PLANNING COMMISSION MEETING MINUTES

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

APPROVED

Wednesday, December 11, 2013
(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 November 13, 2013, was called to order at 7:00 p.m. by Chair Pearce.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Chair Pearce.

1. ROLL CALL

Staff Members Present:	Brian Dolan, Director of Community Development; Janice Stern, Planning Manager; Julie Harryman, Assistant City Attorney; Steve Otto, Senior Planner; Marion Pavan, Associate Planner; Jennifer Wallis, Associate Planner; and Maria L. Hoey, Recording Secretary
Commissioners Present:	Commissioners Nancy Allen, Greg O'Connor, Arne Olson, Jennifer Pearce, Mark Posson, and Herb Ritter
Commissioners Absent:	None

2. APPROVAL OF MINUTES

a. November 13, 2013

Commissioner Posson requested that the second sentence of the first paragraph on page 14 be modified to read as follows: "He stated that ~~it~~ *if* that were done, he would highly recommend…."

Commissioner Posson further requested that the second sentence of the first paragraph on page 23, line three, be modified to read as follows: "He stated that the way he read this, there are two areas that go beyond the ~~Stage~~ *State* guidelines: (1) the 1942 date …."

Commissioner Ritter moved to approve the Minutes of the November 13, 2013 Meeting as amended.
Commissioner Olson seconded the motion.

ROLL CALL VOTE:

AYES:	**Commissioners Allen, O'Connor, Olson, Pearce, and Ritter**
NOES:	**None**
ABSTAIN:	**None**
RECUSED:	**None**
ABSENT:	**None**

The Minutes of the November 13, 2013 Meeting were approved as amended.

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

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

4. REVISIONS AND OMISSIONS TO THE AGENDA

After polling the audience regarding who were attending for Item 6.a., P13-2028, Anil and Divya Reddy, and for Item 6.b., P13-2389, Tim Bennett/Bennett Services Inc., Chair Pearce advised that Item 6.b. would be considered before Item 6.a.

5. CONSENT CALENDAR

Consent Calendar items are considered routine and will be enacted, approved, or adopted by one motion unless a request for removal for discussion or explanation is received from the Planning Commission or a member of the public by submitting a speaker card for that item.

There were no Consent Calendar items for consideration.

6. PUBLIC HEARINGS AND OTHER MATTERS

b. P13-2389, Tim Bennett/Bennett Services Inc.

Appeal of the Zoning Administrator's approval of an application for Sign Design Review to install an approximately one-foot six-inch tall by ten-foot long halo-illuminated wall-mounted sign for QASource located at 73 Ray Street. Zoning for the property is PUD-C-S/O/HDR (Planned Unit Development – Commercial Service/Office/High Density Residential) District.

Jennifer Wallis presented the staff report and briefly described the background, scope, and key elements of the proposal.

Commissioner Posson noted that Condition No. 43 states that no more than three tenant names may be placed on any proposed monument sign and inquired if this application is for a monument sign or for another additional signage.

Ms. Wallis replied that the proposal is for a single wall sign. She noted that since this building was constructed, there has only been one tenant, and, therefore, there is no monument sign on site.

Commissioner Ritter inquired if there are any other businesses in the area that have halo-illuminated signs.

Ms. Wallis replied that a bank on Main Street and a few others here and there have halo-illuminated signs, but there are none on Ray Street or in its direct vicinity.

Commissioner Ritter inquired if staff knows whether these businesses have certain hours that their halo-illuminated signs can be on and off.

Ms. Wallis replied that she did not know.

Chair Pearce inquired what the business hours of the applicant's business are.

Ms. Wallis replied that the business proposal states that it will be open from 8:00 a.m. to 6:00 p.m.

Commissioner O'Connor inquired if these are the hours that the sign will be lit.

Ms. Wallis said no; the approved hours for keeping the sign lit are from 6:00 a.m. to 7:00 p.m.

Commissioner Allen inquired what staff's thinking was for selecting those hours versus the business' hours of operation.

