



## PLANNING COMMISSION MEETING MINUTES

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

**APPROVED**

**Wednesday, September 12, 2012**

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

### **CALL TO ORDER**

The Planning Commission Meeting of September 12, 2012, was called to order at 7:00 p.m. by Chair Jerry Pentin.

**PLEDGE OF ALLEGIANCE:** The Pledge of Allegiance was led by Commissioner Jennifer Pearce.

### **1. ROLL CALL**

Staff Members Present: Brian Dolan, Director of Community Development; Janice Stern, Planning Manager; Julie Harryman, Assistant City Attorney; Pamela Ott, Director of Economic Development; Captain Craig Eicher, Police Department; Steve Otto, Senior Planner; Robin Giffin, Senior Planner; Rosalind Rondash, Associate Planner; Jenny Soo, Associate Planner; and Maria L. Hoey, Recording Secretary

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

Commissioners Absent: None

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

#### **a. August 22, 2012**

**Commissioner Narum moved to approve the Minutes of August 22, 2012. Commissioner Blank seconded the motion.**

Commissioner O'Connor requested that his name be added to the "Ayes" vote under the "Roll Call Vote" at the bottom of page 6.

Under the Commission's discussion on Lund Ranch II on page 7, Commissioner O'Connor referred to the last sentence of the seventh paragraph regarding Mr. Dolan's statement, "*He noted that this would be helpful to the Commission when the application comes back, more so than some outside person's opinion.*" and stated that he believed that the Commission was talking about peer reviewer or a licensed civil engineer. He added that in response to his request for an update on the peer review, he believed Mr. Dolan had indicated to the Commission that the Council had asked to postpone the peer review. He noted that this was not reflected in the fourth paragraph.

Some of the Commissioners commented that they did not remember that.

Chair Pentin added that he was not sure he remembered it that way either.

Commissioner O'Connor requested that staff review the tape recording to verify his recollection.

Commissioner Narum indicated that she would accept those changes subject to staff's review of the recording.

Commissioner Blank agrees.

**ROLL CALL VOTE:**

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

The Minutes of the August 22, 2012 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 changes to the agenda.

5. **CONSENT CALENDAR**

- a. **PCUP-291, Pleasanton Jazzercise Fitness Center**  
Application for a Conditional Use Permit to allow more than 20 students at one time at the existing Pleasanton Jazzercise Fitness Center located at 5424 Sunol Boulevard, Suite 4. Zoning for the property is C-N (Neighborhood Commercial) District.
  
- b. **P12-1665, Ryan Koh, Global Classic Collection, Inc.**  
Application for a Conditional Use Permit to operate a warehouse to store classic vehicles inside an existing building located at 2158 Rheem Drive. Zoning for the property is PUD-I (Planned Unit Development – Industrial) District.
  
- c. **P12-1691, City of Pleasanton**  
Application to recommend approval to the City Council of an amendment to the City of Pleasanton General Plan Housing Element to amend Program 9.1 and the section on Potential Governmental Constraints to Housing in the Background information. The General Plan Housing Element applies to properties city-wide.

Commissioner Blank moved to make required conditional use findings listed in the staff reports for Cases PCUP-291 and P12-1665, and to approve the applications subject to the Conditions of Approval listed in Exhibit A of the respective staff reports; and to recommend approval to the City Council of the amendments to the Housing Element, as shown in Exhibit A of the staff report. Commissioner Narum seconded the motion.

Commissioner Olson noted that the applicant's letter in Exhibit B of Case PCUP-291 states that their customers are typically women who range in age from 18 and beyond and that occasionally, they will have someone under 18, for which they will require a written consent from the parent. He inquired if this should be included as a condition of approval.

Ms. Stern replied that this project description is part of Exhibit B of the Conditional Use Permit, and the applicant is held to that under Condition No. 1 of the Conditions of Approval.

Commissioner Olson accepted staff's explanation. He then referred to Case P12-1665 and inquired whether the applicant had purchased the project site or is leasing it from the property owner.

Jenny Soo replied that the applicant is present and can respond to that.

Ryan Kho, applicant, stated that they owned the property.

## ROLL CALL VOTE:

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

Resolutions Nos. PC-2012-41 approving Case PCUP-291, PC-1012-42 approving Case P12-1665, and PC-2012-43 recommending approval of P12-1691 were entered and adopted as motioned.

## 6. PUBLIC HEARINGS AND OTHER MATTERS

- a. P11- 0824/P12-0798, City of Pleasanton  
**Work Session on the Draft Downtown Hospitality Guidelines for commercial businesses and special events within the Downtown Specific Plan Area (Downtown) and related Pleasanton Municipal Code (PMC) amendments, including: the creation of new hospitality districts and new hour, noise, and operation requirements for hospitality uses Downtown; and a City-wide PMC amendment changing when a restaurant serving alcohol must apply for a Conditional Use Permit.**

Pamela Ott presented the staff report, indicating that as this is a Work Session, the Commission is not being asked to make any decisions or recommendations to the City Council but to review and provide input on the Draft Downtown Hospitality Guidelines (“Guidelines”) and to identify any questions it might like staff to address when the item comes back to the Commission for final review and recommendation. She noted that this Guidelines was a result of the collective effort of a lot of people, including the Pleasanton Downtown Association, Downtown residents and business members, the community at large, and staff. She added that Commissioners Narum and Pentin were members of the Task Force and participated in the process as well.

Ms. Ott then presented a brief background and history of the Guidelines and described the formation of the Task Force, its meetings, and the outcome of its discussions.

Commissioner Blank stated that he would be interested in hearing about the thematic discussions and a general description on where the divisions were so he can understand the story arc.

Ms. Ott stated that she would be presenting the highlights of the Task Force’s discussions, including a couple of very primary key components of those discussions. She indicated that the key concepts in the Guidelines include the designations of the hospitality areas, some key elements of hospitality, a good neighbor policy, notification and disclosure about the Guidelines, the commercial guidelines themselves for entertainment and music in bars, and then guidelines around special events. She

added that the Guidelines is intended to be used by the majority of the businesses Downtown and that those businesses that may want something that is outside of these Guidelines can always come to the City and request that.

Ms. Ott then proceeded to briefly summarize the different sections of the Guidelines.

- Page 5 provides an introduction to the Downtown Hospitality Areas, with a location map of selected bars and restaurants in the Downtown on page 6 and a map of the Downtown Hospitality Area on page 7, which was adopted as part of the Guidelines at the Task Force's last meeting.

Ms. Ott stated that the Task Force spent considerable time discussing the idea of taking Downtown in its entirety as a hospitality area, but then delineated the Downtown into a Central Core Area (salmon areas on the map on page 7) and a Transition Area (yellow areas), with the idea that the Central Core Area would have some additional allowances for entertainment, music, and other activity, and the Transition Area would be a buffered area between the Central Core Area and the residences that surround the Downtown. She added that there was significant discussion among the Task Force members on how large or how small the Core Area should be and to ensure that there was an appropriate Transition Area.

Commissioner Blank noted that in the far left corner of the map on page 7, where Main Street runs into Bernal Avenue, there is a white section that is within the Downtown Hospitality Area but is not classified as either Central Core or Transition Area. He inquired if this was just a graphic error.

Ms. Ott replied that was correct.

- Page 8 presents the six elements of hospitality: public safety, music and entertainment, multi-use sidewalk, quality of life, transportation, and venue safety and security.
- Page 9 describes the commercial guidelines for entertainment, music, and bars.
- Page 10 addresses the Downtown good neighbor policy, which the Task Force discussed at some length. She noted that the Task Force considered this to be an important and key component of the Guidelines and emphasized that Downtown businesses that were having music, entertainment, and alcohol service are expected to be respectful of their neighboring commercial properties as well as their neighboring residences.

Commissioner Blank stated that the Commission often deals with interpretation and expressed concern about the use of the phrase "*to the best of their ability.*" He inquired what that phrase exactly means.

Ms. Ott replied that some businesses have conditions of approval which require them to do certain things; however, there are some businesses that do not have conditions of approval or implementation measures. She noted that this is an encouragement to neighboring businesses to be aware that they are operating in a larger context.

- Page 11 discusses Downtown notification and disclosure of the Guidelines following its adoption.

Ms. Ott stated that there was also some fairly robust conversation regarding whether there should be a requirement that there be a disclosure statement for the Guidelines when properties exchanged hands either through lease agreements or purchase agreements. She noted that under current real estate law, there is an obligation on the part of the sellers to disclose information; the Task Force ultimately felt that was sufficient and that disclosure would be encouraged but would stop short of being required.

Commissioner Blank noted that the Commission has experienced many times when disclosures were not made and the only recourse after that event is through the court system. He indicated that he respected the Task Force's decision on disclosure but found it interesting.

