

LAW OFFICE
PETER MACDONALD
400 MAIN STREET, SUITE 210
PLEASANTON, CALIFORNIA 94566-7371

(925) 462-0191
FAX (925) 462-0404
pmacdonald@macdonaldlaw.net

November 10, 2013

Planning Commission
City of Pleasanton
200 Old Bernal Avenue
PO Box 520
Pleasanton, CA 94566

Subject: Item 6.c., November 13, 2013 Agenda
Comments on Proposed Historic Preservation Policies

Honorable Members of the Planning Commission,

In the 30 plus years since I moved to Pleasanton, both the commercial and residential areas of downtown Pleasanton have blossomed with quality new construction, substantial historic preservation, and increased vitality. Most of those property improvements would not have been permitted under a strict architectural control regime, such as the Historic Preservation Policies that are under consideration.

My concern is that without some moderating amendments, the proposed Historic Preservation Policies will bring zoning blight to downtown Pleasanton, fossilizing decrepit and mediocre buildings with strict and overly prescriptive architectural regulation.

Over most of the past 30 years, in reviewing projects, the City consistently opted for a standard of neighborhood compatibility, and in support of property improvements, while keeping a lighter touch on architectural controls and historic preservation, even allowing variances until recently. Yet, many worthy historic enhancements came from this moderate approach to historic preservation, rather than aggressively pushing for archival restoration of elderly buildings. Downtown character has been enhanced through reconstruction and replacement of historic structures (e.g. Spring Street, Kolln Hardware, Veterans Building), adaptive re-use of older buildings (e.g. Firehouse Art Center, Baci Restaurant building), and imitation of historic styles in brand new construction (e.g. Vaughn Building, Tully's corner), most of which would not have been permitted under a strict historic preservation regime.

Then over the last seven years or so, at the urging of an organized opposition group, the City took a more aggressive architectural control position, denying or delaying a whole series of proposed property improvements in downtown. Owning and improving older buildings in downtown Pleasanton has become a liability, with owners complaining that the approval processes are long, expensive, and uncertain, with projects so burdened they are unfeasible to build.

Those project by project neighborhood fights led to formation of the Historic Preservation Task Force, which was formed to clarify the rules, and streamline the process so property improvement could once again go forward in downtown Pleasanton.

Unfortunately, some of the proposed historic preservation policies under consideration will do little for historic preservation, while detracting from downtown vitality by giving opponents more and sharper tools with which to obstruct property improvement. For example:

1. Widespread downzoning

Current Standard: R-1 Zone: Floor Area Ratio (FAR): 40% maximum

-Proposed Standard: Keeps the above, and adds:

"Policy 8. Compatibility of new single-family homes or modifications to existing single-family homes with the immediate neighborhood (i.e., single-family homes on lots within 150 feet of the subject lot) relative to mass and bulk shall be assumed if the proposed FAR does not exceed the average FAR of the single-family homes in the immediate neighborhood by more than 25 percent. . . ." (underlining added)

-Unrelated to historic preservation: Floor area ratio (FAR) has nothing to do with historic preservation.

-Increased uncertainty. This regulation is so complicated, no property owner will know what it's permitted FAR is. The property owner would have to know the exact lot sizes and exact home sizes for 25 to 75 homes within 150 feet of his property to even calculate his permitted floor area.

-Erratic outcomes. The outcomes of this Rube Goldberg formula, once applied, are likely to be highly erratic, depending on whether one's neighbors happen to have, on average, smaller or larger homes.

-Downzoning! The compatibility standard downzones the entire downtown residential neighborhood while disguising itself as a historic preservation policy.

Recommendation: Delete the proposed Policy 8.

2. Mandates Pre 1942 Architecture.

-Proposed Standard:

Policy 6. New residential building design, including the design of replacement buildings for buildings constructed before 1942 which are approved for demolition, should draw upon the primary exterior features of the Downtown's traditional design character in terms of materials, colors, details of construction, and setbacks and should utilize one of the following architectural styles found Downtown dating from pre-1942: Gothic Revival, Italianate, Victorian (Queen Anne, Stick, and Folk), Bay Tradition, Craftsman, Prairie, Mission Revival, Spanish Colonial Revival, Mediterranean Revival, Minimal Traditional, Vernacular Forms, and FHA Minimum House. (underlining added)

-Major change. The City has never before mandated historic (pre-1942) design downtown.

-Changes downtown character. Variety, not government mandated design, is what gives downtown its diverse and appealing character. Downtown is the one neighborhood in town that was not built to a government or developer design template, and it glows.

-Makes most existing buildings non-conforming. The vast majority of buildings in downtown do not conform to the mandated pre-1942 design style. Imposing an imitation history design mandate will burden home improvement, and prevent natural updating to solar, energy efficiency, better materials, and other homeowner preferences.

Recommendation: Rather than "should draw upon" and "should utilize", the language in Policy 6 could be softened to "are encouraged to draw upon" and "are encouraged to utilize".

3. Any Façade Modification is a (prohibited) Demolition.

-Proposed standard:

"Policy 2: . . . Demolition of a residential building for purposes of historic preservation shall be defined as the removal of the front façade or the most visible façade from the street, including changes to the roof and roof line. The front or most visible façade shall be considered the forward most ten feet of the structure. . . ."

-Façade easement. This definition effectively creates a government easement on the front building façade of the entire downtown. The "People" own the façade design, which makes the property owner a supplicant in any effort to improve his property, entirely at the City's mercy, which will seldom be granted.

-Discourages property improvement. If applied literally, the property owner desiring to change a window or a door, or possibly even door hardware, would be subject to a 45 day notice and comment period for the public to weigh in on the "demolition".

-Commercial demolition. Commercial demolition is similarly prohibited in Policy 3. The Commission should explore what definition of "demolition" will be applied to commercial demolition?

5. Converts Guidelines into Mandates.

Proposed Standard:

Policy 10. Comply with all relevant policies of the Design and Beautification Chapter of this Specific Plan and the Downtown Design Guidelines. (underlining added)

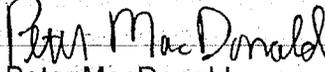
- Converts previously advisory Guidelines into mandatory Guidelines.
- Design Review power is enough already. The primary issue for non-historic properties should be neighborhood compatibility, not rigid adherence to a fixed (pre-1942) template for downtown construction.

Conclusion

The Historic Preservation Policies can be softened to encourage property improvement while still preserving worthy historic structures.

Last but not least, I would like to express my support for the comment from the Pleasanton Downtown Association (PDA) in their letter to Planning Commission dated October 17, 2013.

Very Truly Yours,


Peter MacDonald

Cc: Brian Dolan
Scott Raty
Laura Olson