PLANNING COMMISSION MEETING MINUTES

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

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Wednesday, March 27, 2013

CALL TO ORDER

The Planning Commission Meeting of March 27, 2013, was called to order at 7:00 p.m. by Chair Phil Blank.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Commissioner O'Connor.

1. ROLL CALL

Staff Members Present: Brian Dolan, Director of Community Development; Janice Stern, Planning Manager; Julie Harryman, Assistant City Attorney; Steve Kirkpatrick, City Engineer; Mike Tassano, City Traffic Engineer; Steve Otto, Senior Planner; Erica Fraser, Contract Planner; Kaushik Bhatt, Assistant Engineer; and Maria L. Hoey, Recording Secretary

Commissioners Present: Commissioners Phil Blank, Kathy Narum, Greg O'Connor, Arne Olson, Jennifer Pearce, and Mark Posson

Commissioners Absent: None

2. APPROVAL OF MINUTES

a. March 13, 2013

Commissioner Olson noted that his name was left off the list on the vote for Item 6.a., P12-1796, City of Pleasanton on the Ridgeline and Hillside Protection and Preservation, on page 32. He indicated that he voted with the rest of the Commissioners and requested that his name be added to the "Ayes" vote.

Chair Blank noted a typographical error on the first sentence of the first full paragraph on page 23 and requested that it be corrected as follows: "Chair Blank stated that ~~develops~~ *developers* sit down with staff and spend hundreds of thousands of dollars…."

Chair Blank stated that on page 26, it says that the ridgeline behind the house has to be at least 100 feet, which is basically what the ordinance says, and not within 100 feet. He clarified that the Commission was not saying that the house has to be within 100 feet but that it cannot be any closer than 100 feet.

Commissioner Narum moved to approve the Minutes of March 13, 2013 as amended.
Commissioner Pearce seconded the motion.

ROLL CALL VOTE:

AYES:	**Commissioners Blank, Narum, O'Connor, Olson, Pearce, and Posson.**
NOES:	**None.**
ABSTAIN:	**None.**
RECUSED:	**Commissioner O'Connor on Item 6.a.**
ABSENT:	**None.**

The Minutes of the March 13, 2013 meeting were approved as amended.

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

Janice Stern advised that there were no revisions to the agenda and noted that Item 6.b., P12-1797, Rina Morningstar, Colliers International, has been continued to the April 24, 2013 meeting at the request of the applicant.

5. CONSENT CALENDAR

There were no items for consideration under the Consent Calendar.

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6. PUBLIC HEARINGS AND OTHER MATTERS

a. P12-0556 and P12-0557, Terry Grayson/Ironhorse Development

Applications for a Conditional Use Permit and Design Review approval to demolish the existing 76 Conoco Phillips service station sales and restroom building, modify the location of fuel dispensers, construct an approximately 1,950-square-foot convenience market, and install related improvements at 4191 First Street. Zoning for the property is Service Commercial (C-S), Downtown Core Area Overlay District.

Erica Fraser, Contract Planner, presented the staff report and described the background, scope, and key elements of the proposal, including the differences between the first and the current applications. She noted that staff has provided the Commission with a memo tonight which adds a condition requested by the Police Department prohibiting the use of blinds, merchandise, or advertising on the windows so police have visual access into the interior of the store.

Commissioner Olson noted that reference is made to temporary remediation currently underway. He inquired what the difference is between temporary remediation and permanent remediation.

Ms. Frasier replied that at the moment, what the Regional Water Quality Control Board (RWQCB) has approved is a temporary remediation of the site, and in the future, the applicant will go back to the RWQCB with its permanent solution, which will include removing the old underground storage tanks and various other methods to clean up the site, after which the applicant will have to comply with current regulations. She noted that the applicant might be able to speak better of this function.

Commission Olson inquired if the process of removing those tanks will interrupt the construction of the store.

Ms. Fraser said no. She explained that the removal is actually part of the project and is included in the project plan and that as part of the whole project, the applicant will take out the existing tanks and install new ones.

Commissioner Olson concluded that permanent solution essentially means new tanks.

Ms. Fraser said yes, and more. She explained that there are other things the applicant needs to do because it is more than just a tank problem. She added that they have contaminated soil which will need to be cleaned up and contaminated ground water as well.

Commissioner Olson noted that there is no timing or certain date available for this remediation and inquired if the reason for that is because it is not known at this time how far the contamination has gone.

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Ms. Fraser replied that the applicant has mentioned to staff that this is being done in conjunction with the project and that if the City approves the project, the applicant will go back to the RWQCB with its final design. She added that the timing is really between the applicant and the RWQCB. She noted that the applicant might be able to speak better about what the specific timeline is and what agreement has been made with the RWQCB.

Commissioner O'Connor stated that one of the conditions of approval calls for no alcohol to be sold at this location, and that has been one of the major concerns from the neighborhood. He indicated that he knows this is just a condition of approval and that at a later date, somebody could actually ask for that to be modified. He inquired if there is a way for this approval to somehow make that condition permanent so it cannot be modified.

Ms. Stern replied that it would not be allowed under the zoning district in which the project is developed, and, therefore, it would require a rezoning, which would then have to come before the Planning Commission for consideration.

Commissioner O'Connor inquired if it would be more than just asking for a modification of the conditions of approval.

Ms. Stern replied that was correct.

Commissioner O'Connor noted that on page 15 of the staff report, it states that the proposed project has been modified to address most of staff's concerns. He inquired if there were other concerns staff has that have not been satisfied.

Ms. Stern replied that there is still a one-way circulation around the site which is not usually necessary in most sites; however, this is a constrained site in terms of its physical layout.

Mr. Dolan stated that it still is not ideal circulation-wise, but it is better now. He added that when staff considered the trade-offs of having new improvements in the site, it was enough to tip the balance on staff's recommendation.

With respect to Condition No. 6 regarding signage for loitering, Commissioner Posson stated that it is one thing to put a sign up saying no loitering is allowed, but people can still hang out in the area. He inquired if there is any type of condition that can be written which would require the operator to actively prohibit loitering that may go further in resolving some of the concerns of the community.

Mr. Dolan replied that staff could add such a condition.

Commissioner Narum referred to Condition No. 22 regarding the removal of the phone booth. She stated that this is one of the few regular phone booths in town and inquired what the reason was for removing it.

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Ms. Fraser replied that it is just a phone booth with no phone in it.

Commissioner Pearce noted that Condition No. 36 talks about the possibility of remediation resulting in the loss of a parking space or a further compromise of the onsite circulation. She inquired if staff anticipates that happening or if the condition is simply precautionary.

Ms. Fraser replied that this is a safety patch to let the applicant know that this site is constrained; there is adequate parking for the store and staff does not really want to make any changes that would significantly alter the site. She continued that because there is still no final remediation plan, staff does not know what the actual proposal for the remediation plan is. She indicated that this condition is letting the applicant know that if he will come back with a plan that changes the site in a significant way, staff might need to take the project back to the Commission. She added that, for example, if a parking space needs to be removed to have some equipment, the size of the store might need to be reduced.

Commissioner Narum stated that she keeps hearing that this traffic circulation is less than ideal and she would like to know what would make it more ideal or what Mike Tassano, City Traffic Engineer, sees as the issues that cause that statement to be made.

Mr. Tassano stated that, as Mr. Dolan had pointed out earlier, there is a one-way circulation around the site, and vehicles fueling for gas do not park completely under the canopy; they extend a little bit farther out, which then reduces the aisle width to eight or nine feet. He noted that it is less than ideal because if there is a car parked and another car fueling, there is not enough room to get through, and the most aggressive person wins.

Mr. Tassano continued that the truck circulation is sufficient for the gas truck to get in and out. With respect to parking, he indicated that a lot of times at locations like this, people will park at the fuel station and then go into the store, so potentially not all the parking spaces will be used. He added that the circulation becomes much more impacted depending on which parallel parking spaces are used, making it less than ideal.

Commissioner O'Connor inquired if there is a condition that the employee will not use one of the main parking spaces right in front of the building.

Ms. Stern said no.

Commissioner O'Connor inquired if those spaces would be reserved for customers.

Ms. Stern replied that a condition can be added requiring the employee to park somewhere else.

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Commissioner O'Connor commented that that would probably work best because the other parking spaces are less desirable.

Chair Blank noted that the gas station will be operating 24 hours a day, seven days a week. He pointed out that Condition No. 13 says that deliveries for the convenience store and service station shall take place between 6:00 a.m. and 9:00 p.m., and a footnote on page 9 of the staff report says that there is an error in the applicant's statement which says that fuel deliveries occur twice a week at 6:00 a.m., and the applicant has since notified staff that fuel deliveries occur on an as-needed basis at any time. He indicated that he want to make sure that staff is satisfied that Condition No. 13 covers the delivery of gas as opposed to the delivery of other things, so that refueling trucks do not show up at 3:00 a.m.

Ms. Stern replied that staff can make that explicit.

Chair Blank stated that staff recommended denial the last time this item was before the Commission. He inquired if there was any sort of tipping point that swayed staff's decision.

Mr. Dolan replied that there was not one thing but there were a lot of things. He noted that the neighborhood was clearly opposed to a 7-Eleven, and it is no longer a 7-Eleven. He added that the 24 hours was probably the biggest thing, and then some improvement to the circulation was also critical.

THE PUBLIC HEARING WAS OPENED.

Terry Grayson, Applicant, stated that several questions were brought up that he would like to address, but he would like to go through a couple of things first. He stated that the last time they were before the Commission, there were concerns from the neighbors about the 24 hours, the alcohol, and the loitering, so they did go out and had the best possible outreach meeting which was well attended, given that the applicant put out 70 to 80 flyers. He indicated that they did not go out the 1,000-foot radius but basically went out to the neighborhoods they thought were most impacted where there is no homeowners association (HOA) or had people who appeared at the December 12, 2012 hearing. He stated that with that, they eliminated the huge concern about the alcohol and the beer, although there was never a concern because, as Ms. Stern pointed out, the Pleasanton Municipal Codes does not allow them to allow that without going back to the Commission. He added that they also eliminated the 24 hours of operation for the store, agreeing pretty much to be open from 5:00 a.m. to 11:00 p.m., consistent with the rest of the area around and with many of the gas stations in the area. He indicated that they have also addressed some of the noise concerns which were brought up in the outreach meeting, installing a long wall along the trash enclosure area all the way to the back corner of the property line, thus preventing any sound from going into those nearest residential houses, and then installing a fence all the way along the left side

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which will also help to buffer the noise there. He noted that it obviously will not stop all the noise, but it will certainly contribute to weakening it.

Mr. Grayson continued that crime was a big factor that was brought up before and was tied into the 24 hours. He stated that he believes they will have a good enough presence there such that they will not have to worry about crime any more than a typical business. He added that they eliminated the 7-Eleven, which was another big-item issue, and they will operate the store as a mini-mart. He indicated that they will be selling a local Jeremiah's Picks Coffee right at the mini-mart, explaining that Jeremiah's Pick Coffee is a local vendor out of the Bay Area that comes into specialty niches like this. He stated that they did an outreach to Starbucks and Peet's Coffee, and both were not interested because their business model does not flow with a service station.

Mr. Grayson stated that a business brings value, and they believe that over almost the last two years, they have invested nearly $100,000 into this project and that they are presenting a stellar project for this corner based on the design. He indicated that the lot is not perfect and that they are not changing anything other than the fact that they are reducing some of the traffic flow areas by eliminating the two farthest dispensers, making the traffic flow actually better than the way it currently is. He added that they re-opened one of the driveways on First Street to further enhance the flow of traffic. He noted that they have also added parking, but as with all gas stations, there will always be the issue of people who pull in, park, run in, and do their thing, just as he noticed earlier in the day at the gas station that just opened up at Safeway which has those one-way arrows but people still parking all over the place.