Ms. Wallis replied that staff determined that the lit sign would be needed only in the wintertime as it is still light until 9:00 p.m. in the summertime. She added that staff felt that an hour before and an hour after business hours would be sufficient for people coming to and from work in the morning and going home at night.

THE PUBLIC HEARING WAS OPENED.

Tim Bennett, applicant, stated that the only issue seems to be whether local residents are going to be affected from the lighting coming from the sign. He indicated that this building does not face directly onto any homes and that there is only one home affected, which is at 45 degrees to the face of the building. He showed some photographs, noting that when there are leaves on the trees, the front of the building will not be visible from the house. He added that the back of the same house faces onto the Southern Pacific Railroad easement, across from which is the gas station and mini-market currently under construction. He indicated that there would be a lot more noise and light coming from that direction than from the QASource side, and it would seem foolish and did not make sense to spend an extra $2,000 to light a sign and then turn it off when it gets dark. He stated that as he indicated in his letter of appeal, he felt the sign could stay on much later at night because the effect it will have on the local residents will be almost non-existent.

Mr. Bennett pointed out that QASource meets all of the requirements to have an illuminated sign and that from his point of view, it will not affect the local residents to any degree whatsoever. He indicated that he just cannot see that it is going to be a problem, particularly since there is a streetlight between this house and where the sign is going to be. He noted that the whole veranda of the building is lit at night, so it would not be like the building will suddenly have this dazzling light frontage. He added that it will also help the building identify itself.

Mr. Bennett stated that QASource is not just an 8:00 a.m.-5:00 p.m. business; tech people also come in to hold meetings in the evenings. He added that without some decent identification, the building is difficult to find driving up First Street or on Ray Street at night.

Mr. Bennett then distributed some photos taken the past month, noting that the most interesting is the picture taken on a ladder from the location where the sign would be, through the trees and towards the front of the only house from where the sign will be visible. He indicated that the trees are bare now, but they would have leaves seven to eight months of the year, and the sign will not be visible at all during that time. He added that the sign does not directly face the house and that only the edge of the sign will be visible from that property. He stated that he felt the neighbors are concerned that they will have a kind of 7-Eleven sign right across from their bedroom windows.

Mr. Bennett then demonstrated through a little LED sign he brought along what a halo LED-lit sign looks like. He explained that this was a set of letters from a sign they had as a display on a wall. He noted that this has a silver background and has red LEDs and white LEDs, but the proposed sign is all white and will go on a building painted flat beige.

Commissioner Olson inquired if the company is essentially a software company or a company that provides services to software companies.

Mr. Bennett said yes.

Commissioner Olson inquired how late into the evening the meetings go.

Rajeev Rai, property and business owner, stated that QASource is a software development services company that provides services to companies in the Silicon Valley. He indicated that the technology community here is not that vibrant in the evening, so his company is trying to create more eco-systems where he can hire people from this area and not from the Silicon Valley. He stated that the company volunteers its space and provide food and covered facilities for people who want to have meet-ups and talk about technology, thus providing an eco-system here where they can bring their business down to Pleasanton. He added that this is why they need to have the sign available at night.

Mr. Rai stated that they do not need to have the sign lit for 24 hours if that is a problem. He indicated that meetings typically take place at about 6:00 p.m.-10:00 p.m. or 11:00 p.m. He explained that it is very hard to find their building, and if it does not have a lit sign, there is no way for people to know where to go. He added that they do not need the sign during the day as they are not a retail business where people are coming in. He noted that it is during the evenings when the sign is really required and that it is a service they are providing to the City. He added that it is not something that they are going to earn from it; it is mostly so they can build an eco-system there as technology professionals.

Commissioner Olson asked Mr. Rai if 7:00 p.m. will work or if it should be 8:00 p.m.

Mr. Rai replied that their meetings start around 6:00 p.m. and, depending on the speakers, some people might come in at 8:00 p.m. or 9:00 p.m., and everybody shuts down at around 10:00 p.m. He added that these meetings do not occur every day but about three to four times a month, and when they are able to get a speaker about once a week, the meeting can start at 6:00 p.m. and end at around 10:00 p.m. or 11:00 p.m.

