



## PLANNING COMMISSION MEETING MINUTES

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APPROVED

Wednesday, February 10, 2021

*This meeting was conducted via teleconference in accordance with Governor Newsom's Executive Orders N-20-20 and N-35-20 and COVID-19 pandemic protocols.*

### CALL TO ORDER, PLEDGE OF ALLEGIANCE, AND ROLL CALL

The teleconference meeting of the Planning Commission of February 10, 2021 was called to order at 7:00 p.m. by Chair Brown.

The Pledge of Allegiance was led by Commissioner Ritter.

Staff Members Present: Brian Dolan, Assistant City Manager; Ellen Clark, Community Development Director; Melinda Denis, Planning and Permit Center Manager; Julie Harryman, Assistant City Attorney; Sachiko Riddle, Planning Office Assistant; Sean Welch, Senior Management Analyst; Stefanie Ananthan, Recording Secretary

Commissioners Present: Commissioners Nancy Allen, Brandon Pace, Greg O'Connor, Herb Ritter and Chair Justin Brown

Commissioners Absent: None

### AGENDA AMENDMENTS

Commissioner Ritter requested the Public Hearing items to be reordered, and for Item 6 to be the first of the two items so the applicant, Jennifer Van Wegen, would not have to wait through the other public hearing item. Commissioners unanimously agreed to this agenda amendment.

**CONSENT CALENDAR** - *Consent Calendar items are considered routine and will be enacted 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.*

Commissioner Allen noted changes to the meeting minutes of January 13, 2021, amending the last paragraph on the first page to read as follows: "Clarification was added to the section of the above paragraph to include "Commissioner Allen clarified her comments related to the 50-foot setback...."

Commissioner Allen noted changes to the meeting minutes of January 27, 2021, third paragraph on page five to add "increasing" to the following sentence: "Commissioner Allen

expressed concern about the community input at the Planning Commission versus City Council and suggested **increasing** public engagement with the Planning Commission to resolve issues earlier in the process.”

Commissioner Allen noted a change under ‘Matters Initiated by Commission Members’ to read as follows: “Commissioner Allen asked if discretionary projects we approve now would help us meet our current or future RHNA zoning allocations.”

- 1. Actions of the Zoning Administrator**
- 2. Approve the meeting minutes of January 13, 2021**
- 3. Approve the meeting minutes of January 27, 2021**

**Commissioner Allen moved to approve the Consent Calendar.  
Commissioner Ritter seconded the motion.**

**ROLL CALL VOTE:**

**AYES: Commissioners Allen, Brown, Pace, and Ritter**  
**NOES: None**  
**ABSENT: None**  
**ABSTAIN: None**  
**RECUSED: Commissioner O’Connor**

The Actions of the Zoning Administrator were approved, as submitted.

The Meeting Minutes of January 13, 2021 were approved, as amended.

The Meeting Minutes of January 27, 2021 were approved, as amended.

**MEETING OPEN TO THE PUBLIC**

- 4. Public Comment from the audience regarding items not listed on the agenda –  
*Speakers are encouraged to limit comments to 3 minutes.***

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

**PUBLIC HEARINGS AND OTHER MATTERS**

Community Development Director Ellen Clark recused from the item and was placed in a virtual waiting room.

- 6. P21-0033, Jennifer Van Wegen for Iron Horse Real Estate, 550 Main Street - Appeal of the Director of Community Development’s determination denying a Zoning Certificate application for an exception to the Active Ground Floor Use Requirement for Iron Horse Real Estate within a ground floor tenant space located at 550 Main Street. Zoning is C-C**

(Central Commercial) District, Downtown Revitalization, Active Ground-Floor Overlay, Core Area Overlay, Downtown Hospitality Central Core Area District.

Planning and Permit Center Manager Melinda Denis presented the specifics of the item in the Agenda Report.