Mr. Grayson stated that they have reduced the size of the building from 2,800 square feet down to 1,950 square feet to accommodate traffic and parking concerns, leaving just over 1,000 square feet of sales area, about the size of the Council Chamber, which is pretty small in this day and age compared to most convenience stores and mini-marts that are well in the 1,200-square-foot range in terms of sales.

Mr. Grayson stated that at this point, they are very appreciative of staff's recommendations and whole-heartedly agree with all the conditions of approval except one, Condition No. 37, which refers to the northwestern-most fuel dispenser. He indicated that they had originally recommended to take it to just a single-sided dispenser because of parking issues; however, because they have gone down to such a small sales area, they would like to keep that as a dual dispenser. He stated that they understand that traffic people may pull in there, but this is also the second closest dispenser to the building which obviously would be used more frequently, and putting in only one fuel dispense would be quite a deterrent to the business operations there.

Mr. Grayson then addressed the question posed by Commissioner Olson regarding permanent versus temporary remediation. He explained that there is a temporary system set up right now that is utilizing wells that were already in place, and they will then remove those wells and putting in new ones all along the back side. He noted that

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once all the old tanks are removed, the site itself will pretty much be remediation-free and environmentally free of any concerns.

Mr. Grayson stated that there were some comments that not everybody was contacted for the outreach meeting. He indicated that that is not going to happen when a community does not have an HOA or a specific group that they were looking to attract. He then requested that the Commission approve the project.

Chair Blank asked Mr. Grayson if he had any concerns regarding some of the suggestions brought up, such as not having the employee park in front of the building.

Mr. Grayson replied that that would not be a problem and that they would be more than happy to have the employee park away from the building.

Mr. Grayson stated that according to the owner, Delong Liu, there is one concern about the gas delivery. He explained that deliveries are made to thousands of stations out of a central dispatch, and they are done as fuel drivers come in and as traffic warrants. He indicated that they do not quite honestly care what the owner's request is they will be there to deliver whenever they can get there. He added that requesting normally has an effect, but there is no guarantee that people will not be showing up there at all hours to deliver fuel like they do now because it is totally set up by the oil companies and out of the owner's control.

Chair Blank inquired if a fuel delivery could take place at 2:00 a.m..

Mr. Grayson replied that unfortunately, it could.

Mr. Liu stated that it is an automatic computerized dispatch.

Commissioner Posson requested clarification on the remediation regarding having a vapor extraction in place and inquired if this is a temporary measure.

Mr. Grayson said that was correct.

Commissioner Posson inquired if the final remedy would be soil removal and vapor extraction.

Mr. Grayson said yes. He stated that once the tanks come out, they will do soil sampling, dig down to a reasonable level, take out what can reasonably be taken out, which would generally be pretty adequate, and then continue with the soil vapor extraction on site wells and as well as off-site wells in that transition area.

Commissioner Posson inquired about any groundwater remediation.

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Mr. Grayson replied that there will not be any groundwater remediation going on at this facility because the water table at the facility is down below past 30 feet and is not a big issue.

Commissioner Posson inquired if the RWQCB .indicated that there will not be any groundwater extraction.

Mr. Grayson replied that the RWQCB is asking for a design that does soil vapor extraction. He indicated that it is more concerned about the hydrocarbons in the soils themselves and not in the groundwater because of the depth of the groundwater. He noted that they would have to go down another 15 to 30 feet to reach that table and that is not going to happen.

Commissioner Posson inquired if the RWQCB is not asking for a groundwater vapor extraction.

Mr. Grayson said no.

Commissioner Posson inquired if there will be hydrocarbons in the water.

Mr. Grayson said yes, but they will not ever get down to the water table.

Sean McFarlane stated that he lives directly on the western side of the property that is proposed to be developed. He indicated that deliveries can happen at 2:00 a.m., and he was honestly hoping that if this project is approved, this be completely part of any agreement between the parties that want to build this convenience store.

Mr. McFarlane stated that his main concern is the traffic. He inquired if there has been a traffic study on this particular property and what the expected impact is. He expressed concern that there will be a lot of folks going out and illegally turning left on Ray Street, which still happens and causes traffic and affects exiting out of his development. He noted, by the way, that there is a HOA in the development he lives in.

Mr. McFarlane stated that the remediation is another issue he has. He indicated that one of the things about vapor extraction is that they suck the volatiles out of the petroleum and then pipe it up, and if they have a burner, it burns off, or it gets dissipated. He noted that he lives a stone's throw from this remediation and that he actually had an opportunity to look at the delineation of the contamination and was surprised to hear that there is no groundwater contamination. He stated that he knows a little bit about this, and when a vapor extraction system is implemented, more vapors will be pumped in the air. He indicated that he has three children, and he does not want a whole bunch of petroleum in the atmosphere. He stated that the fence is another issue, and he has not seen what that fence looks like. He expressed concern that if it is a wall, there would be graffiti everywhere, and that would be another problem that will have to be revisited at this Commission.

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Mr. McFarlane stated that he just does not see any good about this project. He indicated that just the fact that it has contamination in the ground already depreciates his real estate, and as far as he is concerned, he came to Pleasanton and brought his family here because of the great place they live in, and the contamination was not part of the disclosure when he bought the house. He added that this project would reduce his property value even further, and this is something he wants to protect now that he is living here, that his real estate does not depreciate because of something that is going to impact him. He indicated that this is a no-win situation for him with more traffic, more people, and the hours of operation, and just wants to categorically say that he does not want this to be approved.

Rocio Arango stated that she does not really see that many changes to this request aside from the facility changes. She showed the Commissioners a picture she took of the gas station from her home to demonstrate how close she lives to the station. She indicated that she is a good neighbor and that they have an HOA that is very strict that it even invited her to a meeting because she has not painted her house within the one year limit. She indicated that she wants her house values to be maintained and having a bigger gas station would hurt that.

Ms. Arango stated that her biggest concern is the neighborhood and mentioned some of the problems she currently encounters as a neighbor of the gas station: poor appearance of the area as the location is poorly maintained; lack of privacy as there is no wall or trees on the location; awful lighting system that is on all night and which she wonder if it is actually illegal to use that lighting system; and gas delivery in the middle of the night that is just way too loud. She stated that the gas station is not a good neighbor as far as maintenance is concerned: the fence is very poorly maintained; people's trash such as bottles, wrappers, and things like that are over the run way across from where the gas pipeline is; pumps that do not work on a regular basis; the air hose does not work either and has been broken for a long time; and the bathroom is in really bad shape and poorly maintained. She indicated that she lives in a nice complex where the maintenance keeps them all in line to keep the place attractive, and as a neighbor, she also wants to protect the area to be as calm and safe as possible.

Ms. Arango stated that her biggest issue is a lot of traffic, which is probably the reason for building this convenience store. She noted that most of the traffic is students going back and forth to school, and the schools have already removed junk food soda and vending machines. She indicated that there are pockets in Pleasanton that have a very high population with students walking from Amador, Pleasanton Middle School, and Valley View Elementary School, and students from low-income families who live near the area visit the students and will be in danger of falling into alcohol and drugs. She stated that she believes this store really puts these children at risk. She noted that there are already several small and owner-operated convenience stores and markets, and the neighborhood does not need another convenient store when there is already one half-a-block away and a little Mexican market a block away. She added that the other gas station across the street also has a convenience store.

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Ms. Arango stated that her concern is really about safety and keeping it a safe neighborhood. She indicated that she has heard that the strip right behind the gas station is supposedly where kids go and fight, and she really believes that having a store open so late will not make it a safe neighborhood. She then handed the recording secretary some pictures she took of the gas station showing how poorly maintained the gas station is. She noted that it is just basically about maintenance, and she questioned how she can ensure that they will do a good job later on. She also questioned how realistic it is to have one person run a 1,900-square-foot store and have time to clean the bathroom, make sure the coffee machine has grounds in it, or go outside to help a person who cannot pull the pump.

Ms. Arango stated that she is totally opposed to the proposal and that a lot of maintenance issues from the past were not addressed. She indicated that she did not think their opposition was not so much for a 7-Eleven and questioned if 4:00 a.m. is a reasonable time to open a store. She stated that this is not what their neighborhood needs; it is not what their community needs.

John Kimber stated that he has been in this business for well over 30 years; he has been to many Planning Commission and City Council meetings, and there is always a procedure that is followed that he thought was not followed at the last meeting. He indicated that he thinks the public needs an explanation from the Commission as to why it made the decision the way they did. He stated that there was an almost unanimous outpouring of requests to not approve the project, and the staff had recommended not to approve it as well. He noted that it appeared the Commission was going to deny the project; however, there was what he called a “comfort break” that was taken, and after that break, Chair Blank came out and asked the applicant whether he wanted a vote or to come back with a new project, and the applicant of course said he would like to come back with another proposal. He questioned how that decision was made in private at a break without any public discussion, without any indication to the public as to why such a decision was made, when it was about a 99-percent certainty in most people’s mind that there was going to be a negative vote. He questioned why Chair Blank would come back and ask the applicant if he wanted the Commission to vote now or come back if he did not think it was going to be a negative vote. He expressed concern that there was a meeting during the break which was not public, which was completely improper and should never have happened. He noted that if there had been a question of whether or not the Commission was going to offer an opportunity to come back, the Commission should have come back to the Chamber, have an open discussion with all people in the audience being able to hear what they were saying, and then make that decision there; but that was not done. He indicated that he felt that was improper and would like to know at the least whether or not that was the type of secret procedures the Commission wants to partake in.

Mr. Kimber stated that he would like to bring up a couple of items regarding the proposal, first of which is that the project is not needed as there are plenty of places that people can go for a convenience store. He then addressed the question about the employees parking elsewhere and asked where that would be and if it would be across

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the street in Pleasant Plaza. He indicated that he does not wish to have the service station employees parking at Pleasant Plaza. He then asked if the one-way traffic coming from First Street onto Ray Street and indicated that he did not want people to cut across Ray Street to avoid the stop light and go through Pleasant Plaza to Spring Street, which is happening now.

With respect to remediation: Mr. Kimber stated that he has been involved in many, many remediation projects, and as soon as the soil is moved, another problem will surface. He continued that on page 20 of the staff report, there was a comment that the parking lot would be swept at least once a month to pick up the debris. He noted that at Pleasant Plaza, they have recently gone to sweeping and vacuuming seven days a week in order to keep it clean, and they still have some problems. He indicated that sweeping at least once a month will not work. He then talked about the signage and loitering issue brought up by Commissioner Posson, stating that just putting up a sign is not going to keep people from loitering. He noted that they have “No Loitering” signs at Pleasant Plaza and that they have it pretty well under control. He added that they have a great relationship with the Police Department, and all of the tenants call the Police whenever there is a problem. He recommended that the Commission deny the application.

Robin Piazzo concurred with what the other speakers have said and stated that she was very disappointed in the Commission and the way things have been handled with this project. She noted that the sign on Main Street says Pleasanton is a Community of Character and asked where the character is in this community if this project, which does not make any sense to her whatsoever on any level, is allowed here. She indicated that the conditions of the building and the business and how it has been maintained over the last eight years are completely unacceptable and is not in keeping with the rest of Pleasanton and what Pleasanton looks like or stands for, in her opinion. She added that the project is not needed, it does not serve the community, and it is better suited for a freeway on-ramp/off-ramp site. She stated that their neighborhood does not need any other small 7-Eleven type of 24-hour or even longer convenience store.

Ms. Piazzo stated that the problem that really concerns her is what has been going on in this community, what is called a transition area. She noted that just last week, the Pleasanton Weekly talked about prostitution happening in the massage parlor right next door, and DUI and drug busts have been made on Main Street and Santa Rita Road. She stated that this project will call in more population to an area that is already having a problem, and she asked the Commissioners what their thinking is for this community regarding adding another such negative impact for those who live in this neighborhood. She stated that she feels it is becoming less and less safe, especially during the summer months, and this is not in keeping with the character and does not serve their community.