Ms. Ott noted that the Task Force discussed that even if disclosure were set as a requirement, there would still be the issue of actual implementation and follow-up to ensure it happens without getting involved in every single lease agreement or purchase transaction.

- Page 12 focuses on indoor entertainment and music and page 13 on outdoor entertainment and music. A new Use category, "Special Downtown Accessory Entertainment Use," is being created for music and entertainment accessory uses in the Downtown hospitality area as a permitted accessory use as long as all of the guidelines are adhered to. Businesses that desire to have activity outside the scope of these guidelines can apply to the City and go through a review process.
- Pages 14-15 are about bars and restaurants serving alcohol after 11:00 p.m.

Ms. Ott indicated that there was a fair amount of discussion about bars and extending alcohol service for restaurants from 10:00 p.m. to 11:00 p.m. She noted that regardless of all the different perspectives and the number of times this was brought up, this item received a fair amount of support and approval from the Task Force members.

- Page 16 discusses commercial guidelines and standards for entertainment, music, and bars.

Ms. Ott indicated that this was the focus of the majority of the Task Force discussions: where the boundaries of the Central Core and Transition Areas were drawn because of the time allowances as well as the decibel level for noise and other activities that the Task Force was comfortable in recommending.

Ms. Ott stated that it is important to recognize that there are residences in the Downtown Core Area as well as in the Downtown Transition Area, some of which are single-family homes and others are multi-family residences, which are all zoned commercial. She noted that the Task Force had a lot of conversation about the tolerance level for people who live in the Downtown and how to balance that with the vitality the Task Force was trying to bring to the Downtown through this effort.

Commissioner O'Connor asked Ms. Ott for a more detailed explanation as to the need for the Transition Area. He inquired what the actual need for the Transition Area is if both the Core and Transition Areas are held to the same 60 dBA noise standard, both for the residential district and at the property nearest the residential zoning district.

Ms. Ott replied that there are some time limit differentiations, with the Core Area having longer hours than the Transition Area. She noted that there was extensive conversation in the Task Force about how to structure the Transition Area, initially only about the decibel level being measured at the commercial property line but later continuing to having a standard for being measured at the residential property line as well.

Commissioner O'Connor noted that the commercial line has a higher dBA level in the Core Area but is still limited at the residential line, and the one-hour difference there as well. He further noted that it can be louder in the Core Area than in the Transition Area but the same or lower level in the residential neighborhood. He indicated that he was struggling with trying to figure out why it had to be differentiated other than it looked like a one- or two-hour difference in time.

Ms. Ott replied that this was not a question posed at the Task Force discussions, and neither was there an answer other than there was a sentiment that having that differentiation between the Core Area and Transition Area was an important delineation to have. She added that the Task Force was trying to create an area which would have the same set of standards for businesses rather than being a factor of where the businesses happened to be located in the Downtown; for example, those business located on Main Street could be louder than those located off of Main Street closer to the residences, which would have a different dBA level standard because of where they are located.

Brian Dolan stated that he was not actively involved in the Task Force and was, therefore, not privy to all the dialogue that took place when they were coming up with that standard or that concept. He noted that it occurred to him that the closer a business is to the edge of the Downtown, the harder it is to mitigate its noise and the more likely it would create an issue. He added that relying on a decibel standard would put a lot of burden on enforcement just as it currently does. He indicated that he thinks a better enforcement environment would be created if there is some area that is a little different than right in the Core Area.

Commissioner Blank inquired if this is defined as a single event noise. He indicated that he liked the measurement and questioned if a 50 dBA for an hour goes up to above 60dBA for one second would be a violation.

Mr. Dolan replied that it would be over a period of time. He added that in the real world, when the noise level is being measured to find out whether or not there is an issue, one second would not do anything.

Chair Pentin commented that it would have to be a sustained peak at some point.

Mr. Dolan replied that was correct.

Commissioner Blank recommended that it may or may not be appropriate to consider additional specificity exceeding this noise level for 10 percent or 15 percent of the measurement period or some way of quantifying it so that it is clear. He added that "Transition Area" is a false name because if there are edges, the sound level would be fine one foot on this side of the edge but a violation one foot away on the opposite side, and yet the sound is going to be the same perceived sound.

Commissioner O'Connor inquired if enforcement would be triggered on a complaint basis or if this will be done proactively. He further inquired if the Police Officer who shows up would know where the Core Area ends and where the Transition Area starts.

Mr. Dolan replied that right now, enforcement is complaint-driven. With respect to the boundaries of the Core and Transition Areas, he stated that the Police Officers will have to be educated as to what the outcome is.

Commissioner O'Connor commented that if this becomes successful enough and the Downtown becomes viable with lots of entertainment, a higher presence of law enforcement down there might be expected because without close monitoring, more vitality usually generates more trouble. He indicated that he would hope enforcement would be more proactive with that presence than just relying on complaints.

Commissioner Pearce inquired if the reference to the decibel level simply applies to music and entertainment or if it is all inclusive. She noted that shouting or large parties can also generate loud noise.

Ms. Ott replied that it is intended to apply to all kinds of noise.

Commissioner Pearce inquired if shouting on the property line would be an issue.

Ms. Ott replied that it would if it occurs for a sustained period of time.

Ms. Ott noted that Exhibit C of the staff report is a comparison chart showing what the current code is compared to these guidelines recommended by the Task Force. She continued that one of the Task Force members mentioned that not everybody in the Core Area or in a certain area might be able to meet this exact standard, that given the locational placement of a business having this activity, a lesser standard might be need in order to meet the required decibel level at the residence line. She indicated that the Task Force understood that businesses were not being given *carte blanche* to hit the highest decibel level but that it was within context of the Downtown and all the other guidelines that needs to be met.

Commissioner Blank referred to the comparison chart and stated that he has a vague recollection that the Commission approved a recurring item, possibly the outdoor sound stage in the back of the Barone's parking lot. He indicated that he thought there were decibel limitations on that and asked staff if that was the case. He added that it might be interesting to look at that as a comparison rather than at 355 St. Mary Street, as Barone's was more of a broader use that might fall into the category that Commissioner Pearce mentioned, because once the music is over, there could be 100 people screaming. He stated that he does not remember the details of the use permit but that there was a lot of discussion about measurement and where the measurements would be taken.

Commissioner Olson concurred that it was discussed.

Steve Otto stated that the Use Permit for Barone's did not indicate a specific dBA; it just has to meet code requirements.

Commissioner Blank recalled that there was some discussion about where it would be measured or how often.

Mr. Otto replied that it would be per Code, depending upon which noise measurement is being use, and whether the measuring is being made at the property line or over at the residential district's property line.

Commissioner O'Connor stated that he recalled this was going to be done in the first six months or something similar.

Mr. Otto replied that the Planning Commission had one recommendation that Barone's was going to have to record the measurement, but when the City Council reviewed the appeal, the applicants had proposed a sound wall and the conditions were changed

based on that sound wall. He added that the requirement was that the Barone's did have to purchase a noise meter and simply measure it but not record it.

Commissioner Blank stated that it might be helpful, as part of background, to have that history of the Planning Commission's discussion and what it approved, as well as what the City Council ultimately approved.

Commissioner O'Connor requested clarification of the dBA differences between the chart of page 6 of the staff report and page 16 of Exhibit A.

Ms. Ott replied that the chart on page 6 of the staff report shows the changes recommended by the Economic Vitality Committee and the Pleasanton Downtown Association after the Task Force had made its recommendations.

Commissioner O'Connor inquired if staff supports one or the other.

Ms. Ott replied that staff is simply presenting this information to the Commission.

Commissioner Olson noted that Ms. Ott mentioned that the Code is different and inquired how this relates to the Code and if the Code that has been approved by the City Council is being changed.

Ms. Ott replied that part of the implementation is a proposed Pleasanton Municipal Code (PMC) amendment. She noted that this is included in the staff report and that staff has highlighted the sections where amendments needed to be made.

- Page 17 covers the commercial guidelines and review process for entertainment, music, and bars for permitted uses, temporary conditional uses, and conditional uses.
- Page 18 is where the introduction to the special events guidelines spelled out on pages 19 and 20. Issues such as venues, security, safety, traffic flow and circulation, parking, trash management and even notification of special events are addressed.

Ms. Ott indicated that special events were another significant portion of discussion early on at the Task Force meetings. She stated that there was a lot of opinion about the number and sizes of events happening Downtown, but the members focused on what guidelines needed to be in place to ensure that special events were successful and met that balance the Task Force was striving to achieve for both the residents and the Downtown.

Commissioner Blank noted that the Commission has had so many definitional problems in the past and stated that the phrase "*to the best of their ability*" and the term "*special events*" are far too vague without a clear understanding by everyone. He indicated that he did not know what the criteria are – for example: over a certain size, or it does not

fall within any of these given uses, or it makes more noise – but this is something that needs to be part of the definitions.