Commissioner Allen asked if the active retail was active and when the real estate office opened. Ms. Denis stated retail was open but suggested asking the applicant when the real estate business opened. Commissioner Allen stated they were out of compliance in the gap period. She inquired about the definition of the 11 feet of retail and if the window ledge was included. Ms. Denis confirmed. Commissioner Allen stated the window ledge was 25- to 30-percent of the 11 feet. She expressed concern about the signage for the retail business. She discussed the shared space and asked if it was appropriate to define that portion of the 11 feet as dedicated to the retail component. Ms. Denis explained the definition and suggested the Commission could determine the means for measurement and whether the window display should be included. She stated the window was dedicated to retail products and included signage advertising the real estate office. Commissioner Allen asked if the parcel would be out of compliance if the retail component decreased or went away. Ms. Denis confirmed that the multiple use criteria would not be met and staff would work with the applicant and, if necessary, Code Enforcement.

Commissioner O'Connor asked the nature of the retail component and if the business had a separate name.

Commissioner Ritter asked if the primary use of business had to be active ground floor use. Ms. Denis stated the Code did not reference financials, only outlined the 25-percent requirement. She explained the planning process in determining the 25-percent. Assistant City Attorney Julie Harryman further clarified that there was not a lot of detail in the Code, but the intent was to keep Downtown active. She stated the current code require 25-percent retail and confirmed that retail receipts were not confirmed.

Chair Brown inquired if the intent was fully captured in the codification. Ms. Harryman stated there were no specific standards related to the retail component. Chair Brown asked how the redline in the plans manifested in the physical setting and requested the applicant answer in the presentation.

Appellant Jennifer Van Wegen gave a presentation on the item including an overview of her Pleasanton experience and Iron Horse Real Estate, community support, lease of 550 Main Street, exception application to Active Ground Floor Use Requirement, 25-percent retail floor plan including McCutch Woodworks, Frenchy Flags, Arcadia Publishing, Sue Evans Photography, P&P Candle Co., Succulents Calling, Woven Nook, BumbleBee Ceramics and Lightwell Co., and efforts to bring attention to retail component. She requested the Commission approve their appeal.

In response to Commissioner O'Connor, Ms. Ms. Van Wegen presented images of the window displays including the retail components. She stated Home Décor could be added to the signage.

Commissioner Ritter asked the retail hours and if they matched the hours of the surrounding businesses. Ms. Van Wegen stated Iron Horse hours exceeding the surrounding businesses. Ms. Denis provided the hours of operations of the neighboring businesses.

Chair Brown asked if the retail was being operated under a separate entity. Ms. Van Wegen stated the retail and office were all under one LLC and considered the office as a gathering place, with retail items.

Commissioner Allen inquired how the retail component would be advertised. Ms. Van Wegen stated they were in the process of building out the website to include the retail component and that social media and the window displays caught the attention of customers. She stated additional signage would be added to the windows and sidewalk as permitted. Commissioner Allen asked if there was a dedicated retail manager to track sales and sales tax. Ms. Van Wegen stated she was the retail manager but would hire additional staff as the business grew.

Commissioner Pace asked if there was a picture of the interior. Ms. Van Wegen explained the floor plan and retail space. Commissioner Pace asked if there was a check out station. Ms. Van Wegen discussed products, pricing, signage and check out location.

Chair Brown asked if the property owner was aware of the active use component of the space. Ms. Van Wegen explained that mixed-use was always discussed. Chair Brown asked if the retail component was based on the Code requirements or to draw people in for real estate. Ms. Van Wegen explained that the window space grabbed her eye and she always considered inviting other people and businesses to advertise their goods in that space. She stated she did not lease the space primarily for real estate.

## **THE PUBLIC HEARING WAS OPENED**

Randy Brown encouraged rejecting the appeal to reserve the first floor for retail uses and suggested the DSP be amended to ensure active retail and restaurant uses.

Ms. Denis stated four letters in support of the DSP active Ground Floor use were received, including one each from the Pleasanton Downtown Association (PDA) and Chamber of Commerce.

## **THE PUBLIC HEARING WAS CLOSED**

Ms. Van Wegen discussed the need for a fluid business model due to COVID-19. She stated her business was diverse and would increase pedestrian presence.

Commissioner Ritter asked if the matter would have come before the Commission if the applicant had applied for a mainly retail shop with offices in the back. Ms. Denis explained that as part of the zoning certificate process a business model and floor plan would be reviewed. Commissioner Ritter asked if the real estate office could have been opened prior to the adoption of the DSP. Ms. Denis confirmed that the office would have been approved under the prior DSP.