With respect to the statement that there is no HOA , Ms. Piazzo stated that she is Vice President of the HOA Board for the community that is directly behind the gas station, and there was no notification of this town meeting. She indicated that there was a little

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piece of paper that she just happened upon that said there was going to be a meeting within 48 hours at 4:30 in the afternoon. She noted that she is a working woman and cannot be at a meeting at 4:30 in the afternoon with a 48-hour notice. She concluded that this whole thing does not feel like it is being done in good faith, and she is very disappointed that the character of this community is not being upheld and the people who live here are not being served.

Sean Sowell stated that he has lived in Pleasanton since 2000, and his ex-wife and sons live on Vineyard Avenue between First Street and Bernal Avenue, a ten-minute walk from the proposed site. He indicated that he is generally opposed to this proposal. He inquired if this is going to be a Chevron station or a Conoco Phillips station, to which Chair Blank responded that the Commission will refer the question to the applicant when he comes back at the end of the public hearing period. Mr. Sowell continued that regardless of which it is, both are a national countrywide chain and not a local station like the one in the Downtown.

Mr. Sowell noted that at the Arco service station on Valley Avenue across from Temple Beth Emek, the fuel pumps have TV monitors above them that play as long as the station is open and that he, for one, finds it very annoying when he pulls up to pump gas to have this thing blaring into his ear and into his face with advertisements. He stated that he hopes this proposed station does not have that because it goes on all hours of the day and night as long as people are pumping gas.

Mr. Sowell stated that his other concern is the parcel next door which used to have a railroad track running along there. He indicated that he did not know it was where kids go to fight, and this is not being addressed in terms of what is happening to that parcel with this new development coming in. He echoed Mr. McFarlane and inquired what the nature of the wall will be. He expressed concern that, in all candor, this tends to frankly "ghetto-ize" the area from First Street north of Neal Street up to First Street at Ray Street, with a liquor store, a gas station on each corner with "packaged" convenience stores that sell no health food, nothing that can be bought at a farmer's market. He stated that some speakers had mentioned that there are a lot of kids walking to and from the three schools in the area and that soft drinks are no longer available on school campuses; he inquired if there could be some kind of condition as to what types of foods the convenience market can sell. He noted that the neighborhood does not need that kind of a repeating market that does not really add anything new and that he prefers to go to Meadowlark Dairy because it has been there for years and to the new New Leaf Market that is opening in May. He indicated that he just does not see how this is going to add any value to the community and will certainly tend to concentrate and solidify the character of that particular part of the City as being somewhat of a "ghetto-ize" part of Pleasanton. He stated that he does not have a problem about places with food and such that are sold at low and reasonable prices for low- and moderate-income people, but they should not all be concentrated in one part of the City.

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Mr. Grayson stated that they tried to address at the outreach meeting the majority of the concerns raised tonight. With respect to the HOA, he indicated that they did not know there were any known HOAs in the area when they talked to Planning about any known HOA's in the area, and apologized that when they did their research, they did not realize and no one had mentioned that there was an HOA in the area or they would have gone directly to the HOA. He noted, however, that they posted and took at least 20 flyers to that area as it is the closest area to the facility. In response to the concern regarding the traffic flow, he stated that they believe it is going to be enhanced because the two outer dispensers have been eliminated, and, therefore, the flow certainly going one way around there increases the flow around this facility.

Regarding the concern about vapors, Mr. Grayson replied that Mr. McFarlane was at the outreach meeting and raised this concern there as well. Mr. Grayson stated that Mr. McFarlane lives approximately 122 feet from the facility, which is quite a distance away. He added that they are enhancing the facility by taking out the old contamination in the facility and the ground and will speed up any remediation that might be necessary there once the tanks are removed. He noted that the majority of the pollutants that will be remaining anywhere near the facility are heavy hydrocarbons from the Kinder pipeline, and those hydrocarbons will never reach this facility just because of the flow.

Addressing Ms. Arango's concerns, Mr. Grayson stated that what they are proposing will obviously enhance the appearance of the facility; they are bringing the restrooms inside, and they will be state-of-the-art restrooms that will be clean; they will clean and sweep the exterior once a week. He explained that the reason the fuel dispensers are in disrepair many times is because those fueling islands are old, put there in 1976, and maintaining them costs a lot of money. He noted, for example, that one of them was hit a while back, and fixing it would have required a lot more work, and so they were left as is since new, state-of-the-art equipment will be replacing it.

Mr. Grayson stated that the master fuel agreements with the service station owner are through Conoco Phillips, and the only reason Chevron is involved in this facility is because in the remediation agreement, Chevron is responsible for all Union 76 clean-up.

Mr. Grayson stated that they have brought everything they can based on the Downtown Design Guidelines. He added that they have enhanced the project; they have done everything that the Planning staff has asked and have gone through many iterations on that building. He noted that the building is beautiful and looks like a residential facility, with windows that allow for security to look in. He requested that the Commission approve the project as recommended by staff.

Chair Blank requested Mr. Grayson to confirm that he is amenable to a condition that would specify lot-cleaning weekly.

Mr. Grayson said yes.

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Chair Blank asked Mr. Grayson if he would also be amenable to a condition that says no audio-visual advertising at the fuel dispensers.

Mr. Grayson said yes.

Commissioner O'Connor stated that he realizes the existing building is 36 years old, but one of the residents mentioned that they have lived there for over eight years and the place has never really been maintained and is an eyesore compared to the rest of the gas stations in town. He inquired what guarantee would be there that the new facility will be maintained moving forward as the building ages to keep it looking nice.

Mr. Grayson replied that there are some conditions of approval that say that they need to maintain the place, such as sweeping weekly. He indicated that by the time the new facility is done, the owner would have spent $1.5 Million, and he will want to protect his asset and not allow it to disintegrate or go to disrepair because he will want his customers to keep coming back. He noted that it has been difficult to keep up with the facility because of its age, and, for example, the bathrooms will always be an issue no matter how much you scrub them.

Commissioner O'Connor stated that even with professionally sweeping the lot once a week, there will always be trash, napkins, and empty cups out the door. He inquired if one employee would be enough to manage this size of a store, clean the bathrooms, and pick up the parking lot. He indicated that he has seen his share of 7-Elevens, and if this facility will have similar products, there will be Slurpee's dripping and coffee spilling all over the counter and everywhere else when people are serving themselves.

Mr. Grayson replied that outside contractors will come in and do the cleaning. He stated that it sounds like a large store, but 1,000 square feet is not that much square footage for one employee to handle and clean up. He added that there will be slow periods to keep the place fairly clean. He reiterated that Mr. Liu will have a large investment in this facility once it is done, and he will want to keep it clean. He added that the employee who will be coming in at 4:00 a.m. to brew the coffee will also do the cleaning at that point.

Chair Blank commented that it would be hard to condition a project to "keep your counter clean." He noted that to keep the store clean is a decision that any store owner in the City could choose to make.

Commissioner O'Connor indicated that he is more concerned with exterior, and he is just saying that if one person is doing all the interior, there may not be enough time for the exterior; and if the exterior goes downhill, it will be a reflection on everyone, and it has not been stellar up until now.

Commissioner Pearce asked Mr. Grayson if he is amenable to a condition, similar to the trash and the litter, to require the owner to regularly check the fence and manage any kind of graffiti.

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Mr. Grayson said yes. He explained that the fence from the trash enclosure to the right end of the property will be a six-foot tall concrete masonry unit (CMU) to prevent sound from going through to the residential units; from the trash enclosure to the left end will be picket fence to screen the facility from the commercial buildings behind it. He noted that it is inherent that the CMU fence will be tagged. He indicated that they originally proposed not to put anything there because of the concern about graffiti, but the noise became a bigger issue and they wanted to screen off the remediation systems. He added that just like in any other facility, professional cleaners will come out and remove the tagging as best as possible and as often as necessary.

Commissioner O'Connor mentioned that he thinks the Pleasanton Municipal Code has a provision that taggings are to be removed within 48 hours, or something like that, following notification.

Chair Blank stated that there will be a condition of approval so that is covered for sure.

Commissioner Posson asked Mr. Grayson if it is possible for the owner to request that fuel deliveries occur during normal hours of operation to address the concern about off-hours gas deliveries.

Mr. Grayson replied that they can request that and sometimes those are adhered to, but there are no guarantees. He stated that, as Mr. Liu had indicated earlier, these are computer-generated delivery times based on traffic flows, and accidents do happen that delay the deliveries.

Commissioner Posson asked Mr. Grayson what process he used to identifying the HOA's in the area and notifying the residents.

Mr. Grayson replied that in one of their meetings with the Planning staff, they mentioned that they were looking for the best way to do an outreach, and staff stated that there was no known HOA there, possibly because Planning did not know there was an HOA there. He continued that they then assumed that there was none and did not reach out that way; instead they took the radius map out to 750 feet instead of 1,000 and sent out we flyers as best as they could to hit the majority of the people. He noted that there were several dozen people at the outreach meeting who are obviously not present tonight, except for Mr. McFarlane.

Commissioner Posson inquired if they believe they contacted the residents to the west of the project on the other side of the Alameda County Transportation Corridor (ACTC), who are the closest to the facility.

Mr. Grayson replied that as he had earlier mentioned, he personally knows that over 20 flyers were put into that area.

Commissioner Posson asked how many units are in that area.

Mr. Grayson replied that he did not know. He reiterated that they sent out 70 to 80 flyers, and 20 of them were sent to that area.

Commissioner Posson indicated that there was also a comment regarding lighting and inquired what type of technology is being proposed for the exterior lighting.

Mr. Liu replied that it would be LED lighting.

Commissioner Posson inquired if the LED lighting would have sensors.

Mr. Grayson replied that it has LED lighting right now. He noted that one of the things that was brought up at the December 12, 2012 meeting was that they would diffuse those lightings if necessary.

Commissioner Posson stated that the reason he asked about sensors is that the lights would dim when there is no activity in the area, and that might help with the light impact.

Mr. Grayson agreed but added that the police do not like that.

Commissioner Posson noted that Chair Blank had indicated a condition for weekly maintenance and suggested that it be done on a daily basis. He indicated that he was speaking from personal experience, having worked in a gas station years ago.

Chair Blank stated that this again goes to where the Commission puts the limits of regulation. He noted that having the lot swept completely once a week matches exactly what is being done at the strip mall across the street, and he would hate to be in a situation where it can be construed that the Commission is being unfair by specifying that this lot gets swept daily and that condition has not been made to the other people.

Commissioner Pearce noted that the applicant mentioned that it would be a commercial contractor who would come out and do it once a month, and they are now amenable to doing it once a week. She added that if there will be regular clean-up of litter and things like that, she would hate to push it past that.

Commissioner Posson stated that he was just concerned about the past maintenance, and if they are coming in with a new building, he wanted to make sure that the City had some control.

THE PUBLIC HEARING WAS CLOSED.

Chair Blank asked Julie Harryman to address the issue that came up about what took place at the last meeting. He stated for the record that during that break, he personally had zero discussion with any other Commissioner concerning this item.

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Ms. Harryman stated that, before answering this specific question which is a Brown Act violation, for the sake of the public who do not come to every meeting here, it is not uncommon for the Planning Commission, when it feels that a vote is going to be a denial, to ask applicants whether they want to go back and work on their proposal or whether they want the Commission to vote that night. She continued that it just so happened that, in this case, the Commission took a break, and then the same thing happened. She then read from the December 12, 2012 Meeting Minutes, which are just about verbatim: *"Acting Chair Blank stated that there was some discussion between the applicant and staff during the break and informed the applicant that there are two options he would like the applicant to consider: (1) proceed with the Commission vote, or (2) request a continuance to a later date to give the applicant the opportunity to receive public input and make whatever changes that may or may not result from that input to the plan."*

Ms. Harryman stated that she was present for that meeting, and what happened was staff talked with the applicant and essentially said: "You can see where this looks like it is going. Do you want to go work with the neighbors more? Do you want to take another look at your application?" And the applicant said "Yes, we do." Staff then told Chair Blank: "I believe the applicant wants to at least consider whether to bring it back or to have a vote." And Chair Blank came back on the record and asked the applicant the question. She reiterated that is not uncommon.