Commissioner Allen inquired if most of the attendees show up around 6:00 p.m. or 7:00 p.m. and then leave at the end.

Mr. Rai replied that because there are many topics – some talk about jobs, software development, or processes – and depending on when the original speaker is going to speak, the meetings can start at 7:00 p.m. and end at 9:00 p.m. He added that it is generally a two-hour topic.

Chair Pearce asked Mr. Rai how the people who meet at find the building now.

Mr. Rai replied that they do not, because they do not have any signs up. He indicated that some of them call him or his assistant for directions.

Commissioner Posson inquired why these tech folks are not using Google Map.

Mr. Rai replied that they can absolutely use Google Map. He indicated, however, that using Google Map will not help because while it will bring the people to the place, it will not tell them where to go once there, but the sign will. He added that the people will not be able to find the meeting place because the front door of the building is locked as everybody comes in through the back.

Commissioner O'Connor stated that he knows what a halo-illuminated sign is as he has seen a lot of them. He asked Mr. Rai if he has any readings of how bright the sign is or how many lumens it puts out. He noted that wattage does not say a lot because the sign is back-lit.

Mr. Bennett replied that there are different levels of LED's, and there is soft white and bright white. He noted that bright white is what is usually used in signs, but it is pretty subtle light and a lot less bright than neon. He indicated that he cannot tell exactly how many lumens the LED sign puts out but a good example would be the Safeway sign, which is halo-illuminated.

Commissioner O'Connor stated that the Commission acknowledges the concerns and would like to alleviate them. He presented a possible scenario, based on the different intensities the sign can have. He asked Mr. Rai, should the Commission approve to have the sign lit to a certain hour, and it was later determined that it was too bright or too intense and was disturbing to the neighbors, if he would be amenable to reducing the intensity of that light.

Mr. Rai said yes. He stated that they want to be a good steward of the community and does not want to bother anyone. He agreed that if the sign proves to be too bright, they will adjust the illumination. He reiterated that they do not need to have the light on 24 hours and that if somebody needs to go to bed and the sign is bothersome, they will turn the sign off; it would also save some electricity.

Mr. Bennett stated that another thing they could do, although it is not an ideal thing, is to install a 18-inch to 20-inch shield on the end of the building that projects out to cut off the complete view of that part of the building from the one particular house that is affected by the sign. He added that it is not the ideal situation because he does not think it is necessary but that it is something that could be done.

Chair Pearce inquired if they would be amenable to having the sign lit at night only when they have the meet-ups.

Mr. Rai replied that it will be on a timer so they do not forget to turn the sign on.

Chair Pearce noted that the applicant asked for the sign to be turned on at 6:00 a.m. but that it sounds like it is not really needed that early.

Mr. Rai replied that turning it on at 8:00 a.m. is fine and would not be a problem.

Robby Perkins stated that he is the owner of the house that the applicants are referring to, which his family bought six years ago. He disputed the applicant's argument that people cannot find the location if they did not have the lit sign. He indicated that this is actually the first time he has been to City Hall. He stated that he forgot his notification card and could not find the building, so he typed it onto his iPhone and it showed exactly where it was. He stated that he also disputes that the tree will cover this sign.

Mr. Perkins stated that he looks at this building every single day from his ten-year-old daughter's bedroom. He noted that she does not need to be awakened at 6:00 a.m. each morning when school does not start until 8:00 a.m., and that she goes to bed before 9:00 p.m. He added that that is another reason to not approve the sign going on Tessa Place, which is a strictly residential street, and that if they want a sign, they should put it on Ray Street, which is a commercial street. He asked what kind of rules are being established in Pleasanton that would allow someone to run a business and put up a sign across a daughter's bedroom. He pointed out that there are areas for businesses and that Tessa Place is not one of those areas. He indicated that they moved to Pleasanton because it values family and residences, and this is a residential area. He asked the Commission not to approve the sign.