Commissioner Allen expressed her disappointment on the violation of the DSP with the real estate office opening prior to the active retail use. She stated she felt the applicant had met the letter of the 25-percent retail requirement but stated she did not believe it met the intent of the DSP. She recommended the City Council tighten up the policy to ensure the intent would be met. She challenged Ms. Van Wegen to prove that she was setting a new business model and expand the retail presence in the future.

Commissioner O'Connor agreed with Chair Brown and suggested the storefronts be the primary use and that the DSP requirement increase from 25-percent to 50-percent. He suggested a condition of approval requiring signage for the retail component.

Commissioner Pace questioned the exception from the 25-percent of retail. Ms. Denis explained that multi-use was not technically an exception, it was a determination as to whether the use met active use criteria; she discussed the three criteria for granting an exception for a non-active use. She stated the original request was denied because the retail component was not clearly identified. She stated the matter before the Commission was a determination rather than an exception. Commissioner Pace stated he would not have supported an exception to the DSP, and that the retail component should be extended. Chair Brown suggested the window display be included in the percentage calculation.

Commissioner Ritter agreed that the DSP had flaws but the applicant should not be penalized. He stated the landowner should have advised her of the requirements. He requested the business hours be posted.

Chair Brown recognized that the applicant was working hard to support Pleasanton, but the website and signage did not mention the retail component. He stated it did not currently feel like retail and the purpose of the DSP was to engage walkability and retail. However, he commended the business plan pivot. Chair Brown suggested there be an action item to update our Municipal Code with a new standard related to active use that is consistent with our intent.

Commissioner Allen concurred with Chair Brown and suggested conditions of approval specifying all signage include home décor, hours of operation be posted, and a cash register be available. Ms. Van Wegen indicated she had a point of sale (POS) system on order and confirmed she was willing to comply with the Commission's suggestions related to signage, posting business hours, et cetera.

Ms. Denis stated the Commission should be cautious in dictating the content of signage. Ms. Harryman stated the application before the Commission was a zoning certificate, not a project so the conditions of approval would be different and more limited. She suggested the information be added to the narrative of the zoning certificate for staff review.

**Commissioner Ritter made a motion to approve the applicant's appeal with recommendations as discussed and that a clarifying letter be sent to all retail in Downtown that change of use was under review by City Council.**

**Commissioner Allen moved to amend Commissioner Ritter's motion stating all signage must mention the retail, the hours of operation need to be posted and consistent with other Downtown businesses, and there needs to be a POS system.**

**Commissioner Pace seconded the motion, as amended.**

**ROLL CALL VOTE:**

**AYES: Commissioners Allen, Brown, O'Connor, Pace, and Ritter**  
**NOES: None**  
**ABSENT: None**  
**ABSTAIN: None**

Ms. Clark re-joined the meeting.

**5. City Council 2021-2022 Two-Year Work Plan Prioritization Process** - Provide input on land use and planning-related priorities for the 2021-2022 City Council Work Plan.

Assistant City Manager Brian Dolan presented the specifics of the item in the Agenda Report.

Chair Brown asked for clarification on the priority labeling. Mr. Dolan explained that Label "A" was first year, Label "B" was second year and Label "C" was as time allowed.

Commissioner Ritter asked if the goal of the workplan was to figure out how to allocate staff time. Mr. Dolan confirmed the goal to determine staff time and operating and capital budgets.

Commissioner Ritter asked if the City was obligated to process a large development if it was not on the work plan. Mr. Dolan stated projects under the Permit Streamlining Act must be processed. Commissioner Ritter asked why the Lester Property and Merritt Property were on the work plan if they fell into helping the City with Regional Housing Needs Allocation (RHNA). He suggested they be removed, given public comments about the legality of including them in the work plan. Mr. Dolan stated the Council added both projects to authorize staff to proceed with working on the projects. He explained the City's obligation to process applications.

Commissioner O'Connor commented that some projects required intensive staff work. Mr. Dolan explained the Merritt project and anticipated annexation would not be a difficult process with the Local Agency Formation Commission (LAFCO).

Chair Brown asked for clarification on legislative action. Ms. Harryman defined rezoning, general plan amendments, specific plan amendments, and potentially annexation as legislative actions.