Ms. Harryman explained that a Brown Act violation is not when a staff member and the applicant or members of the public speak; a Brown Act violation occurs when a quorum, which is three or more voting members speak behind closed doors. She stated that in this case, if three of the Commissioners were caucusing on what to do or how they were going to vote or about the project generally, that would have been a Brown Act violation.

Chair Blank thanked Ms. Harryman for her explanation. He indicated that, for the record, it was Mr. Dolan who informed him that the applicant wanted him to ask that question, which he did.

Commissioner Olson agreed with the comments that the current facility and state of that site is essentially unacceptable. He stated that he sees this project as an improvement and added that what is before the Commission tonight is an improvement relative to what it was looking at on December 12, 2012. He indicated that he was going to support staff's recommendation.

Commissioner Pearce agreed with Commissioner Olson. She stated that she hoped that some of the neighborhood concerns had been addressed with the additional conditions that she is going to propose that the Commission put in a motion. She indicated that she thinks this is an improvement and is pleased that no variances were requested. She added that she is also pleased with the downsizing of the facility's size and the alcohol prohibition, as well as the improved circulation on the site.

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Commissioner Narum likewise agreed. She asked staff if it would be possible for the applicant to come back and request to operate 24 hours, unlike the alcohol sales.

Ms. Stern replied that such a substantial change on an issue that has been so important would obviously come back to the Commission.

Chair Blank inquired if that would be considered a change in the Conditional Use Permit and would then automatically come back to the Commission

Ms. Stern said yes.

Chair Blank asked for verification that any Variance to a Conditional Use Permit would come back to the Commission.

Ms. Stern said yes. She added that it would not be in substantial conformance, so staff would have to bring it back to the Commission.

Commissioner Narum stated that what she was getting at is that this a little different from the alcohol issue where it is much harder to be able to change and sell alcohol here versus to be open 24 hours. She added that if the Commission votes the way it looks that it is going, it needs to be made clear in the motion that the Commission does not favor operating 24 hours because it is not appropriate.

Chair Blank replied that people will obviously read the Minutes and the Commissioners' commentaries; however, in his mind, this Planning Commission may not want 24 hours a day, but five years from now or ten years down the road, there could be a different Planning Commission, there could be a different public sentiment, and the applicants could come forward and say they want to operate 24 hours a day. He noted that as a modification to the Conditional Use Permit, it will have to come to the Planning Commission and may even go to the City Council. He added that it may not be as onerous as a zoning change, but at least it has to come back to the Commission, and the Commission can re-emphasize that 24 hours is not appropriate.

Commissioner Narum stated that she is thinking of some other things the Commission had where maybe it pondered what the intent was at the time of the approval, and she thinks that it is important for the Commission to emphasize that at this point, we do not think that 24 hours is appropriate.

Ms. Stern stated that staff can recognize that.

Commissioner Narum stated that she is basically fine with this with some of the conditions the Commission has put in to make sure it stays maintained once it's built. She indicated that this is an improvement and that she is pleased about the downsizing of the building, the no alcohol, the cut back in the hours, and the willingness of the applicant to accept some of these conditions which are onerous in a way but also necessary to be a good neighbor here. She added that she will support the application.

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Commissioner O'Connor stated that he also thinks it is an improvement. He noted that Condition No. 19 addresses exterior lighting, down lighting, shielding, and glare. He indicated that he is also concerned about the appearance, at least the exterior appearance, stating that if the inside is not maintained, people can choose to go or not to go there. He stated that he is a commercial real estate owner, and it is not unusual to clean parking lots multiple times a week and have day porters there daily picking up trash. He indicated that he does not want to overly manage for the applicant, but he was hoping that because of problems the Commission has in the past, there was something a little extra the Commission could do in the area of exterior cleaning and maintenance.

With respect to the hours of operation, Commissioner O'Connor stated that he was looking at the hours of those businesses in the area on page 10 of the staff report: Cole's Market opens at 7:00 a.m.; and Bob's Giant Burger, which is a restaurant, does not open until 10:30 a.m. He proposed that because of such close proximity to the residents who already feel like they are overburdened with noise, the start time be moved to 6:00 a.m. instead of 5:00 a.m. He noted that there are some commuters that probably go down First Street earlier than that, but they can always stop for gas; but he is more concerned with the other noise that goes along with the grocery store. He stated that he does not know how many people would be stopping in, and he is just looking at what the other businesses on that street are currently at, and he did not think 6:00 a.m. would be that onerous. He stated that 5:00 a.m. just seems pretty early, especially for people with children sleeping.

Commissioner Posson stated that he cannot speak to the previous proposal because he was not there, but he thinks the conditions the Commission discussed this evening are a marked improvement over the existing conditions.

Commissioner O'Connor stated that he missed Condition No. 37 regarding the one-sided gas pump which the applicant is asking that it go back to two-sided. He indicated that he would not support that because the angle of that person pumping at that station over-extends in the front, and it could backup all of the traffic flow that is supposed to be one-way around that corner.

Chair Blank asked staff what its view is of the single-sided versus the dual-sided.

Ms. Stern replied that basically, a double-sided could potentially cause a block on that one-way section if that parking space remained on the west side.

Chair Blank stated that he knows the applicant is bearing some of the burden of the property history and the maintenance of the current property and added that if he were the applicant and business owner, he would be thinking why he would want to spend money fixing up this old thing when he is really trying to spend money to put in a new thing. He indicated that he understands both sides of that and wants to be sensitive to that. He stated that the Commission could maybe craft some kind of condition, as

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suggested by Commissioner Narum, that the property be properly maintained at the discretion of the Director of Community Development, so if staff goes and looks at it and sees that the place is turning into a dump, the Director will have the ability to say that the business owner is in violation and will need to fix it up or it comes back to the Commission.

Mr. Dolan stated that he thinks that is adequate.

Commissioner Pearce stated that the condition could say that if the maintenance is insufficient, the Director of Community Development can require more frequent maintenance.

Commissioner Narum recalled that the Commission had a similar issue and concern with the restaurant on Hopyard up by I-580 and the Commission we ended up with a condition like that.

Commissioner Pearce stated that she is not opposed to a 6:00 a.m. start but would like to hear what the applicant has to say.

Commissioner Narum noted that the Shell station across the street has some sort of mini-mart and inquired what its hours of operation are.

Mr. Liu replied that it is open 24 hours.

Ms. Stern noted that the Shell station has a very small area.

Chair Blank asked if that small area is open 24 hours.

THE PUBLIC HEARING WAS RE-OPENED.

Mr. Grayson stated that they were concerned about opening at 6:00 a.m. because they had wanted to open at 4:00 a.m. to have time to come in and brew and get everything cleaned up before they start at 5:00 a.m., and they had given that up. He noted that there are a lot of commuters who get in there right after 5:00 a.m., and it is a critical time. He reiterated that if the owner is going to be investing $1.5 Million into this facility, he wants it to be a profitable location for him, and those critical hours are basically from 5:00 a.m. to 8:00 a.m.

Commissioner O'Connor asked Mr. Grayson if he would expect that many people between 5:00 a.m. and 6:00 a.m. to be coming.

Mr. Grayson replied that it is actually a very busy time, and most gas stations know they are a destination where people will come to get fuel, go inside the store to get their coffee or snack for the day, and then head out.

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Commissioner O'Connor asked the applicant if they get that volume of people today at 5:00 a.m.

Mr. Liu said no, because they do not have a store.

Mr. Grayson stated that the thought process is that the number will increase because of the store, as people will pull in to get their fuel and will then go into the store to get coffee or a snack.

O'Connor stated that that was his point, that people are already complaining about those early morning hours and the noise, and it is only going to get worse if they open at 5:00 a.m. with a larger store.

Chair Blank asked if the mini-mart in the Shell station across the street is open 24 hours a day.

Mr. Grayson replied that it is open at 6:00 a.m. He reiterated that they would struggle with the 6:00 a.m. start and that they already gave up quite a bit from 24 hours and then from 4:00 a.m. to 5:00 a.m.

THE PUBLIC HEARING WAS CLOSED.

Chair Blank noted that this is a tough one as the applicant has already made a lot of concessions. He stated that they are putting in a sound wall which did not exist in the last application at all to address the noise.

Commissioner Narum stated that it is a masonry wall and not a sound wall.

Chair Blank stated that he thought the design was for sound.

Commissioner O'Connor stated that it will have the same effect.

Mr. Dolan explained that the back part will deflect sound but the front picket fence will not.

Commissioner O'Connor asked staff to verify that there is no housing where the picket fence is and the sound wall is back where the housing is.

Ms. Fraser explained that the solid wall is a six-foot tall CMU, so it is a thick masonry wall, that is located towards the back where the residences are, and the picket fence is up front where the offices are.

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Commissioner Pearce moved to make the required Conditional Use Permit findings as listed in the staff report and to approve Cases P12-0556 and P12-0557, subject to the Conditions of Approval, Exhibit A of the staff report, with the addition of the following new conditions:

1. **Allow unobstructed view of the interior of market, per staff's memo, dated March 27, 2013.**
2. **Require commercial sweeping of the exterior property once a week. If the maintenance of the exterior is insufficient, more frequent maintenance and cleaning may be required as necessary, at the discretion of the Director of Community Development.**
3. **Require regular maintenance of the fence and mitigation of any graffiti on that fence within a reasonable period of time.**
4. **No audio/video commercials/advertising attached to the fuel dispensers.**

Commissioner Narum seconded the motion.

Chair Blank suggested a modification to the graffiti condition to add "*as determined by the Director of Community Development*" after "*within a reasonable period of time*."

Commissioner Narum suggested a modification to have the convenience store employees park at the south end of the lot on the site.

Commissioner Pearce agreed that the parking be on-site but farther away from the mini-mart.

Commissioner Posson proposed two modifications: (1) Condition No. 6 to add that the applicant shall prevent loitering, and (2) Condition No. 13 to add that the operator shall request fuel deliveries to occur between the hours of 6:00 a.m. and 9:00 p.m.

Commissioner Pearce suggested that the modification to Condition No. 6 use the word "***discourage***" rather than "*prevent*" as prevention sounds a little bit violent.

Commissioners Pearce and Narum accepted the amendments.

Commissioner O'Connor inquired if there was support for changing the start time to 6:00 a.m.

Commissioner Narum suggested that Commissioner O'Connor try for a modification or an amendment.

Commissioner O'Connor presented a friendly amendment to modify the start of the hours of operation from 5:00 a.m. to 6:00 a.m..

Commissioner Olson stated that he thinks the start time should be left at 5:00 a.m..

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Commissioner Pearce stated that she was concerned about modifying the business plan too much. She indicated that the Commission cut it back a little bit, but it turns out there is a major problem with noise or things like that, or any of the issues that were discussed. She noted that traffic has been mitigated, as well as noise, loitering, and the trash. She indicated that she does not know that she wants to automatically say that the applicant needs to go to 6:00 a.m. and take issue with their business plan to mitigate the impacts.

Chair Blank stated that he did a quick calculation on the ceiling tiles and thinks that the Council Chamber is a bit larger than 1,000 square feet. He added that as one who sometimes commutes early in the morning, he can say that there are a lot of cars in a lot of gas stations, including himself, sometimes at 5:30 a.m., so he is personally a little concerned about over-engineering the business plan.

Commissioner Olson stated that that is a key revenue hour for this business, and changing the start time to 6:00 a.m. would be messing with the owner's revenue.

Commissioner Narum proposed to leave the start time as is, and the applicant will need to meet a decibel level at the property line; and if there are noise complaints, the matter will come back to the Commission. She stated that to change the hours at that point if there is a problem complying with the noise ordinance may be the mitigation then.

Chair Blank agreed that there is a mechanism for that.

Commissioner Pearce agreed. She indicated that she would rather allow it to start earlier and then pull it back, if necessary.