Ms. Ott replied that the Task Force had that discussion, especially in relation to the size of event such as the number of attendees, and it depends on several factors: for example, a certain kind of event might be comfortable with only 200 people whereas a different kind of event might be comfortable with 2,000 people. She indicated that the Task Force stopped short of putting a guideline on that.

Commissioner Pearce inquired why, in light of the fact that the original discussions with the Pleasanton Downtown Association which really emphasized security, the fifth guideline on page 19 states “*should*” and not “*shall*.”

Ms. Ott replied that the members wanted to make that determination based on what kind of event it was. As an example, she stated that the Police Department might not find it necessary to require event security for a chalk art on the street versus a different kind of event where that security would be particularly important.

Commissioner Pearce noted that would be managed by the section at the end which reads “*as deemed necessary by City review.*”

Ms. Ott stated that was duly noted. She added that staff will go back and look at those because the Task Force did have a lot of conversation about “*should*” and “*shall*,” specifically about trash management and recycling. She continued that for clarification purposes, should that chalk event attract, say, 15,000 people, and City staff determined private security is necessary, the City has the right to require it. She added that the City is not going to have people in front of this Commission saying: “*It says we should; it doesn’t say we must.*”

Ms. Ott then discussed the public comments received as well as the Pleasanton Downtown Association (PDA) and the Economic Vitality Committee (EVC) comments on the Guidelines. She indicated that after the Task Force completed its work, staff took the Guidelines to both the PDA Board of Directors and the City’s EVC. She noted that both organizations are in alignment on the comments that they wanted to pass along to the Planning Commission, including calling the document “*Downtown Hospitality Policy*” instead of “*Downtown Hospitality Guidelines*,” and slightly changing the map on page 6 of the Guidelines that located the restaurants and bars.

Chair Pentin asked Ms. Ott to define “*slightly*” as he noted there is quite a big change and a lot of words in the title with about three different specifications which just seems very large.

Ms. Ott explained that those organizations felt that was a clearer and more encompassing definition of what that map presented. She continued that on page 10 regarding the good neighbor policy, the PDA and EVC would like to add the phrase “*after the close of business*” in the third bullet.

Commissioner Blank commented that this seems a little dangerous because 50 people may decide to come back in front of a business one hour after it has closed up and the owners have gone home; yet the owners would still be responsible for having these people loitering.

Ms. Ott stated that was a good point. She explained that the Task Force did not discuss that issue, but conversely, some did not want loitering out in front of the business regardless of whether the business was still open or not, and others felt that having people gather and having some activity out in front of the business while it was open showed vitality and signs of life.

Commissioner Blank stated that he understands the intent because there have been issues in front of this Commission where people loiter long after bars have closed. He noted, however, that it is written so broadly that it might be misapplied.

Ms. Ott completed the PDA and EVC comments with the recommendations to allow all existing hospitality-related CUPs to be amended at the staff level if they are consistent with the Guidelines and to amend decibel levels to remain at 70 dBA instead of going down to 60 dBA within the Central Core Area in the evening/early morning hours and to remain at 70 dBA in the hospitality zone at all times and on all days rather than have specific timeframes around it.

Commissioner Blank suggested that when this item comes back before the Commission, it might be interesting for the Commission as well as the public to have City staff bring a noise generator so people can hear the difference between 60 dBA and 70 dBA.

Ms. Ott noted that Task Force had this presentation from a noise consultant at one of its meetings. She then stated that the PDA and the EVC talked about having the PDA prepare an annual report regarding the success of the Guidelines implementation and other interests surrounding that.

Ms. Ott then noted the PDA and EVC recommended modifying the Guidelines and the PMC such that approved hospitality-related CUPs in the Downtown hospitality area would be forwarded to the Planning Commission for additional review only if a verifiable violation has been reported to the Police Department or to Code Enforcement.

Finally, Ms. Ott indicated that following the Task Force's completion of the document and the PDA's and EDC's review, staff considered whether the recommended Guidelines had any CEQA implications. She stated that staff would like to have the Commission's input regarding what noise standards should be applied for the commercially-zoned residential units in the Downtown, given the City's noise standard in residential areas during the evening hours of 60 dBA decibels and the proposed Downtown Core Area and Transition Area standard of 70 dBA.

Commissioner Blank asked Ms. Ott if she is referring to standards for noise that residents generate or for the reception of noise at the residential boundary.

Ms. Ott clarified that businesses located approximate to residential apartments and units in the Downtown can make a certain amount of noise based on the Guidelines, and that noise level based on the Guidelines may differ from the standard for residential units in other parts of the City.

Commissioner O'Connor asked Ms. Ott if she is referring, for example, to a unit or an apartment that is directly above a bar.

Ms. Ott replied that could be the case, or the residential unit could be next to the bar or at the other end of the block.

Commissioner O'Connor stated that he does not know how this can be done within the Core Area. He noted that there are a lot of homes on the west side of Peters Avenue, but that would be different from those second-story living units with businesses on the ground floor. He asked Ms. Ott if staff knows how many of those units are occupied by owners of those buildings versus tenants.

Ms. Ott replied that she did not know. She indicated that the PDA has charted out where the residential units, both apartments and otherwise, are located in the Downtown, but not which ones are owner occupied and which ones are being leased.

Commissioner Blank noted that the ordinance talks about sound at the property line, and an apartment over a bar would have no property line; therefore, the ordinance may not apply there, unless the floor is considered the property line,

Commissioner O'Connor commented that if the owner of Building A makes noise and Building B next door has someone living on the second floor, there would be a property line.

Commissioner Narum used as an example, the Redcoats British Pub and Restaurant, which is located in the Core Area with an apartment next door: the way the Guidelines are written, at the property line, Redcoats could be at 74 dBA. She pointed out that the Guidelines are essentially defining the noise level for these residents next door because the noise is being measured at the business property line. She added that the only real question is what and how that noise is or is not allowed for those living above a business.

Ms. Ott stated that the Task Force did not have a specific discussion on noise relating to residences located directly on top of businesses but that it is certainly something staff can look into.

Commissioner Blank commented that one would think that someone who moves into an apartment or a place directly across from a bar or a sound studio would know that there might be some noise.

Commissioner Narum agreed.

Commissioner O'Connor stated that the reason he is asking about owner-occupied versus rental is because a renter would obviously have a lot more options, such as picking up and moving, but it could be difficult for an owner occupant to move.

Still in relation to CEQA, Ms. Ott noted that the Transition Area is particularly narrow, especially along Peters Avenue, and realistically applying all the decibel levels set out in the Guidelines given those parameters, there may be some other options to consider regarding whether or not those levels are appropriate.

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

Jerry Hodnefield stated that his family owns six properties in the Downtown area, one of which is located a half a block from the Downtown Hospitality Central Core Area. He noted that his daughter and her family are going to live in that home very shortly, and they completely support the subject map and its recommendations. He added that they are from the San Francisco area so they are probably used to more noise than the average family.

Mr. Hodnefield stated that he has carefully read the Guidelines and thinks that the Task Force has done a terrific job of trying to balance all the forces and to take a reasonable approach in the effort to breathe some additional life into the Downtown area. He indicated that in Los Gatos, aside from a few selected facilities like Brannigan's and the microbrewery, the city goes pretty dead after 8:00 p.m., and in that respect, he believes a few night spots might have provided a little more entertainment so the city would benefit all who live within a reasonable walking distance. He added that the City of Saratoga five miles away is completely dead after 8:00 p.m.

Mr. Hodnefield stated that he would hope for a little bit more with respect to the City of Pleasanton and that the recommendations he read in the Guidelines go a long way toward achieving those goals. He indicated that there will always be extremists who either want no limits on the hours of bar restaurants and other places of entertainment or want more restrictions and severely limit the hours of these establishments. He added that it is in the best interests of most residents of Pleasanton to establish reasonable balances between those who want more rules and those who want fewer rules. He pointed out that there will be people who will be wringing their hands and declaring that with the adoption of these new regulations, drunks and other undesirables will be prowling the neighborhood streets; the neighborhoods will no longer be safe and the property values will plummet. He indicated that research simply does not support that position and if he believed that to be true, he would not support the

recommendations of the Guidelines inasmuch as he has a significant investment in residential properties in these areas.

Mr. Hodnefield stated that he and his family support the conclusions and recommendations in the Guidelines and sincerely hopes that after all the effort and research that has gone into this document, it can be adopted and embraced by the City of Pleasanton to make the City a more fun place to enjoy in the evenings with friends and family.

Chair Pentin asked Mr. Hodnefield how he felt about the time changes recommended by the PDA and EVC.

Mr. Hodnefield replied that he thought they were fine. He stated that extending the time from 10:00 p.m. to 11:00 p.m. is standard for what people expect in those areas. He added that he was additionally encouraged by the fact that it included some of the side streets which he thinks are terrific places for small restaurants to engage in business activities. He indicated that the Guidelines go a long way toward enriching the general people who live in the immediate Pleasanton area, particularly in the Core Area Downtown.