Robin Piazza, Vice President of the Board of the Town Square of Pleasanton Homeowners Association (HOA), stated that she discussed this whole issue with the neighborhood and the Board and that she is here to act on behalf of their HOA Board. She indicated that she is opposed to the installation of this illuminated sign, noting that this building is located at 73 Ray Street, which is the front of the building. She also offered a correction that in the past eight years, there have been two other businesses that have been located there. She added that they both had signage which blended really well with the neighborhood and were never an issue. She added that one of the businesses dealt with handicapped and disabled people, and they had no problem finding the building whatsoever.

Ms. Piazza stated that the issue at hand is that a sign is being installed on a street that is 99 percent residential and 1 percent commercial. She pointed out that Ray Street has a really nice blend of residential and commercial buildings, and there are no illuminated signs all the way from Sunol Boulevard, First Street, Ray Street to Main Street. She noted that all existing signage blend quite well and create this character and ambience that no illumination would achieve. She agreed that the only illuminated signs she has been able to find is the Bank of America sign, and 73 Ray Street is not a bank; it is not a Safeway Store either.

Ms. Piazza stated that in 1997 when this development was first created, it was clearly stated that the office building was to be kept in the character of the neighborhood. She noted that Condition No. 26 of Ordinance No. 1723, Exhibit D of the staff report, even talks about the keeping, wearing, and blending with the landscaping, and Condition No. 30 talks about the color schemes of this whole development, as the whole idea was to have this development blend seamlessly. She stated that Tessa Place is primarily a residential

street and that the sign should be placed on Ray Street, which is a business street. She indicated that Tessa Place is the street that brings them home. She asked the Commissioners to consider how good they would feel when they round the corner to their homes, and then to imagine running to the corner to your house to find an illuminated sign. She indicated that it changes the dynamic of a residential street.

Ms. Piazza stated that she has no problem with signage but with its illumination. She added that she talked with the two previous owners, who indicated that nobody has had a problem finding this building before and that they never felt it necessary to have a sign larger than what they had. She noted that their signs were always very tasteful and that the neighbors always had great relationships with them.

With respect to the hours, Ms. Piazza stated that while the hours of operation are from 8:00 a.m. to 6:00 p.m., she has never seen anybody there before 9:00 a.m. She added that it is not just one house that is affected and that this building is visible from three houses in the neighboring development, that she can see it from her master bathroom and from her hallway, and that it is visible from two bedrooms of her next-door neighbor.

Ms. Piazza noted that Mr. Bennett's statement in his appeal letter that the sign should be allowed to remain illuminated because of the upgrades to the gas station and shopping area are really comparing apples and oranges. She stated that the gas station and shopping area are located on First Street, which is not a residential street. She added that there is one office building, and the owner chooses not to use its Ray Street front entrance, which has a lobby and double doors, but the back side of the building on Tessa Place, which is primarily a residential street. She noted that the door the business is using is within 25 feet of the children's playground, and the sign itself is about 42 feet from the backyard of a residence. She stated that the residents of that home will be seeing that sign in the summertime when they are in the backyard, and this just does not seem appropriate for a residential area.

Ms. Piazza stated that she went to Bennett Signs and actually talked to a woman there about the kind of sign proposed for the building so she could see what it really was before she decided to move forward because she wanted to be reasonable. She noted that she was actually told that this was not an appropriate sign for a residential street and that someone must have made a mistake. She indicated that the past weekend, she also talked to a real estate agent who was listing a house in their development, and the agent said that the sign could absolutely have a negative impact on the property values of the houses in the development, especially for these three houses, as an illuminated sign would change the complete ambience of this small little development that is very quiet and very private.

Ms. Piazza stated that basically, her position is that this is a cosmetic design for an outsourcing business, which she is not aware of although she walks by there every night. She indicated that the residents and the family values should be considered here and the need for illumination just does not seem necessary. She thanked the Commissioners for their time and asked them to think about this as if it were their street on their way home.

Based on Ms. Piazza's statement that there were three or more homes that could see the sign, Commissioner O'Connor indicated that he drove through the development and regardless of whether or not there are leaves on the tree, he did not see any other house besides the first one on that street that could see the sign at a certain angle.