Commissioner Narum agreed, given that there are ways to mitigate or not mitigate: to measure the issue and then mitigate it, if necessary.

Chair Blank stated that it does not sound like there is support for the friendly amendment. He indicated that **the maker and the second declined the modification**, and the other option is to amend the motion and see if there is a second.

Commission O'Connor withdrew his friendly amendment. He added that if there is noise, the neighbors can bring it back to the Commission.

ROLL CALL VOTE:

AYES: Commissioners Blank, Narum, O'Connor, Olson, and Pearce.
NOES: None.
ABSTAIN: None.
RECUSED: None.
ABSENT: None.

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Resolution Nos. PC-2013-14 approving Case P12-0556 and Case P12-0557 was entered and adopted as motioned.

Chair Blank called for a break at 8:45 p.m. and thereafter reconvened the regular meeting at 8:57 p.m.

b. <u>P12-1797, Rina Morningstar, Colliers International</u>
Application for Sign Design Review approval to amend the Master Sign Program for the Pleasanton Gateway shopping center to add three tenant signs to the west side of the Shops #8 building located at 6786 Bernal Avenue (northwest corner of Bernal Avenue and the northbound I-680 off-ramp). Zoning for the property is PUD-C (Planned Unit Development – Commercial) District.

This item was continued to the April 24, 2013 meeting at the request of the applicant.

c. <u>PUD-85-08-01D-04M , Mark English, Pleasant Partners, LLC. – California Center</u>
Application for a PUD major modification and development plan to construct 305 apartment units, two retail buildings totaling approximately 7,520 square feet, new surface parking and a parking garage to serve the existing office uses, and related site improvements at the California Center property located at 4400-4460 Rosewood Drive. Zoning for the property is Planned Unit Development – High Density Residential (PUD-HDR) and Planned Unit Development – Industrial/Commercial-Office (PUD-I/C-O).

Steve Otto presented the staff report and described the background, scope, and key elements of the proposal. He indicated that Mike Tassano, City Traffic Engineer, and Mary Bean of Michael Brandman Associates, the City's consultant who prepared the Environmental Impact Report (EIR) Addendum for the project, are present in the audience to answer any questions.

Commissioner Pearce inquired if the landscaping on the pictures being displayed is an accurate reflection of the landscape plan.

Mr. Otto replied that it is mainly conceptual at this point.

Commissioner Narum noted that there was a question on a color of the community buildings at the time this application came before the Commission at a Work Session. She inquired if the applicant brought color chips to this meeting.

Mr. Otto confirmed that at the Planning Commission Work Session, the Commission raised a potential concern with the yellow color and had asked that actual large color samples be provided when the application came back to the Commission. He indicated

that the applicant has brought color samples, which were then presented to the Commissioners.

Commissioner Narum noted that there was no change from the original color proposed.

Mr. Otto explained that the colors shown on the colored elevations at the Work Session were computer-generated colors; what is being presented tonight are actual color chips.

Chair Blank commented that the bleed might not have been just right on the print, and the Commission can now get a sense from the chips of what the colors really look like.

Commissioner O'Connor referred to a color board that was placed against the podium on the floor and inquired if that was the color board for the buildings.

Mr. Otto replied that that color board is for the parking garage building.

Chair Blank complimented and thanked staff for indexing the slides corresponding to Exhibit B elevations in the packet. He noted that this is a significant improvement and helps the Commissioners a lot in terms of their ability to follow along and get a real close and personal look at the pictures.

Mr. Otto acknowledged the compliment.

Commissioner Narum asked Mr. Otto to display the project layout slide once more and point out where the playground equipment or the open space amenities for children is located.

Mr. Otto pointed out the tot lot on the picture and then zoomed-in to the central open space area where the tot lot was located.

Commissioner Narum noted that at the Work Session, the Commission talked about an open area for children to run around.

Mr. Otto pointed out a field area as well as slightly smaller one above the bocce ball court.

Commissioner O'Connor inquired how big that open field was.

Mr. Otto replied that he would defer that question as well as other questions relating to the details of the project to the applicant.

Commissioner Pearce referred to Sheet L1.03 and noted that the open space hierarchy legend mentions "semi-private" and "semi-public." She stated they sound like the same thing and inquired what the difference is between them.

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Mr. Otto replied that he believes the “semi-public” can also be used by the office tenants in addition to the residents, and deferred to the applicant to clarify the difference.

Commissioner Posson requested clarification on the implications of the Housing Commission not taking action on the affordable units. He inquired if, procedurally, the Planning Commission can take action on the project even if the affordable units are not defined.

For the benefit of Commissioner Posson, who is new to the Commission, as well as for that of the public, Chair Blank requested staff to review the responsibility of the Housing Commission *vis-à-vis* its approvals or non-approvals, and the issues that affect the Planning Commission.

Brian Dolan explained that the Housing Commission and Planning Commission processes typically run simultaneously and are tracked together, and most of the time the Housing Commission hearing occurs before the Planning Commission hearing, as was the case for this project. He added that the Housing Commission is charged with making a recommendation to the City Council with respect to the Affordable Housing Agreement between the City and the project owner/developer; however, for this project, there was no resolution at the Housing Commission to make that recommendation, and so it will move on to the City Council as such.

Mr. Dolan continued that the Planning Commission has never been asked to make any recommendation on Affordable Housing Agreements, and staff would typically bring it forward to the Commission in the staff report only as a point of information.

In summary, Mr. Dolan stated that the Housing Commission has its own process, in the same way that the Planning Commission goes through its own; both Commissions deal with the matters within their purviews and then give side-by-side recommendations on those matters to the City Council. He added that the Housing Commission would not wait for the Planning Commission to determine, for example, the building height, before doings its work; and similarly, the Planning Commission should do its work and go through its process independently of the Housing Commission’s process.

Commissioner Posson thanked Mr. Dolan for the clarification.

THE PUBLIC HEARING WAS OPENED.

Marty Inderbitzen, representing the owner, Pleasant Partners, stated that the project’s entire team is present tonight, including Mike Walker on behalf of the owner; Brett Leon and Todd Regonini with Sares-Regis, Project Managers; Padru Kang and John Thatch with Dahlin Architecture and Planning, Project Architects; David Gates and Paul Stevens with Gates + Associates, Landscape Architects; Brock Roby with BKF Engineers, Project Engineer; and David Gold from Morrison and Foerster, CEQA Legal Counsel. He thanked staff on behalf of the entire team, noting that Mr. Dolan and Mr. Otto have shown great leadership and worked with the team for quite a while now in

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bringing this project forward. He noted that while they have had their differences, there was a pretty common vision for what ought to happen on this site, and he is proud to say that from the first presentation out of the box, the owner team put together something that was really fitting and appropriate for this site. He further noted that City staff had a number of issues that they wanted the project team to address, which were done along the way, and he believes the team has brought a really good project to the City that provides mutual benefit for both the City and for the owner.

Mr. Inderbitzen presented the history of the project, noting that this was actually initiated by the owner as an application to expand the office uses on this site with three new office buildings measuring a total of about 500,000 square feet and a small hotel. He indicated that this occurred at about the time the City was going through a transit-oriented development (TOD) process in North Pleasanton, and this site was right on the edge of what would have been included with the TOD development. He continued that at that time, the City had a housing cap, so it made good sense for this site to go on an office campus path. He added that during that process, however, the City had a change in its housing cap, and the City then initiated its Housing Element Update process.

Mr. Inderbitzen stated that it was at this time that an opportunity arose for this site to look at residential on that portion where one of the office buildings and the hotel would have been located. He indicated that they then started to work with City staff and the Task Force to put something together that would make sense on this site. He noted that this was one of the nine successful sites to be rezoned for high-density residential projects. He further noted that most of the other sites were rezoned at 30 units to the acre, but this site was asked to take some additional density because the site could take it, in addition to the fact that it is a good location for having 35 units to the acre as a minimum. He indicated that he thinks this is the only site throughout that rezoning process that had virtually no negative public reaction; the project essentially had no neighborhood opposition, and this is a testimony to the fact that it is in a good location, it really does function pretty much like a TOD being just barely outside a half mile from the BART station, and it just fits; the project team did a good job of fitting it in there.

Mr. Inderbitzen then outlined the process for their presentation, stating that the project team's intention tonight is not to go through the project presentation in detail as they did that at the Planning Commission Work Session just four months ago and the project has not changed that substantially, but to hit the high points just to get it on the record and make sure that they have a good overview of the site. He indicated that Padru Kang would make that presentation; followed by Brett Leon, who will review the Commission's comments, questions, and input from the Work Session and show how the team responded to those, and explain why they did not respond to some and what they would like to see happen on those items. He stated that he will then come back to get a few things on the record and to update some of the issues that were not discussed at the Work Session and have arisen as they have gone forward.

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Padru Kang presented a quick overview of the project and some of its highlights. He noted that this site has an opportunity for a real great sustainable mixed-use residential community that has a lot of great uses around it that are walkable: eight bus stop locations all within a quarter mile; the BART terminal three-fourths of a mile away straight down Owens Drive; high-density residential or multi-family residential in some shape or form; regional retail and other shopping centers nearby; health care; and a combined nine acres of open space and public park area for the community.

Mr. Kang stated that the site is currently under-utilized, and they are looking at filling the existing surface parking with high-density residential and activating the streets on Owens Drive and Rosewood Drive by pushing the retail to the corner with a public community plaza that is very open and will serve essentially all of the surrounding neighborhoods. He added that some landscaping will come in as well as an urban plaza patio area right at the south end of the podium. He noted that they have pushed the podium building back a little farther than what is required in the high-density guidelines because of its mass, and placed the parking structure farther back against the campus, which is a better location for office parking because it is actually closer to where people would be working.

Mr. Kang pointed out that entry into the project off of Owens Drive is through a real 24-foot wide internal drive with parking on either side. He stated that they took a lot of time and effort to make sure that the garage doors are hidden from view in most cases, and there will be additional landscape berms and fencing so that people driving by will not be looking back at the garage doors. He added that they had an opportunity to have more of an even flow with the campus because it has the same owner, and bring it back in through another way which also works well with circulation.

Mr. Kang then proceeded to address some of the comments presented at the Planning Commission Work Session:

1. Retail Plaza – actually opening it up and have the building come around it. They took a few passes at it, and the constraints are actually a little too tough. Unfortunately, the retail was pushed so far up against the setback that not much can be done in terms of trying to bring that courtyard space or that plaza space in-between the buildings. What they did was take a look at reducing the size and length of the trellis element at the breezeway and remove some of the in-ground landscaping to increase the plaza space by an additional 200 square feet. It gives a little bit of protection from the sun and the elements; the plaza was originally designed to bulb out in this fashion to try and engage the street corner.

2. Mustard Color – The intent with this Chapultepec color was to try and bring out a little punch of color to a building that is really designed to be fun. It is the main building which houses the fitness center, the community center, and the leasing office. The color is being used only for accents, with part of it picking up the color from the lap siding being proposing there, except for a larger wall at the fitness building. An alternative would be sandalwood tan, which is being used on other locations of the building, and applying it to tone down the color and soften the view.

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3. Children's Play Area in the Podium – There did not appear to be an issue with the tot lot, but the concern was where older children could go and play. The podium was thrown out as an option, but they would like to try and keep the use in the podium restricted more for kind of social gathering. It has a pavilion for some outdoor dining, some barbecues, and a fireplace. What they did was enlarged the plan to show what they would like to call the "fun zone." This is essentially where it is part of the amenity package in the central hub, but it is also reaching out to other areas where they can take advantage of being next to a larger corporate campus. Right now, the tot lot is essentially a play structure that is more traditional in nature, both colors and playful in that sense, on 3,600 square feet of fenced in area.

   Chair Blank inquired if this is the Chapultepec color.

   Mr. Kang said yes.

   Chair Blank asked what the name of the other yellow color is and where it is.

   Mr. Kang replied that the other color is called "sandalwood tan" and that it was by the Chapultepec color to soften down the mass.