Mike Hosterman, President of the Pleasanton Downtown Association (PDA), stated that he has a law office on Peters Avenue. He indicated that the PDA is in full support of the Guidelines with the proposed changes on pages 5 and 6 of the staff report. He provided a brief background of PDA's involvement in the hospitality plan, stating that in March of 2010, about 40 persons interested in this process got together and put together a small booklet in March of 2011, the Downtown Hospitality Plan, to make the Downtown a more hospitable place with more activity. He stated that one part of this booklet was the Downtown Hospitality District, which he is here to talk about.

Mr. Hosterman stated that when PDA took a look at the Guidelines, the Board of Directors proposed changes to make the Downtown a more vital area for people to do things. He stated that there is not very much going on in the Downtown after 7:00 p.m. or 8:00 p.m., and PDA would like to encourage having places where people can go to have something to eat or to get a drink and listen to some music after attending an event Downtown or in the Firehouse Arts Center. He noted that he and his wife, Jennifer, were coming back from the airport one night at 10:00 p.m. and drove around Downtown Pleasanton looking for a place where they could eat and found none, and they ended up at TGIF's on Santa Rita Road. He stated that this would indicate that a little bit of help is need in the Downtown to have more activity. He added that the PDA does not necessarily want Pleasanton to become a Walnut Creek or a Livermore and that Pleasanton does not need to have night clubs, but it needs to have increased activity Downtown.

In response to Chair Pentin's earlier question why PDA wants to change the title of the map on page 6 of the Guidelines, Mr. Hosterman stated that the map originally indicated that it was the location of selected downtown restaurants and bars, but there actually is

a lot more to it than that, including the Downtown Specific Plan District and the Downtown Revitalization District. He added that there are certain references in the document that talk about this specific plan area and revitalization area, and without a map, it might be difficult to know really what is being talked about.

Mr. Hosterman pointed out that another item PDA changed is the dBA level from 60 to 70. He noted that the current level is 70 dBA, and the Task Force's recommendation reduced it to 60 dBA. He stated that PDA thinks it is appropriate to take it back to where it was before.

Mr. Hosterman encouraged the Commission to adopt the Task Force's recommendations in the Guidelines with the changes proposed by the PDA and EVC and PDA. He stated that he thinks it will make the Downtown a better and more active place with more things to do. He noted that some restaurants have already started this, such as Lokanta, which has a happy hour from 9:30 p.m. to 11:00 p.m.

Commissioner Pearce inquired, just from a process perspective, if the PDA evaluation stemmed from the fact that the two PDA representatives on the Task Force voted against the Task Force recommendation.

Mr. Hosterman clarified that the two PDA representatives voted in favor of the Task Force recommendation.

Commissioner Pearce then inquired if the PDA nevertheless decided to issue its end recommendation.

Mr. Hosterman said yes. He explained that what the PDA came up with did not substantively change the Task Force's recommendations but just clarified them. He noted that most of the changes were just minor such as changing "Guidelines" to "Policies." With respect to the dBA level, he stated that the PDA was concentrating more on increasing it to 74 dBA without looking at what the current level was. He added that the 60 dBA was the level at certain times of the day.

Scott Raty, Pleasanton Chamber of Commerce, stated that with respect to the decibel levels, he believed there was some confusion even within the Task Force as to whether the new standard would be lowered to 60 dBA from the current standard of 70 dBA. He indicated that in truth, the real problem he has with the Task Force report is that it needs a warning label on it that says, "Caution: delving too deeply into the minutia of decibel ratings will cause dizziness and confusion." He noted that a lot of time was spent on this by a lot of hard-working and conscientious people who did a great job of getting into the detail, and over time, some Task Force members may express some of that confusion as to whether that final number was 60 dBA or 70 dBA. He stated that the current standard is 70 dBA and that it was his understanding that nobody involved from the PDA ever wanted to see that standard lowered from 70 dBA to 60 dBA and that it was their understanding that it would not be.

Mr. Raty then discussed the Chamber's business role in the Downtown and its business perspective, stating that in the mid-80's, the business community led the way in its desire to have clarity and consistency with regard to the quality of future development in the Downtown. He added that the Chamber worked with the City during this time and created the Downtown Design Guidelines as a standard that served the City very well for over 35 years. He indicated that shortly after that, the Chamber also helped create the PDA and launched it as a self-governing group of people who put their money, their time, and their reputation into the future of the Downtown and its promotion. He noted that today, the PDA is very solid and at its strongest in its history, and he believed this is worth mentioning because over many years, business has been involved in its own backyard, working hard as an organization and taking ownership in the future of the Downtown. He added that business has done a really good job and tends to hold itself in this town to a very high standard, and when it has gotten into the detail and into the minutia, it has come out with some things that have been pretty good for this town.

Mr. Raty urged the Commission to give consideration to what the PDA and the EVC recommends and which the Chamber also supports. He pointed out that these organizations are excellent stewards of the Downtown, and the City is 90 percent there with just a few more little things that need tweaking to come up with some very, very good standards for moving forward to give business the kind of clarity it wants and needs to be confident in making the decisions to be a part of this Downtown.

Commissioner Olson asked Mr. Raty if the Chamber is in favor of the Transition Area as adopted by the Task Force on page 7 of the Guidelines.

Mr. Raty apologized that he did not have a copy of the map with him but that it looked good. He noted that the biggest point was really the decibel ratings and added that he would defer to whatever the PDA would bring forward to the Commission with regard to those specifics.

Ms. Ott stated that the PDA and the EVC were supportive of the map.

Melanie Sadek stated that she was a member of the Task Force representing the PDA where she is a member of the Board of Directors. She explained that she was originally a member of the PDA when she owned Murphy's Paw in the Downtown but has been as associate member since she sold her business.

Ms. Sadek clarified that her role on the Task Force was to represent the non-restaurant businesses. She noted that as a retail store owner, there were lots of opportunities for her to hold functions at her store and would actually need to go to the City and get a permit to hold those functions. She urged the Commissioners to keep in mind as they look at this report and the recommendations that it does not apply just to restaurants and bars but also allows all the stores Downtown such as Studio 7 and Murphy's Paw to have the opportunity to do a little bit extra without actually having to go and get a permit.

Ms. Sadek stated that with respect to the dBA levels and the changes that the PDA and the EVC are recommending, there was no intention on her part to lower the standard from what it currently is and that she thinks it was just an oversight on the part of the Task Force because of the confusion during the vote.

Ms. Sadek stated that one of the things that came into play with respect to the Transition Area was that the Task Force wanted to create a buffer to help the residential zone eliminate some of the excessive noise that comes from additional vitality, including traffic and people opening and closing doors. She then indicated that she supports the changes recommended by the PDA and EVC.

Andrew Shaper, a Downtown resident, stated that any group who has worked on the Guidelines as hard as this Task Force has worked on it should not be confused by the dBA. He stated that as he understands it, dBA is a logarithmic scale, and the noise is doubled for every 10 dBA, so the difference between 60 dBA and 70 dBA is significant. He indicated that he is not anti-PDA and noting that as well represented, organized, and financed as the PDA seems to be and how successful by the way it is invigorating the Downtown, he inquired why the PDA gets the last word on the Guidelines when the five at-large representatives worked with the rest of the Task Force and had an understanding that included raising the dBA to 74 from 70 in the Core Area and did not really mean the 60 dBA. He procedurally questioned why the PDA and the EVC seem to come in with a last trump card in terms of the work done by the Task Force when they were represented in that Task Force. He pointed out that the residents were not represented on the revision.

Mr. Shaper expressed concern about the enforcement of the dBA limits. In connection with the time and spikes in noise, he explained a technical detail, stating that the sound level meters he has used have an A scale and a B scale: one of them is instantaneous and takes every microsecond, and the other integrates electronically: so it is just a matter of specifying that the dBA be measured on the B scale. He inquired how this would be enforced, and if the officer will come out only when there is a complaint. He questioned if the officer is trained or qualified to operate this piece of equipment.

Mr. Shaper indicated that he likes living Downtown and generally supports the vitality and the special events; however, having amplified music outside, rock bands, or receptions outdoors until 10:00 p.m. or 11:00 p.m. on a work night are a concern to him. He stated that he does not care about what happens indoors, whether a string quartet or the piano plays all night, and asked the Commission to take this into account. He stated that the enforcement responsibility ought to go with the people who benefit most from the advantages of less regulation and suggested putting in a requirement that the business owner monitor and record the noise level so there is a record that can be referred to, rather than calling the police and in the meantime, the DJ has turned down the volume. He indicated that he is not trying to push regulation but just trying to push reasonable hours and noise levels for those who have live every day for 30 years a few blocks from Main Street, which was not the way it is when they first moved there.