Commissioner Allen asked if any more land needed to be rezoned to meet current RHNA obligations. Mr. Dolan confirmed that the city had adequate sites zoned in the existing housing element, and noted that rezoning of the Merritt site was not necessary. Ms. Clark further explained that the Lester project requires a Planned Unit Development (PUD), a legislative action.

Commissioner Pace asked if the three development properties required legislative acts before development could occur. Mr. Dolan confirmed.

Commissioner Allen asked if the projects subject to a legislative act counted against the Planning Commission list of priorities. Mr. Dolan requested Planning Commission prioritization. Mr. Dolan discussed the time that was spent by the Community Development Director on Item 1, related to housing legislation.

Commissioner Ritter asked which permits and certificates of occupancy would be counted towards the next RHNA obligation. Ms. Clark clarified that projects with units permitted after July 1, 2022 would count towards the next RHNA cycle. She discussed the Housing Element review and inclusion of the housing sites inventory.

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

Jim Summers provided public comment regarding the Merritt property and requested it remain on the City Council Work Plan.

Peter MacDonald provided public comment indicating residential projects should not be on the City Council Work Plan and the Merritt project should proceed.

Jeff Schroeder provided public comment regarding the Lester property and requested it remain on the City Council Work Plan.

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

Commissioner Allen suggested removing the three development projects on the list (East Pleasanton, Lester and Merritt) and allow the Housing Element process to determine land use decisions first, rather than working on them in parallel. She stated none of the projects were required to meet the current RHNA requirements. She recommended the Comprehensive Housing Legislative review and policy and regulation update should be on the Council's list. She agreed with staff's recommended amendments.

Mr. Dolan clarified that staff was not recommending that the residential projects be removed, noting that they would not get final approval until the Housing Element was better defined, and that those units would ultimately count towards the next RHNA cycle. He noted that the Lester Project was well underway with its EIR.

Chair Brown re-stated the timing for the start of the new RHNA cycle in 2022.

Commissioner Pace re-stated Mr. Dolan's remark that the three housing projects would not be approved until the Housing Element was finalized, and the sequencing of the Housing Element relative to these projects – specifically if the Housing Element were priority A, and the housing projects priority B, he asked if that would align with desired timing. Mr. Dolan explained the RHNA process and how those units could be counted in the next RHNA cycle.

Mr. Dolan explained that the Commission was being asked to determine its top priorities.

Commissioner O'Connor suggested combining the Stoneridge Mall property with the Housing Element, since the two would be discussed together in the planning process. He also agreed with the CASA item being rolled into the Housing Legislation.

Chair Brown confirmed that the Commission agreed with the two staff recommended amendments to combine the two separate work plan items regarding monitoring, responding to, and implementing adopted Statewide Housing legislation, into a single work item and adding the Housing element update to the City Council work plan; and combining the Stoneridge Mall Framework work plan item with this priority.

Commissioner Ritter commented that he felt the housing projects were important and should be Priority A, given the length of time needed to process and approve them.

Chair Brown confirmed Commissioner O'Connor and Commissioner Ritter's agreement with the two staff-recommended amendments.

Commissioner O'Connor noted he wasn't sure it made a difference whether the housing projects were on or off the list, if they would be processed; however, including them on the list gave them more visibility.

Commissioner Pace suggested following the legal process regarding the housing projects. He suggested the Housing Element be the first priority, but ensure the housing projects were able to be counted in the next Housing Element.

Chair Brown requested comments on the Alameda County Fairgrounds or the Economic Development Zone (EDZ). Commissioner Allen stated they should be kept if there was capacity. Commissioner Ritter agreed. Commissioner Pace agreed but asked for the City's role in approval of projects at the County-owned Fairgrounds. Mr. Dolan explained the City's review of the Fairgrounds projects.

Chair Brown asked if the Fairgrounds hotel would be in competition with the recently approved boutique hotel. Ms. Clark suggested they were very different business models and she would not expect them to compete.

Commissioner Allen suggested adding a priority relating to community awareness, engagement and feedback in the planning process, and provided additional detail on the concept and specific elements that could include.