Ms. Piazza replied that she lives in one of those houses and that she can guarantee that she can see the sign. She added that she would be happy to show Commissioner O'Connor photos that she can see the sign from her master bathroom and her upstairs gallery, and that the front bedroom of the house to her right looks right out over there. She noted that the angle is odd but that it the sign were illuminated, they would certainly see it.

Commissioner O'Connor asked Ms. Piazza to identify those homes on the site map.

Ms. Piazza stated that the street is like a big through-driveway with three houses tucked right in there in a semi-circle. She pointed out the three houses from where the building is visible and would be directly affected by an illuminated sign. She reiterated that there have always been signs on the businesses in that building, and they were never a problem as they always fit within the architecture and design of the neighborhood; but she is concerned that the proposed illuminated sign would negatively impact their property resale value as that does not fit within the design of their neighborhood.

Referring to Ms. Piazza's statement that she went to Bennett Signs to investigate what halo-lit signs look like, Mr. Bennett stated that she went into the wrong Bennett Signs shop and was actually told to come down to his shop, but she said she did not need to and asked that she be given all the information she needed. He explained that that shop belonged to his ex-wife, who later shared that information with him. He added that he then checked if anyone had been to his shop to see a sample of a halo-illuminated sign, and no one did.

Mr. Bennett stated that he does not think that more than one house can see the face of that building. He noted that he has been down numerous times, and he has been on ladders where the sign is actually going to go. He added that the pictures also show it, and those pictures show pretty well that the sign will not be visible from the other properties. He disputed that having an illuminated versus a non-illuminated sign would have any effect on property values whatsoever and that it was a misleading viewpoint. He indicated that other than that, he believes that the zoning is in favor of the sign, that they are entitled to the sign, and that the sign has been approved with these timing limitations. He added that he thinks they should get the illuminated sign and that it should be able to stay on at least until 11:00 p.m.

Mr. Rai added that the building actually has two entrances: one on Ray Street and one on Tessa Place. He noted that Ray Street has no parking, and people who come in would have to make a right onto Tessa Place, park their car, and then go around to find where the building is. He added that that is why they closed that entrance and do not use it, as opposed to entering through the doors where the parking is, and which is where they need

the sign. He stated that before they bought the building, there were already signs on both the Ray Street and the Tessa Place sides. He further stated that he definitely understands the concerns and that they are willing to compromise by turning the sign on later in the morning at 8:00 a.m. or 9:00 a.m., but they need to keep it on later in the evening so people can find the building.

THE PUBLIC HEARING WAS CLOSED.

Commissioner Allen inquired if it would be possible to have an illuminated sign on the Ray Street side and just a basic sign where the illuminated sign is being proposed, with the understanding that the applicant inform the folks who come later to look for the illuminated sign on Ray Street.

Chair Pearce advised that she would re-open the public hearing and let the applicant answer that question.

THE PUBLIC HEARING WAS RE-OPENED.

Mr. Rai replied that it would be possible; however, people coming from the freeway are coming in down First Street, make a left onto Ray Street, and then look for parking; but the parking is past the door, and the next place they can make a right onto is Tessa Place, where there is parking and where the building is. He indicated that that is the reason they need a sign because, otherwise, people would drive through to Main Street, which has a lot of traffic.

THE PUBLIC HEARING WAS CLOSED.

Commissioner Ritter inquired if the gas station across the street on First Street has any illuminated signs, and if so, did staff get any concerns from neighbors when the lights were on.

Ms. Stern replied that staff did get a number of concerns, but the gas station has been there for many years, and the new addition was for the convenience store.

Commissioner O'Connor inquired if there was any illumination from that gas station that was going directly into the windows or shining directly towards the residential units.

Ms. Stern replied that the canopy was illuminated and was probably visible a couple of hundred feet away from it. She noted that it was visible and faces a different set of windows.

Commissioner O'Connor inquired if the canopy was illuminated on all four sides.

Ms. Stern said yes, but the light is under the canopy so it is not visible.