Peter MacDonald, Downtown business owner, stated that the staff report was excellent and did a good job of summarizing the issues and the positions of the various groups. He indicated that he supports the recommendations of the Task Force with the corrections proposed by the EVC and the PDA Board. He noted that if the Planning Commission accepts this recommendation, then a restaurateur will be able to stay open until 11:00 p.m. and have indoor music until 11:00 p.m. without having to go through a bruising Conditional Use Permit process. He stated that the policy as proposed is smart regulation, and Downtown has succeeded because of the smart regulation in place.

Mr. MacDonald stated that the City does not have redevelopment money, but there was a collaboration between the business and the planning functions. He noted that in the 1980's restaurants were allowed into existing buildings without having to provide additional parking, leading to a renaissance of restaurants Downtown. He added that in the 1980's, the business owners voted to tax themselves to promote Downtown, which led to the Concerts in the Park, the Farmers' Market, and a whole number of events and activities that make the Downtown very successful. He stated that the City and the PDA have had a productive partnership in helping the Downtown to be all that it can be, and that needs to be continued.

Mr. MacDonald stated that in recent years, the Downtown has fallen behind nearby cities in growth and vitality. He noted that side street development can be encouraged or Downtown can be left to stagnate. He pointed out that one big problem has been with too much regulation such that 12 different bars have 12 different use permits, with 12 different sets of hours and many more variations. He added that all too often, the planners would split the baby with the most contentious neighbor from within 300 feet, and the Conditional Use Permit process typically takes six months or more. He emphasized that what is needed is uniform, simple rules and smart regulation.

Mr. MacDonald stated that in 2010, the PDA formed the Hospitality Committee to address the barriers to evening business in Pleasanton with the idea behind responsible hospitality regulation being to get the community benefits of a vital and safe evening activity while managing and controlling the potentially adverse impacts. He indicated that this led to the City forming the Downtown Hospitality Guidelines Task Force which had lively and informative discussions, many compromises and new regulations, and a recommendation that will truly help the Downtown to be successful.

Mr. MacDonald stated that he does not want to focus on the importance of the EVC and PDA Board recommendations regarding decibel levels. He indicated that nobody who understands acoustics would lower the dBA standard for Downtown commercial from 70 dBA to 60 dBA as every hospitality business would violate that standard every night. He stated that the members thought they had that corrected at the Task Force, but that was not the case, and it has to be corrected now or Downtown vitality will crash. He pointed out that it is essential to the success of the Downtown that the Planning Commission support the Task Force recommendation with generally the corrections proposed by the EVC and the PDA Board. He asked the Commission to respect the work of your task force.

Nancy McKain stated that she and her sister are taxpayers and business owners in Downtown Pleasanton and that they are wholly in favor of the Guidelines and the amendments recommended by the PDA. She noted that the Downtown area desperately needs to be revitalized so as to make it a destination, and by doing that, the proverbial doors will be kept open. She added that in this economy, it is important to make the turn and thanked the Task Force members for their great work.

Commissioner Olson asked Ms. McKain what her business is.

Ms. McKain replied that she sells fashion jewelry at The Bracelet Bar, and her sister owns Serenity Stoneworks on Main Street.

Charles Huff, a Downtown resident, stated that he and his family came to Pleasanton in 1980 and bought their first house in Pleasanton Valley, and over the years when their children were raised and went off to college, they decided to move Downtown. He stated that they live about 275 feet higher than Main Street, so they hear everything, including the car shows at the Fairgrounds, I-580 and I-680 traffic, but they knew what we were getting into when they moved Downtown.

Mr. Huff stated that it is good to feel a part of the Downtown and that his family enjoys its vitality. He noted that back in the late 70's and early 80's, it was a little risky to go Downtown, which had about two or three restaurants and nothing else. He noted that the Downtown has really prospered quite a bit since because of the vitality being talked about tonight. He indicated that they are happy to be in the Downtown area, and part of that is because of the various restaurants that have moved in. He noted that they can hear bands playing, but it is just part of being here. He stated that they are not interested in discussing decibel levels because they know why they are living in the Downtown area and hope that people who have moved to the Downtown from other areas will tolerate that.

Christine Bourg stated that she was a member of the Task Force. She indicated that it was no secret that it seemed to be not necessarily equally divided among people who had business interests and those who were residents; however, all their meetings were very congenial, and opinions were listened to. She added that Ms. Ott did a good job of trying to explain things and giving the members enough time. She stated that she thinks there were concerns among the five people who voted "no" that were concerns about taking this too quickly too soon.

Ms. Bourg stated that she loves living Downtown, she likes all the activities although she thinks there are a lot of special events that are growing a little too fast, and she enjoys the Farmers' Market and being able to walk Downtown to wonderful restaurants.

Ms. Bourg stated that she supports more vitality Downtown but is concerned about the negative impact on residents who live Downtown in the Core Area as well as those who live in the surrounding neighborhoods, particularly that Transition Area on the west side.

She noted that a couple of speakers tonight came to several of the Task Force meetings, and one resident stated that the noise levels now can be too high. She encouraged the Commission to give consideration to those residents during its deliberation on the Guidelines.

Commissioner Pearce asked Ms. Bourg, as a Task Force member, what her impression was of the conversation regarding the decibel levels.

Ms. Bourg replied that it was impressive to know that they are logarithmic, which explains some of the issues they have with Friday night concerts. She stated that the presentation by the consultant was excellent; it gave them a lot of information and, any questions asked were answered. She indicated that she just thinks it is difficult because people want more vitality and want to get there too fast. She added that it's too bad that enforcement will be based on complaints, which has a negative sort of aspect to it. She indicated that she would prefer to try a little bit first, see how that works, and then go to the next level, rather than going there all at once and then having to draw back.

Chair Pentin asked Ms. Bourg, in connection with dBA, if "try a little bit" means raising the level from 70 dBA to 71 or 72 dBA as opposed to the suggestion to raise it from 70 to 74 dBA.

Ms. Bourg replied that it could be. She continued that one other concern she has is the late hour and adding Thursday night because just by walking Downtown, she knows a lot of families live down there, including school children, and Friday is still a workday for a lot of people. She indicated that she agreed with the speaker who said he did not mind anything happening indoors such as music, piano, or string, and that would be great for coming home late at night or after an event downtown.

Commissioner Blank disclosed that he served on a Task Force with Bonnie Krichbaum but that they did not discuss this subject and that he did not know Ms. Krichbaum was going to be at tonight's meeting.

Bonnie Krichbaum thanked everybody who worked on the Guidelines and made recommendations and stated that she thinks it is just so important to keep the conversation open at all times. She noted that the Guidelines have been referred to tonight as recommendations and inquired what that meant: Is this advisory? Is this legally binding? Is this even enforceable? She questioned the difference between "Guidelines" and "Policy," and what it means for enforcement.

Ms. Krichbaum expressed concerned about seven days a week because there are school children and working people who will be impacted. She noted that some of them are up at 5:30 in the morning and hearing a lot of noise or music until 11:00 p.m. at night is going to change their life. She also questioned why louder is more vital. She indicated that she believes a lot of the residents would want answers to the same questions. She noted that they all love and support the Downtown and that they all go Downtown all the time, but she is concerned about making a huge expansion of vitality.

Jon Harvey stated that he was a member of the Task Force and that he spent most of the time trying to get to a point where he understood the current or the initial conditions and what they were starting with, and then trying to understand and come to what are the set of parameters that they want to regulate. He indicated that he thinks the Task Force moved very quickly in agreement regarding “let’s define a line or a map so you know where you’re in and where you’re out” and “let’s define the hours of days where the sound levels apply.” He added that the members generally all agreed on that kind of framework for the Guidelines, with the differences being in the hours, the decibels, and the lines.

Mr. Harvey stated that he has one question that still needs some clarification: the table has the decibel listed from 10:00 p.m. to 6:00 a.m. at 60 dBA, but not from 6:00 a.m. to 10:00 p.m. With respect to the discussion around residential uses inside the Core Area, he indicated that it was his understanding that it does not matter what the use is, that whoever is within the Core Area is subject to the Core Area zoning guidelines, including those in a residential use next to or above or below a commercially zoned property in the Core Area, and the 74 dBA would apply to everyone. He continued that he thinks the number was defined as 60 dBA in sensitivity to the residential uses inside the Core Area so that after a certain point in the evening, those people who did choose to live in the commercially zoned area would get some reprieve.

Mr. Harvey stated that there was not a lot of discussion about this but that it is probably fair game for the Planning Commission to discuss this. He indicated that he disagreed with some of the speakers that the numbers cannot be lowered, that they opened a can of worms and everything is fair game, and that the Commission should strive to get to the best result. He stated that he does not know if the right number is 60 dBA or 70 dBA or somewhere in between, but that it ought to be noticeably less than whatever the number is before the 10:00 p.m. or the 11:00 p.m. threshold is hit, depending on the day of the week.