   Mr. Kang continued that there is an open green space that is roughly 13,400 square feet which provides a great opportunity to do some fun things with the landscape. David Gates + Associates has come up with what it calls an "imaginary play" a great place where the older children can climb on it, roll, play, jump, run around, learn how to kick a soccer ball, throw a Frisbee, potentially do some small team sports, and just have a lot of fun. It does not have to be an open park because there actually is one across the street about 300 feet away.

   Commissioner Narum inquired if that would be on the triangular piece.

   Mr. Kang said yes. He noted that they are calling this the open green, and there could be areas where they are starting to design and craft.

   Commissioner Narum asked Mr. Kang if he just said that this was designed with fun stuff.

   Mr. Kang replied that when he said "fun zone," he was referring to a place where the children can go out and play and do what they want, as opposed to just a stale park that is going to be out there. He noted that an attempt is being made to keep some of the play areas closer to the project, but when the children get old enough to really get into team sports and outgrow this park, they have the two parks that are just south of the site.

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Commissioner Narum stated that she was looking for a place for children to run around. She added that she was thrown off by the comment made about David Gates.

Mr. Kang explained that it is those imaginary play boulders. He added that a multitude of activities could happen in that area, and an area could be carved out where children can run.

Mr. Kang stated that there is another area they are really utilizing. He noted that they talked about a connection with the campus and bringing them down towards the central hub and then back out to the retail portion of the site. He pointed out that midway along that greenbelt, they took advantage of actually creating a bocce court, not just exclusive for residents but open for the commercial people as well to play or hang out and have lunch there if they wanted to on their way back. He added that it is fun for all ages and not just for grown-ups.

Mr. Kang then pointed out the amenity court which is the main community room, which can be rented out for parties, anniversaries, holiday celebrations, and birthdays. He then pointed out the fitness center and noted that both of these buildings open up onto the hardscape pool area. He noted that they also have a game room located within the podium building in close proximity to the lobby on the second floor, where there is a pool table, TV, and Wi-Fi.

Commissioner O'Connor noted another green space just above the bocce ball area.

Mr. Kang stated that that is considered part of the greenbelt area, which is technically on the campus side but still an amenity for the residential.

Commissioner O'Connor inquired if either one could use it.

Mr. Kang said yes.

4. Better and More Visuals – He presented a photo simulation that was in the previous package but was important to keep because it really does put that statement out there with that corner retail and the outdoor plaza. Another simulation is along Rosewood Drive looking south, and the driveway is the one on the western edge. A third one which had been previously presented is on Owens Drive looking at the podium building towards the west.

   Commissioner Pearce inquired if this accurately reflects the landscape.

   Mr. Kang replied that it does more so than the modeling. He then presented another photo-simulation taken from the roof of the southernmost buildings on campus; the podium building is off a distance to the left, with the amenity central hub area and the four gardens. They added other sketch up snapshots to give an overview about how the building hierarchy goes from one story to three stories, with the higher taller

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buildings towards the back where there is more of a natural canopy that is grown over by Tassajara Creek.

Mr. Kang stated that they have a 3-D model that they would be happy to walk the Commissioners through if there is time and if there is a need.

Mr. Inderbitzen stated that he would like some clarification on three conditions in the Conditions of Approval and a few sections in the Development Agreement:

Conditions of Approval:

1. Condition No. 40 – no stockpiling of dirt on the site. He thinks this really means no permanent stockpiling of dirt on the site, but they would always have an occasion to temporarily do that during the course of construction. He could work with staff on where that is and for how long, but noted that during the course of construction there would be some temporary stockpiling.

2. Condition No. 55 – gray water. This is a standard condition now that staff is moving forward with. He would like to say that they would develop and implement a program to connect to the City's recycled water system when it becomes available, for irrigation purposes.

3. Condition No. 88 – Principles of universal design. The introductory paragraph states that all the required adaptable dwelling units shall, at a minimum, provide…. They would like to delete the phrase "at a minimum" because they would like to identify all the things they would like to do and not know later that there is something else somebody came up with. Also for Conditions:
    a. Delete "visual" so it just says "audible doorbells".
    m. Front-mounted controls in all appliances. By limiting this to front-mounted controls on all appliances, it substantially limits the kinds of appliances that are available to us in those units. As an example, gas appliances tend to be predominantly front knobbed and electric back knobbed, and they would like to have a little more choice for what they were putting in the units.
    o. Single-lever water controls at all plumbing fixtures and closets; their architect stated that dual-lever actually meets universal design. They would like to have some flexibility here and put it where it is needed or desired but not necessarily in all units. For example, we'd put it on those where it was needed or desired in some way. "Hand held adjustable shower heads" would be the same thing.

Mr. Inderbitzen then stated that Condition No. 93 on the Pleasanton Unified School District (PUSD) exceeds the legal authority of the City to encourage them to work with PUSD to meet their mitigation requirement which will likely be in excess of the statutory maximum allowed by law. He indicated that they understand this and are in the process of doing it. He added that they expect to have an agreement with PUSD before the

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project goes to the City Council regarding what those fees would be, and they would like to substitute that agreement for this condition.

Development Agreement:

1. Section 3.05.School Fees – this is the same as the PUSD condition of approval. They would expect that to be modified by the time the project gets to the City Council.

2. Section 3.03.Traffic Mitigation Measures: Traffic Impact Fees – This project is in the North Pleasanton Improvement District (NPID), and reference is made to paying a non-NPID fee. They would like the ability to do an accounting exercise and verify what that fee is and how much has to go back if, in any, because this property has changed ownership a couple of times since that credit got accounted for.

Chair Blank stated that he may have misunderstood the clarification regarding the universal design and asked Mr. Inderbitzen if what he mentioned was that they were fine with a visual doorbell unit but not with an audible one.

Commissioner Narum corrected that it is the other way around; they want the audible and not the visual.

Mr. Inderbitzen replied that was correct.

Mr. Dolan stated that staff has had some dialogue on all of these conditions and that he would be happy to continue that dialogue with the applicant. He suggested that, if the Commission wishes, the phrase "*or as otherwise approved by the Director of Community Development*" could be added to the conditions, as written, and the Commission would not need to go through the details of the conditions.

Mr. Inderbitzen indicated this would be fine and that they could work it out between now and when it goes before the City Council.

Commissioner Pearce thanked Mr. Dolan and asked if he is suggesting this simply for Condition No. 88 or for Conditions Nos. 55 and 40 as well.

Mr. Dolan replied that it would be for all the conditions.

Commissioner Pearce inquired if that would also include the PUSD condition.

Mr. Dolan noted that Mr. Inderbitzen made a specific suggestion that this condition be ultimately replaced by the agreement and that staff does not oppose that as part of the Commission's recommendation. He added that if the applicant has an agreement with PUSD, the condition would be moot.

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Chair Blank stated that he assumes if there is no agreement, legal staff will figure out whether or not that condition should be there, considering that it cannot be there illegally as Mr. Inderbitzen is suggesting.

Mr. Dolan replied that is correct.

Commissioner Posson noted that Condition No. 60 talks about allowing the future installation of photovoltaic (PV) and solar water heating systems, adding that the apartment buildings are going to be wired in order to meet Title 24 requirements. He inquired why the solar panels not be installed now.

Todd Regonini, Sares Regis Group, Project Manager for this development community, stated that the project will have to comply with the Green Points checklist, and an initial run-through with that checklist shows that the project is approaching 100 points, far in excess of the minimum that is required; therefore, there is no actual need to put the PV's in right now from the standpoint of sustainability standards. He added that they would be happy to look at this later on if it makes sense from an operational standpoint.

Chair Blank provided some background information for Commissioner Posson and stated that the Commission has been putting this pre-wiring condition in for projects probably for seven or eight years now.

Commissioner Posson replied that he is familiar with that background but noted that Program 6.3 of the General Plan Energy Element talks about requiring Green Building practices to be used in all projects including those not covered by mandatory Green Building ordinances if feasible. He questioned why a retrofit later on would be more economical for the developer than putting those in now.

Mr. Regonini replied that if the structure is designed to support any panels at some point in the future and if the conduits necessary are installed, the actual PV installation at some point in the future is really not that difficult and would just be a simple economic question then.

Commissioner Posson asked Mr. Regonini if they would you accept a condition requiring installation of the PV panels at this point.

Mr. Regonini said no.

Commissioner Posson noted that Condition No. 61 states that energy-efficient lighting would be installed for the retail buildings and inquired what their intent was for the other elements of the project.

Mr. Regonini replied that they would be looking at clearly meeting or exceeding Title 24 standards and that they have not yet begun to do any analyses on Title 24 to see what type of lighting would be appropriate. He indicated that it makes sense to have as much energy-efficient lighting as possible.

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Commissioner Posson further noted that Condition No. 64 indicates installing a minimum of one appliance or system in each apartment unit that meets Energy Star standards and inquired why not have all appliances meet Energy Star standards.

Mr. Regonini replied that some appliances actually do not come with an Energy Star rating, for example, a gas range. He indicated that he believes only electrical appliances have Energy Star rating, and therefore, when looking at an Energy Star kitchen, not every single appliance actually has that rating; it would just be some key appliances, typically the dishwasher and a refrigerator.

Commissioner Posson inquired if they would be willing to accept a condition that Energy Star appliances would be installed if available.

Mr. Regonini replied that he thinks that would be appropriate.

With respect to Condition No. 71 regarding sub-metering each retail tenant space for sewer billing purposes, Commissioner Posson inquired if this has to do with the water supply.

Mr. Regonini replied that was correct.

Commissioner Posson stated that the reason he is raising this question is because the water supply is getting tight in town and will get even tighter, and he is wondering what incentive retail tenants would have to conserve water if they were not paying for it or there was no method of measuring their usage.

Mr. Regonini replied that a sub-meter system does allow for billing and payment. He indicated that they have not yet worked out with the Zone 7 Water District what the exact distribution to each of those individual retail spaces would look like. He noted that, clearly, their preference would be to look at a restaurant or some type of food users having their own separate water connection because they are the heaviest of the water users and they are the ones that generate sewer that needs to be charged at a higher rate. He added that they would typically want to be able to break those out and have them account for their own use.

Commissioner Posson inquired what incentives residential tenants would have to conserve water.

Mr. Regonini replied that the standard today in most apartment communities is to have sub-meters and be billed through the apartment management for the actual water that they use. He added that these sub-meters tend to be wireless that are read once a month and billed back through to the tenants.

Commissioner Posson asked Mr. Regonini if it would be acceptable to them if they were required to install sub-meters for residential tenants.

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Mr. Regonini said yes. He added that that is an industry standard right now.

Commissioner Posson noted that Conditions Nos. 55 and 100 talk about the gray water system and asked staff if the intent is to tie-in to the reclaimed water system.

Mr. Dolan replied that those conditions stem from the City's checklist from the Climate Action Plan implementation. He noted that these are new conditions and that staff envisioned it as something that is on-site, recycling water in some way. He indicated that the City has not had any practice with this, so staff is still feeling its way through this. He stated that it may be a long way off before hooking up to the City's system may take place; however, he is willing to have that dialogue if he can determine that the City will get it there within a shorter timeframe, which would be acceptable to meet that implementation requirement.

Chair Blank inquired if this would be one of the things staff could work out with the applicant by the time the project goes to City Council.

Commissioner Posson agreed. He noted that Condition No. 10 uses the phrase "…are encouraged to use reclaimed gray water…" and recommended that it be changed to "…*shall use* reclaimed gray water" and then add "where available" at the end to tie it in to that purple pipe program.

Mr. Dolan replied that would be fine.

John Casey stated that he is not speaking as a member of the Housing Commission, that his comments are his own and would like the Planning Commissioners to take them in context. He noted that Exhibit D of the staff report is the agenda items from the Housing Commission but that the Meeting Minutes for the February and March meetings are missing some of the local flavor.