Chair Brown asked if the priorities were for City Council or Planning Commission. Senior Management Analyst Sean Welch stated they were Council items. Chair Brown stated he agreed with Commissioner Allen regarding public notification but saw it as more of a Planning Commission item than a City Council item. Mr. Dolan stated there was no harm in asking for that item to be added. Commissioners Ritter, O'Connor, and Pace were in favor of adding the work item.

Commissioner Allen stated that her top three priorities were the Housing Element, EDZ, then communication.

Commissioner Ritter listed his top three priorities as Lester, Merritt, and the other housing property on the list.



Commission O'Connor stated his top two priorities were EDZ and the East Pleasanton Specific Plan.

Commissioner Pace listed his top as the Housing Element, as nothing else could be done until that was done. His main concern after that was EDZ.

Chair Brown stated his priorities were staying abreast of state law, RHNA, and the housing element.

Mr. Dolan summarized the Commissioners' priorities as EDZ, the housing element, and then the East Pleasanton Specific Plan, but requested confirmation from the Commission

Ms. Clark stated the East Pleasanton Specific Plan was to track with the Housing Element as opposed to following it, since the decision about residential development in the east side would need to be reflected in the Housing Element. Commissioner Allen commented on the timing of the efforts given that the Housing Element would be making decisions about density, and the challenges of working on the housing projects and East Pleasanton concurrently with the Housing Element.

Chair Brown clarified Mr. Dolan's summary, to include the housing element, Johnson Drive Economic Development Zone (JDEDZ), and then a split consensus between the housing projects and the East Pleasanton Specific Plan. He confirmed that the Commission supported the staff recommended amendments, not removing any projects from the list, and addition of the public notification/communication effort suggested by Commissioner Allen. Mr. Dolan requested a motion on the Planning Commission recommendations.

**Commissioner Pace moved to note the Planning Commission's priorities and recommendations as summarized by Chair Brown: consensus on the top two priorities, the housing element and JDEDZ, with the Commission then split on the housing projects and the East Pleasanton Specific Plan as the next priorities; to concur with the two staff recommended amendments to combine the two separate work plan items regarding monitoring, responding to, and implementing adopted Statewide Housing legislation, into a single work item; adding the Housing element update to the City Council work plan and combining the Stoneridge Mall Framework work plan item with this priority; and adding the public notification item suggested by Vice-Chair Allen.**

**Commissioner O'Connor seconded the motion.**

**ROLL CALL VOTE:**

**AYES: Commissioners Allen, Brown, O'Connor, Pace, and Ritter**  
**NOES: None**  
**ABSENT: None**  
**ABSTAIN: None**

## **MATTERS FOR COMMISSION'S REVIEW/ACTION/INFORMATION**

### **7. Reports from Meetings Attended (e.g., Committee, Task Force, etc.)**

There were no reports from meetings attended.

### **8. Actions of the City Council**

Community Development Director Ellen Clark gave a brief overview of items listed in the report.

### **9. Future Planning Calendar**

Ms. Denis gave a brief overview of future items for the Commission's review.

Ms. Clark provided an update regarding the Commission's interest in receiving an update on the City's economic development activities surrounding the COVID pandemic, stating Economic Development Director Pamela Ott would provide an update at a future meeting in March.

## **MATTERS INITIATED BY COMMISSION MEMBERS**

Chair Brown inquired about filling the current and future vacancies for the Planning Commission. Ms. Clark responded that the application period had closed and the City conducted interviews resulting in several recommendations for the current and upcoming vacancies to the Commission, including the recommendation to appoint alternate Commissioner Pace to a regular member. She stated Mayor Brown recommended a number of appointments to fill pending vacancies in the Spring to help with a smooth transition and onboarding the new Commission members. She provided the proposed recommendations as indicated in the recently published City Council agenda report.

Commissioner Allen inquired about an interested applicant who did not apply during the open application period and whether they would be eligible for a position despite not having applied. Ms. Clark suggested the City Clerk provide a response.

Chair Brown congratulated Commissioner Pace on his pending appointment from an alternate member to a regular member of the Planning Commission.

## **ADJOURNMENT**

Chair Brown adjourned the meeting at 10:12 p.m.

Respectfully submitted,



Stefanie Ananthan  
Recording Secretary