Mr. Harvey stated that he supports the recommendation of the Task Force. He added that he thinks the clarification made by the business community makes sense and are consistent with his understanding with the only exception of the decibel level after the 10:00 or 11:00 threshold was hit.

Janice Phalen stated that she is a member of the Economic Vitality Committee and is currently serving as Chair. She noted that it is a fairly large committee consisting of 23 residents. She stated that after the Task Force completed its work, the EVC felt that it should probably weigh in on something around Downtown vitality and come up with some recommendations. She indicated that the PDA did present its suggestions to the EVC, who voted unanimously to support the PDA. She added that the discussion was great and was very fast-paced, and the EVC really wanted to see vitality in the Downtown increased at this point.

Ms. Phalen stated that there was a lot of discussion between residents and businesses during the Task Force meetings, and her personal feeling is that businesses were probably not represented in a big enough way. She indicated that as a commercial real estate broker, she thinks that having fewer Conditional Use Permit processes would be really good as they are very expensive and time consuming. She noted that when she brings people Downtown to show them a property and tells them they will need a Conditional Use Permit, to hire an architect, and do some other things, she sometimes never hears back from them.

Ms. Phalen stated that she was also personally involved in the PDA process and that she thinks Pleasanton has to realize there is a lot of noise in town with trains, the Fair, traffic, and all kinds of other things as well. She added that she really does not see that the Downtown noise is all that much worse than a lot of those other things. She indicated that when she was going through those meetings, her impression was that the discussion was more around how to increase noise to the right kinds of levels rather than any discussion of too much decreasing of noise. She also indicated that she supports the choice of word "policy" because this is going to involve code changes and thinks that would give a kind of smaller backbone to whatever is finally decided on.

Mike Peele, member of the Pleasanton Downtown Association Board, stated that he moved to Pleasanton 40 years ago when he was a young man and his plans are to move to Second or Third Street sometime in the very near future. He indicated that his wife and he go out a lot and most of that time is spent in Livermore. He stated that two weeks ago, they went to Harry's Hofbrau in Livermore before going to the movies, and when they got out of the movie theater at around 8:55 p.m., they drove down First Street in Livermore and for about 5 or 6 blocks there was no parking space available. He added that all the restaurants were full and the outdoor dining was packed. He noted that it was very vibrant and the hospitality was great. He continued that they drove back to Pleasanton, went down Main Street, and half of the parking places were empty with the only vitality area being Alberto's and Tully's Coffee Shop.

Mr. Peel stated that he fully supports the Guidelines. He noted that he believes in less regulations and that he voted for the Guidelines because I think it was a fair and decent compromise.

Pamela Hardy-Alpert stated that she is serving on the Economic Vitality Committee along with Ms. Phalen and that she has also served on the Downtown Specific Plan and a few other committees where the Downtown was a considerable part of that discussion. She indicated that when the EVC looked at the Guidelines, the over-arching question they asked was, "Does this 'Policy' or 'Guidelines' contribute to the vitality of Pleasanton?" She noted that there are bits and pieces of the Guidelines that she maybe individually does not agree with, but taken on the whole, she believes the Guidelines is a balanced approach that sets the level of expectation for the Downtown area and gives the business owners, and to some extent the residents, some predictability and consistency. She indicated that this is a really great start and sets up

the EVC for its review of the strategic plan and the next big implementation step of attracting business to Pleasanton.

Ms. Hardy-Alpert stated that without sounding unconcerned to the residents who live there, the Downtown should not have such problems as noise and occasional nuisances and should also be recognized as the City's historic Downtown area. She stated that Pleasanton is Pleasanton, not Livermore, and not Dublin, but that it is hopping in Livermore cannot be denied. She noted that there is a shift personnel in Pleasanton that did not exist 30 years ago who want to have an opportunity to come Downtown like everybody else does. She stated that she thinks the Guidelines is a good approach to try and provide some solutions that is balanced between business owners and residents.

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

Chair Pentin called for a break at 8:51 p.m. and reconvened the meeting at 8:58 p.m.

Ms. Ott stated that she wanted to make two clarifications on questions the Commission raised this evening:

- First, with respect to Commissioner Pearce's question regarding the kinds of activities this Guidelines covers, special Downtown accessory entertainment uses refer to uses that are specific to Downtown hospitality, such as live entertainment, including music, poetry readings, standup comedy, performance, art, DJ music, dancing. These uses are in the Code amendments section, and then other activities and issue come under the purview of other City ordinances and codes.
- Second, relative to Commissioner Blank's question about residential units during the discussion about CEQA, CEQA considers readings over a period of time, whereas the Guidelines considers noise readings taken at a point source in a shorter window.

Commissioner Blank stated that the important thing here is that this is a workshop and not a formal hearing, and he knows that when this comes back for formal presentation, staff will do a great job ironing out all those concerns.

Commissioner Pearce noted that there were two Task Force members on the Commission and inquired if the Commission is amenable to having them say how they voted and why before the Commission goes through the questions. She indicated that this would give her more clarity and structure.

Commissioner Narum stated that she was one of the five "no" votes and that she voted no because she was not comfortable in the end with the Transition Area along Peters Avenue. She indicated that she supports vitality and that 90 percent of everything in the Guidelines is really good. She noted that there was a lot of give and take but that it also went both ways. She noted that one of the Commissioners asked earlier why even have

a Transition Area. She stated that she tended to think of the Transition Area as a buffer zone, and she felt there just was not enough of it, not just to mitigate the noise impacts, but also to create a little separation for the residents to keep out the cars, patrons leaving at 1:00 in the morning, and doors opening and closing.

Commissioner Blank asked Commissioner Narum if it was her view that the Transition Area on Peters Avenue was too narrow.

Commissioner Narum said yes. Referring to the map, she pointed out that the way the lines were drawn does make some sense, but down Peters Avenue, it is just the first row of property facing the street; but if two-in is considered all the way, it would take in a couple of buildings or properties where there are existing restaurants and businesses and other things that the Task Force is trying to encourage. She indicated that a little bit of gerrymandering would have to be done, which is a negative because a real estate agent who might be interested in selling a property would not easily know if it was in the Core Area or Transition Area, and police would not be able to easily figure out as well who is in violation or not. She stated that just at the time, she was not comfortable that there was not enough of a buffer zone there.

Chair Pentin stated that he voted yes and that he does not have a problem with the Transition Area. He indicated that he finds it interesting that one large part of the Transition Area at the end of Peters Avenue is the parking lot for Barone's Restaurant; the Barone's residence is in front but the parking lot is in the back, and there is a lot of car doors opening and closing at that hour. He noted that he would not know how to cherry-pick the buildings going along Peters Avenue, but he honestly thinks that even after this work is done, there will still be individual specific cases of one house across this street and one business across that street, and the Commission will review it one way or the other because it would have to get into all the dBAs. He stated that in trying to do the work of the Guidelines, the Task Force was as fair as it could have been. He indicated that he was happy to see the inclusion of Spring Street as he used to have a business on Spring Street and he knows those businesses want to be part of the Downtown and not in a quiet zone. He stated that it was a good process but there is still some work to do.

The Commission then considered the discussion points.

- *The boundary of the Downtown Hospitality Central Core Area, and whether or not it is appropriate.*

Commissioner Blank stated that the question does not include the Transition Area but that he would take about it anyway. He indicated that he thinks the Core seems like an appropriate work and that he was certain there was compromise and give-and-take all over this. He stated that he appreciates the comments made about the narrowness of the Transition Area on Peters Avenue. He acknowledged that it looks very narrow, but on the other hand, if that is the thread on the Alpaca sweater that pulls the whole thing apart, he did not think it is worth tugging at. He indicated that overall, he is fine with it.

Commissioner Pearce agreed that looking at where the restaurants and bars are and where the Core and Transition Areas are, it seems like a compromise. She indicated that she hears what Commissioner Narum is saying but struggles with whether anything better can be done on Peters Avenue as there are businesses on one side and residences on another. She stated that if she could figure out a way to do it better and create more of a buffer, she would, but that she suspects this is the best that can be done. She added that she agreed with Commissioner Blank.

Commissioner Olson stated that he was fine with this. He stated that as he listens to the discussion about noise, he was reminded that in the past, people who live right by the railroad tracks had approached the Commission and complained about noise from the railroad. He added that if that is a problem, those people should not have bought that home right next to the tracks. He noted that several speakers made the point that people who live in this area like it; they like the commotion, the energy, and the vitality, and that is why they chose to live here. He further noted that he can understand older people living here who say that it was not this way 20 years ago when they bought in; however, he would come down on the side of trying to improve the vitality here. He indicated that the Task Force did a good job on this and that he supports it.

