inconsistencies and confusion that appears to be contained in the Downtown Specific Plan and Downtown Design Guidelines, especially as they relate to historic buildings. Commissioner Narum seconded the motion.**

**ROLL CALL VOTE:**

**AYES: Commissioners Blank, Narum, Olson, Pearce, and Pentin**  
**NOES: None.**  
**ABSTAIN: None.**  
**ABSENT: None.**

Commission O'Connor indicated that he agrees with the motion.

Commissioner O'Connor stated that he was not aware that the sprinkler ordinance was actually done and that he may have missed that meeting.

Commissioner Blank explained that State law, through the updated Building Code, now requires buildings to be sprinklered; therefore, the City does not need to have its own ordinance.

Commissioner Pentin stated that there are other important items on the list, such as the Pleasanton Pedestrian and Bicycle Master Plan, but he would like to see the Housing Element Update accomplished, which the City is supposed to do.

Commissioner Olson noted that by court order, the City will have to get it done.

Commissioner Blank recommended that the Commission put all its weight behind the one priority that is most important to the Commission.

Commissioner O'Connor indicated that from the standpoint of a Planning Commissioner, there are other important items on the list that never made it to the top, such as recreational vehicles and sports courts.

Commissioner Pearce stated that she did not want to dilute the Commission's one priority. She added that if the Commission stood behind this one priority, it has a greater chance of getting resources to implement this priority.

Chair Narum added that those items are insignificant in the scheme of the things on the list. She indicated that she is willing to go to the City Council Workshop on the Priorities and invited the other Commissioners to attend as well. She requested staff to inform the Commissioners of the date of the Workshop.

**7. MATTERS INITIATED BY COMMISSION MEMBERS**

**24-Hour Fitness**

Commissioner Pearce inquired about the status of the 24-Hour Fitness parking issue.

Mr. Dolan advised that the fitness facility has reached an agreement with Shaklee for employee parking and is also providing valet service to members.

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

**a. Future Planning Calendar**

No discussion was held or action taken.

**b. Actions of the City Council**

No discussion was held or action taken.

**c. Actions of the Zoning Administrator**

No discussion was held or action taken.

**d. Appointment of one Commissioner as Alternate to the Heritage Tree Board of Appeals for 2011-2012.**

Commissioner Pentin volunteered to serve as Alternate.

**9. COMMUNICATIONS**

No discussion was held or action taken.

**10. REFERRALS**

No discussion was held or action taken.

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

**12. ADJOURNMENT**

Chair Narum adjourned the Planning Commission meeting at 9:30 p.m.

Respectfully,

JANICE STERN  
Secretary