Mr. Casey stated that the Housing Commission had some challenges reviewing the proposal at two successive meetings. He noted that at their February discussion when they reviewed Option 1, they tabled the item and asked staff to re-engage with the applicants to come up with other options, and Option 2 was provided. He indicated that what was given to the Commission in the March meeting was an either/or Option 1/Option 2. He added that they also looked at other options to see if there was a general consensus. He stated that they rejected both options based on the level of affordability and the number of units. He pointed out that one option provides additional affordability, and the other option provides additional units. He stated that part of the reasoning for that was that other projects in the vicinity had provided more affordability in terms of units and the level of affordability. He added that the Hacienda guidelines also came into play.

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Mr. Casey stated that there is a policy vacuum for the Housing Commission in this area, and without an Inclusionary Zoning Ordinance and a firm policy, what is left is five well-meaning Commissioners trying to determine what the right number is. He compared it to making them all Goldilocks figuring out when the porridge is just right. He indicated that it was difficult to get some consensus during the discussions, and what they did was essentially rejected the item. He stated that Steve Bocian polled the Commissioners afterwards, and there were two Commissioners who were willing to support Option 1; none were willing to support Option 2.

Pat Belding, speaking for Citizens for a Caring Community (CCC), a housing advocacy, affordable housing group, stated that they supports the Housing Commission's finding that neither Option 1 nor Option 2 of the proposal is satisfactory because of the lack of affordability. She indicated that there is no need to rush approval of this project when it does not fit into the affordability standards so painstakingly crafted in the Housing Element. She noted that this is an anchor property in Pleasanton and questioned why all the entitlements on it are being given away when it is these very values that they have spent months and years working out. She stated the CCC sees great benefit to be gained from delaying approval of this large project until a nexus study is done and new standards that everyone must meet are established. She stated that they realize that the Planning Commission is not in the position to make these decisions, but a recommendation to the City Council in this regard would give encouragement to the Housing Commission, community affordable housing advocates, and all those in the City who are waiting for this needed housing, such as store clerks, restaurant staff, teachers, and others for whom they speak.

Sean Sowell thanked the applicant for an awesome presentation and staff for their time and effort in preparing a beautiful, very detailed, and very well thought of report. He then inquired how the traffic study addresses both pedestrian and bicycle levels of service. He stated that the only traffic studies he has ever read were designed to make it easier for vehicles, cars, and trucks to get around and through the intersections, and he has never seen a traffic study that answers the question of how this project would make it easier or harder for people on bikes and foot to get around. He commented that WalMart right next door to this planned development is rather atrocious in terms of pedestrian access, one of those you-can't-get-there-from-here situations. He noted that it is not possible to walk on the sidewalk from anywhere on Owens Drive to the front door of WalMart because there are no sidewalks there. He indicated that this is important to him because he does not own a vehicle. He inquired if there are real concrete things that the developer will do to ensure that this new development will have similar problems.

Mr. Sowell inquired what the plan was for the northern portion of this parcel, where the only thing he sees is a large parking garage. He inquired if it would be just office and light industrial or residential as well; and if residential, what the proportion of residential would be and what proportion of the residential would be affordable housing, subject to the two options proposed. He also requested that all possible appliances use Energy Star where available, and not just Energy Star with the little yellow tags that barely

meets the standards, but Energy Star that are at or above the current medium Energy Star rating.

With respect to parking, Mr. Sowell inquired if the large parking garage will be built all at once or if it will be phased somehow or if it will be delayed until after the residential portion goes in. He indicated that if it is designed for the offices that have yet to be built, it would seem that it should come a little later.

Mr. Sowell stated that he like the overall colors and wondered if the developer/applicant would be open to using the same color palette but with a little less uniformity so that a given building can at least somewhat stand out, such that that one building is predominantly one color and another is predominantly another color, thereby making it easier for newcomers and visitors to the apartment or condo to find a building. He noted that every building in Archstone Apartments off of Owens Drive looks the same, and some of the apartments even have the same number, so it is easy to get lost.

Mr. Sowell then raised several questions: Where would shoppers at the retail on the corner of Rosewood Drive and Owens Drive park, and has parking been considered so the shoppers do not take up the residential parking or do not drive up that middle driveway and discover that there is only residential parking or none at all? Are there any affordable condominiums going into this development so there is a market for new homeowners of modest means not just to rent, but to buy? Is the applicant willing to accept some owner-occupied homes that are built at the 50 percent to 80 percent PMI portion of the market, and if so, under what conditions? What percentage of the rooftops will have solar panels, and is the applicant willing to increase the proportion over time? If solar panels were to be required, under what conditions would the applicant agree to that? He once again thanked the developer and staff for their good intentions, especially with regard to affordable housing.

Becky Dennis stated that she was here on behalf of Citizens for a Caring Community (CCC). She indicated that she would like to talk about the affordability issue and just how this point was reached in a beautifully designed project in a great location where there is very little affordability compared to the projects around it. She noted that in Pleasanton, the process basically includes reaching out to stakeholders, and this project had none of that. She added that the Housing Commission did not have a workshop that housing advocates could have attended; it was all the developer negotiating and the staff and the developer wanting to fast-track this project with the level of affordability they would determine based on the fact that the City is temporarily without an ordinance. She noted that it is especially ironic because were it not for housing advocates, the developers would not have had the opportunity to develop this site. She pointed out that the City re-zoned these sites at 30+ units to the acre specifically to provide affordability, more opportunity for affordability than there have been in the past, such as the 25 percent affordability at less density in Hacienda.

Ms. Dennis stated that it does not make sense that this project can have more density and less affordability. She noted that this is a big site where non-profit housing could be included and the market-rate developer would not have had to include or be supportive of any lower income units. She further noted that this was never an option discussed with the developer because housing advocates, including the Housing Commission, were not at the table. She added that the City has a great Housing Commission, a group of citizens who have been active since 2002 trying to get the City to provide more housing for lower-income people who, when they move to Pleasanton, are going to reduce carbon emissions because they are not going to be commuting from Brentwood or Stockton or Tracy any longer. She indicated that she realizes there is only a limited amount the applicants can do and that she would not ask the applicants to do a great deal; however, they are welcome to do more if they feel like it.

Ms. Dennis stated that she is not sure where the Planning Commission is on the issue of setting the standards, but she believes that in the Housing Element, it is the projects with the most affordability that have priority, and this project has the least affordability. She added that she cannot think of any other time when a group of important stakeholders were completely excluded from the process, that the applicant was not sent back for some discussions with those stakeholders, which is really consistent with everything it is to be a developer who brings forward a plan in this City. She reiterated that the stakeholders need to be included in the process. She stated that there is no question this is a beautiful project and that they would love them to develop, but this property should be used consistent with the public purpose of its rezoning.

Ms. Dennis stated that some delay could be consistent with the policies in the Housing Element. She asked the Commission to recommend to the Council that the project be delayed either until the nexus study is done or until a closer approximation of something that at least meets past standards if not exceeds them is reached, commensurate with the greater amount of entitlements that this property has received compared to the other properties that have provided affordability. She indicated that that would be fair, and they, as well as the Housing Commission, would certainly be willing to engage in that process. She noted that the Housing Commission is their lifeline, and they were basically not allowed a seat at the table, which is not the Pleasanton way.

Ms. Dennis stated that they have attached the letters they have sent to the Housing Commission to the staff report so the Planning Commission would have the details of CCC's analysis of the true affordability level compared to what is being proposed here.

James Paxson, General Manager of Hacienda Owners Association, stated that they are very pleased with this project. He noted that as the City and the owner of the property have their visions, Hacienda Park also has a vision, and this project fits in with what the Park has been trying to accomplish with all of the planning work that's been conducted over the last 10 to 15 years. He thanked Sares- Regis and RREEF America, LLC for working with the Association, working with its design review committee through the design review process, addressing the comments that came up along the way, and

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bringing it forward to the Commission. He indicated that the Association supports this project and is looking forward to moving forward.

Christine Steiner, also a member of Citizens for a Caring Community (CCC), endorsed Ms. Dennis's statements and stated that CCC does want win/win situations. She indicated that she has also been a member commissioner of the Alameda County Housing Authority for the City of Pleasanton for 28 years, but she is speaking for herself. She pointed out that the Section 8 program is the County's largest housing provider. She noted that participation in the Section 8 program in Pleasanton has been declining for the last two years simply because rents have skyrocketed due to the housing situation, and it has been increasing difficult for somebody who has a Section 8 voucher to find housing in Pleasanton. She indicated that this reflects the need for greater affordability.

Ms. Steiner stated that she is delighted with this project, noting that she was tired of seeing parking lots that have nothing on them. She added that the air space is valuable, and she thinks this project addresses all the needs. With respect to the use of solar energy, Ms. Steiner stated that Eden Housing and Bridge Housing, which she is very familiar with because CCC worked with them on many projects, including ones in Pleasanton, have been putting solar on all of their apartment buildings to reduce the maintenance costs at the insistence of the Department of Housing and Urban Development (HUD). She noted that this was done at Ridgeview Commons, the senior complex here in Pleasanton, and added that it kind of defies her how any project coming in would not be looking at that seriously because this is what non-profits have been doing.

Ms. Steiner stated that she realizes the Planning Commission cannot do anything with respect to affordable housing, but she would like to think that in the future, the housing advocates could be included in the process because they want to advocate for their projects. She noted that they have done this before for developments and have, for example, worked successfully with Ponderosa on its project on Busch Road, not just for affordability, noting that when the 20 acres for the School District did not go through, Ponderosa opted to build senior housing for purchase. She stated that everyone looks at all of the needs in the community, but the lower end is the hardest one, and many developers realize that. She noted that having non-profit build on so many acres of land produces affordable units forever. She added that there are great non-profits, and their greatest success in Pleasanton is having built some fantastic affordable housing which very few probably know where they are located. She stated that she has been surprised at how many people have driven by these places and said they did not realize it was affordable housing, which just shows how good they are.

Ms. Steiner stated that she hopes there is a better path for affordable housing in the future. She noted that many in Pleasanton's business community have a problem finding employees now because of a lack of affordable housing. She added that the City now has more sites to develop, and she thinks they can be great projects with the

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private sector, with a non-profit, and with the support of a group of people who are ready to support them.

Mr. Inderbitzen stated that affordable housing is a perplexing issue and there are a number of conflicting mandates that need to be dealt with, one of which is to produce housing and another is to figure out some way to provide affordable housing. He indicated that fortunately, the laws have changed a lot, and he is loathe to get into a debate about affordable housing tonight because it is a little bit of a distraction from the items that are actually on the agenda for action, and affordable housing is not one of them. He noted, however, that he is happy to indulge in that discussion if the Commission so desires. He asked the Commission for its support to move this project onto the City Council.

THE PUBLIC HEARING WAS CLOSED.

Commissioner Posson stated that he would like to kind of focus in on the Program 6.3 requirements of the General Plan Energy Element, which requires Green Building practices to be used in all projects, including those not covered by the mandatory Green Building ordinance, if feasible. He indicated that he likes the project, and it fits the area. He added that he thinks the developers have done a terrific job but believes there is additional work that could be done, especially about it being a sustainable project. He noted that there are some areas that he thinks are feasible that should be included and suggested that photovoltaic (PV) panels as well as the solar water heaters be required to be installed for all the units, and if the applicant comes back and can demonstrate that it is not feasible, then the Director of Community Development Director could have some latitude to modify that requirement. He added that Energy Star appliances and sub-metering for water usage for all the residential units within the development be required as well. He recommended that Condition No. 10 regarding reclaimed water be modified to require the applicant to do the proper plumbing to use the reclaimed water when available.

Chair Blank agreed with the suggestions for reclaimed water, sub-metering, and Energy Star appliances when available. He indicated, however, that having done this for a while, he is reluctant to require the installation of PV panels and solar water heaters, knowing that pre-wiring for PV and pre-plumbing for solar water heaters are basically a bolt-on.