Commissioner O'Connor stated that he agrees with what has been said regarding the Transition Zone. He indicated that he thinks it is a compromise, and coming into a second lot would include a few that come all the way to Main Street. He noted that he had an opposite concern because he wants to do this once and not have to be manipulating with these lots later. He stated that he has heard talk in the past about City Hall moving or expanding elsewhere or converting what is currently there, and he is looking at the big corner over by the library marked "City Hall," which looks like a huge buffer zone area that who knows what it might be 10 or 20 years from now and there is still that buffer zone on the opposite side of Old Bernal Avenue. He questioned why that whole corner part was made into a buffer zone and not part of the Core.

Chair Pentin replied that he does not remember the Task Force really concerning itself when it came to looking at the Transition and the Core Areas. He referred the question to Ms. Ott.

Ms. Ott replied that there was no discussion about that corner. She noted that if the theory that leaving one property along Old Bernal Avenue is followed as was done on Peters Avenue, that space marked "City Hall" would be a buffer zone. She indicated that it was not a significant conversation because nobody thought beyond having the City in that location.

Chair Pentin stated that he would imagine that if it came to a point in time where City Hall moved out of that space and it was rezoned high density, adding to the vitality, the guideline there would also be changed. He indicated that this would be something for the Commission to think about when the Guidelines come back.

Ms. Ott pointed out that by and large, moving along that edge between the Core Area and the Transition Area, particularly along the west/Peters Avenue side, the Task Force tried to follow property lines; however, in one or two instances, the property lines were split as in the back parking lot that runs behind Blue Agave and Fernando's as well as in the Bank of America lot.

- The proposed outdoor music hours (for outdoor music as a permitted accessory use), and if these are appropriate.

Commissioner O'Connor stated that he was fine with the hours.

Commissioner Olson inquired what the hours were and requested staff to restate them.

Ms. Ott put up the slide on the screen and indicated that the hours for outdoor music, is until 9:00 p.m. all days of the week in both the Central Core and in the Transition Area.

Commissioner Narum stated she was fine with it. She added that she thinks it is worth noting that, in her recollection, there was significant discussion about allowing it seven days a week in the Transition Area; the members took a couple of different votes and they were not unanimous but still the majority.

Ms. Ott noted that was her recollection as well.

Commissioner Olson indicated that he was fine with it.

Commissioner Blank stated he was fine with it.

Commissioner Pearce stated that she was fine with it but expressed concern about the seven days a week in terms of noise as opposed to music.

Commissioner Blank asked Commissioner Pearce if she would care if the noise is 60 dBA.

Commissioner Pearce said no.

Chair Pentin agreed with the Commissioners.

The next two bullet points were considered together.

- Should the proposed increase in the existing allowable noise levels for music and entertainment Downtown be reduced (for example, to limit potential noise at residential units within/near the proposed Downtown Hospitality Area)?
- If the proposed maximum noise level (74 dBA) **hours** should be further limited (to decrease the potential day/night noise level for residential units within/near the Downtown Hospitality Area).

Commissioner Olson stated that he does not think it should be a reduced noise level. He indicated that as he listens to this discussion, he thinks about Friday Night at the Park; he does not particularly enjoy that kind of music so he does not go to the Park. He added that like Mr. Huff, he lives a bit to the east and higher than the Downtown, so he can hear the music, but this is part of Pleasanton and he is fine with it.

Commissioner Narum asked if staff has checked and verified that outdoor music in the Transition Area on Peters Avenue would meet the 60 dBA level at the residential property across Peters Avenue.

Ms. Ott replied that staff does not have a specific answer tonight but that she would ask the noise consultant to verify that.

Commissioner Narum stated that for her, that is really the crux of the question. She added that if it is 70 dBA at the Transition Area but it is not 60 dBA across the street, then this would have to be revisited.

Commissioner O'Connor noted that both have to be met or it would be in violation.

Chair Pentin noted that it is property line to property line.

Commissioner Narum questioned if the 70 dBA, which is not unreasonable, resulting from somebody playing outside in the Transition Area can decrease in sound low enough to be 60 dBA across the street, which it is supposed to be at the property line.

Commissioner O'Connor stated that the way he reads it, it needs to be at 60 dBA across the street, and if that means it needs to be at 65 dBA at the property line, then that needs to be done to meet it.

Ms. Ott said that was correct. She added that the Task Force discussed that a business might not be able to meet that maximum threshold in the Transition Area in order to achieve the threshold that needs to be met at the residential property line.

Commissioner Narum stated that it seems to her that it is necessary to know what is attainable because there is no point in saying 70 dBA for outside music, for example, if it does not translate to 60 dBA across the street at the property line. She added that this is something the Commission needs to understand a little better when it comes back.

Commissioner Pearce agreed.

Commissioner O'Connor commented that on First Street, however, where there is quite a bit more depth in the Transition Area, this might be attainable; so now there would be Transition Area A or Transition Area B.

Ms. Ott stated that she does not have the answer right now. She indicated that some of it is locational depending upon where the source of the noise is coming from and where it is located on that property in the Transition Area, and so it may not be attainable for some but may actually be for others. She added that staff will try and specifically get an answer to that question.

Commissioner Pearce indicated that she is not sure if she has an opinion on noise right now and that she would like to have more information on it. She added that she agrees with Mr. Harvey that the Commission should be constrained to what the current Code says but she would be happy to look at anything and to understand dBA a little bit more, for example, what 60 dBA sounds like and how loud 70 dBA is. She indicated that she does not need to get super technical, but she would appreciate anything that will really help her understand what those kinds of decibel level look like.

Commissioner Blank agreed. He stated that it is always good to have a consultant, but the Commission needs to actually hear it. He added that the Commission also needs to be realistic about the Transition Area such that if the weather forecast says that it will be raining by noon tomorrow, it does not that it will be clear until 11:59 a.m. and then at noon the clouds roll in and the rain starts; there is a buffer in there and what they are saying is that it is going to be clear at least until noon, but it might be clear until 1:00 p.m. until the rain starts. He noted that the same thing is true with these buffers so the Commission needs to have a realistic perspective. He indicated that he does not know much about audio decibels, but he knows a lot about radio decibels, and based on that, he thinks that if it is 65 dBA on one side of the street and it is not a very large street, it would be 65 dBA or 64.5 dBA on the other side of the street. He noted that, as he mentioned earlier, if the Commission could have a recording and hear what 60 dBA, 70 dBA, and 74 dBA sound like, the Commission could compare those and can make at least an informed judgmental decision.

Commissioner O'Connor agreed with Commissioners Pearce and Blank. He indicated that he is fine with the hours and thinks they do not need to be reduced. He stated that it is all about the noise level and that his first inclination was that as the Code says 70 dBA, he is a little hesitant to go to 74 dBA because if he does not know what 70 dBA is, there would be no way for him to know what 74 dBA. He indicated that he does not know either what 60 dBA sounds like but he is fine with that because it has been on the books for quite a while. He agreed that it would be good if someone sat here with a meter and actually played that for the Commission.

Commissioner Blank stated that he would like to add on to something Commissioner O'Connor said. He indicated that the Commission talked about it, but it would also be helpful if staff could do some work or even talk to some Task Force members about sustainability. He stated that he is familiar with the B scale, but if the noise exceeds a certain limit for one minute in an hour, that could easily be registered high on the B scale. He questioned if that would count if the 59 minutes of that hour were dead silent. He pointed out that staff needs to figure out what constitutes a violation.

Commissioner Narum agreed.

Chair Pentin stated that he almost feels that the discussion about dBA is a difficult road to travel. He indicated that in his business, sound is actually more difficult to do than actual imagery and filming because sound finds its home; he can go onto a certain piece of property and try to conduct an interview and he could move 30 feet to the left or right and find it to be incredibly more quiet than where he was just a few minutes ago. He noted that there is not an invisible wall where these lines are set and it just says now it will stop being noisy. He added that even if there are six businesses that are at the same sound and six that are not across the street, there will be a variety of sounds in the residential zone. He indicated that he does not know if this can be solved by saying 60 dBA, 70 dBA, or 74 dBA, and he is hesitant to drop things down to 60 dBA from 70 dBA when there is the possibility of moving from 70 dBA to 74 dBA. He stated that in looking at it, he thinks it should be set on whatever the guidelines are, but it is still going to boil down to individual units with individual units. He noted that before Shoreline was opened, the promoters had done their sound testing, but when they opened it, there was a neighborhood a mile away that just got blasted with sound, and they just found out the way the sound baffled out of Shoreline went to this neighborhood. He stated that this would be a problem no matter how it is set up; but again, these are guidelines or policies, and even when this has been approved, there will be some instances that the Commission will have to deal with individually.