Commissioner Posson explained that his rationale is that since they are rental units, he does not see what the incentive would be for the building operator to install the solar as a retrofit because they are not going to get any benefit from that, but the residents would in their utility bills. He noted that if they are not installed now, he does not see where the economic incentive would be for them to install it at a later date. He added that if they were condominium or housing units, he would be fine with their meeting Title 24 requirements and installing only the wiring and plumbing to accommodate these and then letting the owner of the property make that determination.

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Chair Blank noted that was a really good point.

Commissioner O'Connor commented that Commissioner Posson's statements make a lot of sense because there is no incentive for the builder to install the PVs and solar water heaters after the fact, and the cost just gets passed onto the renter. As for the rest of the project as he has seen it, he stated that he was pretty impressed with the fantastic job the developer has done and the nice complex they have come up with. He indicated that he understands the whole argument about affordability and that Option 1 would give about 12 to 15 percent, while Option 2 at 15 percent does not give quite as deep an affordability. He noted, however, that 15 percent has been the City's guidelines, and this is really not within the Planning Commission's purview. He stated that in this respect, he thinks the Planning Commission needs to step back from the affordability piece and let the Housing Commission send its recommendation to the Council.

Commissioner Narum stated that she really likes the project and after seeing the color board, is happy with the mustard-yellow color, which looks a lot different than what she saw at the Work Session, and prefers it to adding the other color to soften it. With respect to the installation of the PV panels and solar water heater, she indicated that she understands Commissioner Posson's point, but she is trying to figure out where the balance is because she gets a little uncomfortable telling applicants what to do, particularly because they are meeting the required Green Building points.

Chair Blank agreed and added that he thinks one of the challenges in this regard is that the Commission does not tell a developer who has met the required standard of 50 points what they have to do, and Commissioner Posson's proposal would be telling the developer how it should be done. He admitted this was a tough one and proposed that following the Commissioners' comments, he would like to re-open the public hearing and ask the developer what their incentive might be for installing the panels.

Commissioner O'Connor suggested that those points could be swapped for other points.

Commissioner Narum stated that she does not want to tell the developers how to engineer where they will put their Green points.

Chair Blank agreed and added that if the Commission will start moving points around, then maybe the City should not have points and just get rid of the whole program. He noted that the ordinance says that they have to be above this threshold and they are good once they get there; but if the Commission does not like the way they got above the threshold, then the system needs to be changed.

Commissioners Pearce and O'Connor agreed.

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Commissioner Narum stated that she did not think the affordable housing piece is within the Planning Commission's purview and that the Commission has never weighed in on that. She noted that the Commission might want to consider some kind of statement that the housing folks would be involved more in the front end of the discussion since the Commission has spent a lot of time and energy in getting to this point, all based on having affordable housing. Other than that, she stated that she thinks it is a great project, and she likes the look of it; although she does not think it necessarily has the Pleasanton look, she thinks it is an appropriate look for the site.

Chair Blank stated that for the record, while he is a big supporter of the Pleasanton look, he did say at the Work Session that because of the uniqueness of this property, the project does not have quite as much of the Pleasanton looks as one might expect in the Downtown or in some other places such as the Bernal Corners. He added that he was not sure he liked the yellow color.

Commission O'Connor commented that he thinks the colors are Pleasanton colors.

Commissioner Pearce agreed with the earlier discussion about the Green points and noted that the Commission has been doing Green points for a long time. She added that if the Commission wants to require more points, that conversation can take place in the future. She indicated that she was comfortable with asking that Energy Star appliances be used if available because it sounds like there was a pretty good dialogue with the developer when Commissioner Posson brought it up, but she is not willing to go any further than that. She stated that it does sound like the Commission is establishing a system and then throwing stuff on it at the last minute, and she is not willing to do that at this point.

With respect to affordable housing, Commissioner Pearce expressed appreciation for those who came down to the meeting and noted that it would be within the Planning Commission's purview if the City did not have a Housing Commission, but it does, and that is that Commission's responsibility. She added that she also hears what the Housing Commission is saying with regard to the fact that it does not have any policy direction and sees that as a continuing issue as more and more of these properties come forward. She proposed sending a recommendation up to the City Council regarding the need to establish policy, whether it be for more affordable units or for deeper affordability. She indicated that the Housing Commission needs some kind of direction so its members are not just going in blind; perhaps a workshop at the Housing Commission level is necessary where all those involved can be present. She then stated that the colors are fine, including the mustard yellow.

Commissioner Olson indicated that this is a great project, and the colors on the buildings are fine although he does not like mustard-yellow. With respect to solar, he noted that the cost of those panels has been dropping dramatically and probably will continue to drop; however, his view is that the Commission needs to stay on the LEED program, and the fact that the project is at 100 points right now, the developer should be

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complimented. He added that they can maybe get some more points, but he does not want to engineer that and say that they have to go all the way with the solar.

Commissioner Olson stated that one of the problems he has relative to affordable housing is that he spent his career in finance, and he does not know how this gets financed. He added that he thinks expecting the developer to do it is not right, keeping in mind that the judge had indicated that these projects have to be economically viable, which means that the developer has to make a profit. He noted that if the City wants more affordable housing, it needs to address how it should be financed and not just telling developers that they have to do it. He stated that he thinks the Housing Commission should be spending a lot of time on how to get financing for these projects. He added that he senses there is a pull of one option versus another, such that the more units are thrown in there, the more impact there would be on the economic viability of the project. He noted that this community is a high-cost housing community and has been that way for a while. He indicated that he supports this project and recommends that it be forwarded to the City Council.

Chair Blank indicated that he would re-open the public hearing to ask the developer or their representative to come forward and address Commissioner Posson's question regarding what their incentive would be to install solar panels on residential rental units five years down the road if they are not required to do so at this point.

THE PUBLIC HEARING WAS RE-OPENED.

Mr. Regonini explained that because a multi-family community has a limited amount of roof space relative to the number of homes within a building, the photovoltaics that are typically put on a roof serve the community common areas and the electrical lighting around the site rather than the individual homes themselves. He stated that it would be very difficult to have an inverter and the whole system built in for each and every individual home. He noted that at a certain point when it does become economical or viable and there is a reasonable payback and some cost-saving benefits to the overall property, particularly since, as Commissioner Olson mentioned, the prices are dropping and will continue to drop, it definitely does make sense for the developer to go ahead and install that. He added that it can be combined with some tax credits and some other incentives that are available through the utilities, and an appropriate business decision can be made then to put that in.

THE PUBLIC HEARING WAS CLOSED.

Chair Blank stated that he likes the project, and, like Commissioner Olson, he does not like mustard-yellow, but he does not feel strongly enough that he would vote against the project just on the basis of that color. He indicated that he thinks it is a great project and appreciated that the applicant really took into account some of the things discussed at the Work Session. He added that he appreciated the efforts on the Plaza, which was an impossible task, but the applicant came up with some interesting ideas.

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With respect to affordable housing, Chair Blank stated that his personal view is that the Commission forward this to the City Council and indicate that it needs to come up with policy because otherwise, the five members of the Housing Commissioner who are trying to put their heads together do not have rules to go by. He compared it to the Planning Commission's discussion regarding the ridge. He emphasized that this needs to be defined and get certainty involved so that when developers come forward, they have a policy on affordable housing to go by. As for the Citizens for a Caring Community (CCC) not being involved, Chair Blank stated that the Planning Commission had a Work Session on this project in October 2012. He noted that CCC is a stakeholder in this and has to be involved.

Chair Blank indicated that this project has his support personally and that having the Director of Community Development work with the applicant between now and the Council meeting on some of these issues discussed earlier is a great way to move this forward.

Commissioner Pearce indicated that she will make two separate motions: one for the application, and a second to recommend that the City Council provide policy direction to the Housing Commission regarding affordable housing.

Commissioner Pearce moved to find that the conditions described in CEQA Guidelines Section 15162 have not occurred as described in the addendum to the SEIR and that the previously prepared SEIR, including the adopted CEQA findings and Statement of Overriding Considerations, and the Addendum to the SEIR are adequate to serve as the environmental document for this project and satisfy all the requirements of CEQA; that the proposed PUD Development Plan and Development Agreement are consistent with the General Plan; and that the exceptions to the Housing Site Development Standards and Design Guidelines as listed in the staff report are appropriate; to make the PUD findings for the proposed Development Plan as listed in the staff report; and to recommend approval to the City Council of Case PUD-85-08-01D-04M , Major Modification and Development Plan, subject to Conditions of Approval listed in Exhibit A of the staff report, and of Case P13-0030, a Development Agreement for the project, with the following modifications:

<u>PUD Major Modification and Development Plan</u>:

1. **Add the phrase "*or as otherwise approved by the Director of Community Development*" to Condition No. 40 regarding stockpiling of dirt; Condition No. 55 regarding developing and implementing a program for reclaimed water, grey water, and/or rainwater harvesting systems; and Condition No. 88 regarding incorporating Universal Design into the apartment units.**
2. **Modify Condition No. 64 to indicate that Energy Star appliances shall be used if available.**
3. **Modify Condition No. 71 to require each retail tenant space to be sub-metered.**

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4. **Replace Condition No. 93 with the agreement being crafted between the applicant and the Pleasanton Unified School District regarding payment of school impact and supplemental mitigation fees.**
5. **Modify Condition No. 100 to indicate that reclaimed gray water, rain water, etc., shall be used when available.**

<u>Development Agreement</u>:

1. **Section 3.05.School Fees shall be replaced by the above-mentioned agreement between the applicant and the Pleasanton Unified School District.**
2. **Revise the applicable section of the Development Agreement if it is determined that the applicant is eligible for the NPID rate for the traffic fee.**

Commissioner Narum seconded the motion.

Regarding the solar matter and Title 24 requirements, Commissioner Narum inquired if the Commission would let the applicant go ahead with the 100 points.

Commissioner Pearce indicated that she would like to leave it as is for now and that she would be willing to have a larger policy conversation if the Commission desires, but in the future and not with regard to this application.

Chair Blank stated that he had not thought about what Commissioner Posson mentioned and what the developer said, and so he is glad the Commission went through this process. He noted that it was very valuable for him.

Commissioner Pearce agreed and added that she also learned something new.

ROLL CALL VOTE:

AYES: **Commissioners Blank, Narum, O'Connor, Olson, Pearce, and Posson.**
NOES: **None.**
ABSTAIN: **None.**
RECUSED: **None.**
ABSENT: **None.**

Resolutions Nos. PC-2013-15 recommending approval of Case PUD-08-01D-04M and PC-2013-16 recommending approval of P13-0030 were entered and adopted as motioned.

Chair Blank asked staff if, from a process perspective and because it is not on the Agenda, the Commission needs to vote to agendize the following motion or if the Commission can just go ahead and do it.

Mr. Dolan replied that the Commission can go ahead and just do it.

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Commissioner Pearce moved that the Planning Commission recommend to the City Council that it create policy direction regarding affordable housing to assist the Housing Commission in its affordable housing recommendations as other housing projects move forward.
Commissioner Narum seconded the motion.

ROLL CALL VOTE:

AYES: Commissioners Blank, Narum, O'Connor, Olson, and Pearce.
NOES: None.
ABSTAIN: None.
RECUSED: None.
ABSENT: None.

7. MATTERS INITIATED BY COMMISSION MEMBERS

Draft Plan Bay Area

Commissioner Posson stated that he read that the Draft Plan Bay Area study has been released and inquired what the City's comment process was and if the Planning Commission plays a role in that evaluation and comment process.

Mr. Dolan replied that he thinks there are no required responses. He explained that for a period of time, staff has tracked that process all the way through, a very painful process to track, and has had many inputs and was, therefore, aware of where it was going to land. He added that the City Council was briefed at various points along the way and invited to meetings at a sub-regional level to hear reporting, and because the Council has never opted to take up the issue in any detail, staff has left it at that.

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

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.

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d. Matters for Commission's Information

Chair Blank informed the Commissioners that the City is in the process of recruiting a new Planning Commissioner.

9. ADJOURNMENT

Chair Blank adjourned the Planning Commission meeting 10:50 p.m.

Respectfully,

JANICE STERN
Secretary

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