Chair Pentin continued that listening to 60 dBA or 70 dBA or 74 dBA in this room is a lot different than listening out at Wayside Park or in somebody's home on Peters Avenue.

- *The PDA Board of Directors' and EVC's recommendations.*

Chair Pentin stated that being on the Task Force, he does not recall the Task Force approving down to 60 dBA after 11:00 p.m., but he does remember that if later hours were allowed, the Task Force was concerned about how loud it was once it got to that later hour. He indicated that he is assuming the Task Force made that decision to go to 60 dBA, and he think that is too low; however, he thinks the Commission would have an answer to this when it deals with the sound requirements and receives some guidelines or policies from staff.

Commissioner O'Connor stated that he is fine with their recommendations and believes that it was never their intent to lower from the current standard. He added that 70 dBA is today's standard so he is fine with leaving it at 70 dBA, but again, he would like to hear what 70 dBA sounds like and get a better understanding of what it is.

Commissioners Olson and Blank agreed with Commissioner O'Connor.

Commissioner Pearce stated that she specifically has some concerns regarding changing the loitering issue to only after the close of business. She indicated that she does not want people loitering at all in front of some of these businesses because it can create a significant problem for residents, and she is concerned about limiting it to that

extent. She added that she thinks nobody should be encouraged to hang out in front of businesses unnecessarily.

Commissioner Blank agreed with Commissioner Pearce and added that he thinks the Commission talked about that paragraph earlier as being somewhat problematic.

Commissioner Pearce agreed and brought up Commissioner Blank's earlier comment that the language is also pretty loose in that the business owner is being held responsible for someone who hangs out in front of the building four hours after it was closed.

Commissioner O'Connor stated that it was mentioned earlier that sometimes it is good to have crowds as it creates vitality. He expressed concern about how "loitering" is defined and questioned if a crowd of people outside a business talking and getting ready to go to some other place would be considered loitering.

Commissioner Pearce referred to No. 7 and questioned if "a verifiable violation by enforcement staff" means the staff comes out with a decibel reading and says it is too loud and writes it down.

Commissioner Narum stated that she is a little uncomfortable with the way this is written as well. She indicated that she is not sure this is quite the language she would want to see here.

Commissioner Pearce agreed.

Ms. Ott stated that she conferred with Captain Craig Eicher from the Police Department, and Captain Eicher indicated that loitering is defined by the California Penal Code, and the challenge is that it is relatively unenforceable by communities because it is a Constitutional right.

Commissioner Blank questioned why the City would include something that cannot be enforced.

Chair Pentin commented that he thinks it is just part of the good neighbor policy, and the business owner would go outside and tell them that it would really be appreciated if they disperse and come back tomorrow so as not to bother the neighbors.

Commissioner Pearce commented that they can loiter; they just cannot be loud while they loiter.

Commissioner Narum stated that she is fine if they want to change it.

- Any other related item, as so desired by the Commission.

Commissioner Pearce stated that she would like to bring up two potential concerns that she has: the first is what Commissioner Blank brought up regarding the phrase “to the best of their ability” under the good neighbor policy on page 10 of the Guidelines. She questioned why it cannot just say “Post signage near exit doors....”

Chair Pentin stated that both Commissioner Narum and he did have that discussion about “shall” and “should” quite a bit.

Commissioner Blank stated that the problem with “to the best of your ability” is somebody coming in and saying that he has only have one employee and he cannot do it, but if he has two employees but he is really very busy so that is the best he can do. He indicated that the Commission has had situations where the business owners have been less than good stewards of the business, and he felt that “to the best of their ability” is saying “commercially reasonable efforts,” and nobody knows what that means.

Commissioner Narum stated that she recalls that the Task Force actually reviewed this late at night at the last meeting and discussed changes, but they did not meet again as a group to see the final draft. She indicated that she remembers they had some discussion about strengthening some of this language where “you will do this” so things are black and white.

Commissioner O’Connor agreed.

Commissioner Pearce stated that the second thing she wanted to talk about is the fifth item on page 19 of the Guidelines: “Event organizers should hire additional staff ... as deemed necessary by City review.” She indicated that she would like to have a conversation about “should” versus “shall” on that one, given the overarching concern expressed by the PDA consultant regarding safety. She added that she would like to honor that discussion and have a conversation about putting some teeth into that.

Commissioner O’Connor stated that he thinks “shall” or “will” should be used where possible in the policy because it could be an issue if a problem arises and staff have no teeth.

Commissioner Pearce stated that it is just that there is a recommendation to call these “Policy” instead of “Guidelines.”

Chair Pentin noted that he has seen the Commission change “should” to “shall” over and over where possible and stated that he believes that would happen when this comes back.

Chair Pentin asked Ms. Ott if staff have everything they need.

Ms. Ott said yes and thanked the Commission.

Commissioner Narum stated that there were a couple of speakers who asked questions and inquired if those have been addressed. She indicated that the Commission usually asks staff to respond so it is on the record.

Mr. Dolan stated that this document was just called "Guidelines" and it has evolved into something that could be called "Policy" or a number of things, but clearly the intent is that they are recommendations that will result in the adoption of new amendments to the zoning ordinance in some way and possibly some other ordinances, and they will be enforced as law once they are adopted.

Chair Pentin asked staff if they recall the other questions. He stated that he thought a lot of it got brought up and discussed but he does not specifically remember.

Ms. Ott replied that staff will look at their notes and the Minutes and will ensure that those questions that were not covered in tonight's meeting are addressed.

No action was taken.

## **7. MATTERS INITIATED BY COMMISSION MEMBERS**

### Code Enforcement for Police Officers

Commissioner Blank noted that a while back, the Commission talked about Code enforcement and the possibility of giving law enforcement access to documents, such as Conditional Use Permits terms and conditions of approvals, so they have a way of verifying whether something businesses or customers frequenting these businesses are doing outside of the City's business hours are allowed or not. He inquired if staff has had the opportunity to look at that.

Commissioner Narum stated that she actually brought it up when she rode with a Police Officer to Club Neo, and the Officer was talking about how they were finally scanning all these different use permits with different conditions and having them on the computer in the police car.

Commissioner Blank inquired if that has, in fact, happened with all the CUP's that the Commission has granted. He added that this was just a status question and that he does not need an answer tonight.

Mr. Dolan replied that he is not certain if that has been completed or not but that staff would look into it.

Commissioner Blank stated that he was going to request that this item be agendaized but inquired if staff could just get back to the Commission with a progress report. He noted that he believes this would be very helpful for Police Officers as they would be able to verify quickly whether something they think may be a violation is indeed one.

Commissioner O'Connor inquired if the Police can enforce the Code if the Code Enforcement Officer is not available, such as after work hours or on weekends.

Commissioner Blank stated that he does not know if the Police can enforce it, but they can document it.

Commissioner Narum stated that what actually happened was that when they were looking at some of the other similar types of uses, the Police Officer happened to know that one of them had a condition that they were not allowed to be serving out front and

that was going on when they drove by. She noted that the Officer got on the radio and had to ask somebody else to look it up.

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

No discussion was held or action taken.

### **a. Future Planning Calendar**

No discussion was held or action taken.

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

No discussion was held or action taken.

### **c. Actions of the Zoning Administrator**

No discussion was held or action taken.

### **d. Matters for Commission's Information**

There was a discussion among the Commissioners regarding the date for the next meeting of the Historic Preservation Task Force.

Mr. Dolan stated that the reason for rescheduling the October 18<sup>th</sup> meeting was because two members would not be able to attend on that date; however, there would also be two others who have a conflict on the alternative date, October 3<sup>rd</sup>. He indicated that the meeting would probably then remain as scheduled on October 18<sup>th</sup> but that he would consult with the project planner and get back to the Commission.

Commissioner Pearce stated that the East Pleasanton Specific Plan Task Force had a good meeting last week which involved riding around the East Pleasanton properties.

Commissioner Narum stated that what was really noteworthy about the whole tour was seeing the amount of land in the East Pleasanton Specific Plan area. She indicated that

when they drove out and stood on the property they could not even see the fire training tower.

Chair Pentin stated that the Bicycle, Pedestrian, and Trails Committee met and approved the trail renovation on Valley Avenue and Sunol Boulevard, moving it from next to Richert's Lumber on the other side of the creek. He indicated that this came before the Committee well over a year ago and will now be moving forward to the Parks and Recreation Commission. He added that the Committee also discussed the bicycle lane striping of Hopyard Road and had some questions regarding whether it adhered directly to the Pedestrian and Bicycle Master Plan and/or implemented the new bike elements. He noted that City Traffic Engineer, Mike Tassano, provided a good response and that the only thing the Committee would need is the ability to read and understand the engineering map of the street to see where the elements were actually going.

## **9. ADJOURNMENT**

Chair Pentin adjourned the Planning Commission meeting at 9:45 p.m.

Respectfully,

JANICE STERN  
Secretary