Commissioner O'Connor noted that the commercial building and the residential portion were all built together, so everyone knew there was going to be a commercial building there. He asked staff for a history of the actual zoning and requested verification from what he believed he heard that there has never been any lighting on this building other than possibly on Ray Street where there has never been illuminated lighting.

Ms. Wallis replied that the records show that there have been signs on both Ray Street and Tessa Place but that none of them have ever been illuminated. She added that a previous sign was approved in 2006 for non-illuminated letters mounted to the building.

Commissioner O'Connor asked if there were no illuminated signs even though the zoning allows for illuminated signage.

Ms. Wallis said yes. She added that the sign was for real estate services, so it may or may not have had customers; but the application did not request illumination.

Commissioner Olson inquired if there was enough ambient light in the area to be able to see at night a sign on that building that is reasonably bright but not backlit.

Commissioner O'Connor noted that was a good question and asked how much light is in that area.

Ms. Wallis replied that the entire veranda of the commercial building is lit at night with recessed lighting, but there currently is no lighting in the area that they are looking at.

Commissioner O'Connor inquired if there is parking lot lighting or street lighting.

Ms. Wallis replied that there is residential street lighting.

Commissioner O'Connor believed there was also a pole in front of the commercial building and another to the right side when coming into the neighborhood.

Ms. Wallis said yes.

Commissioner O'Connor noted that there is a lot of light in this area with two streetlights within or surrounding this building and the veranda lighting that is already on the building. He asked how much extra light is going to come from this sign, considering that the neighbors have indicated that they do not want to be awakened by the light. He inquired if the street lights go off at a certain hour.

Ms. Wallis replied that they are on all night.

Chair Pearce inquired if there has not been a sign here at all to date for this business.

Ms. Wallis replied that the previous business had a sign, but QASource has none.

Chair Pearce noted that having no sign to date could explain why it is so challenging to find the building.

Commissioner O'Connor commented that if the sign goes up, whether or not it is brighter than the lights that are already there, he does not know how bothersome it could be. He stated that he knows how signage is very important commercially, how establishing a name establishes an identity; and they want to bring in more customers.

Chair Pearce stated that there is this juxtaposition between the commercial and residential neighborhoods which the Commission deals with all the time Downtown and that she would be more inclined to approve an illuminated sign if it had been shown that a non-illuminated sign was not working.

Commissioner Ritter noted that the area is already zoned to allow illuminated signs. He stated that he is not comfortable telling an applicant that he cannot have an illuminated sign if the City has zoned it that way. He agreed with Commissioner O'Connor on the brightness of the sign, which would be a concern.

Commissioner O'Connor stated that there certainly are also other types of illuminated signs that are a lot more egregious, such as channel letters as opposed to a back-lit or halo-lit. He noted, however, that if the concern is having this huge brightness and the applicants are willing to work with the residents and tone it down, the Commission can control that through its conditions such as by putting in different sized bulbs or a limit on the lumens.

Chair Pearce noted that the shield the applicant spoke about was an interesting idea too and asked if that is something that had been discussed with staff previously.

Ms. Wallis said no.

Commissioner O'Connor stated that it is an option that could be added, or toning down the brightness of the sign if indeed it was really bothersome or really too bright. He indicated that this is something the Commission could leave up to Planning staff to manage or bring back to the Commission. He added that if the Commission were to approve this, one modification he was looking at was the hours of operation. He noted that if they do not need it early in the morning, he would propose to move it up to 9:00 a.m. to about 9:00 p.m. or 10:00 p.m.

Commissioner O'Connor moved to deny the appeal, thereby upholding the Zoning Administrator's approval of Case P13-2389, with a modification of the hours that the sign would be lit from 6:00 a.m.-7:00 p.m. to 9:00 a.m.-10:00 p.m. and with the addition of a condition that if the intensity is bothersome to the neighbors, the application will return to the Planning Division for review, and if there is disagreement between the applicant and the Planning Division, the application would return to the Planning Commission.
Commissioner Ritter seconded the motion.

Commissioner Allen inquired if the shield should be added.

Commission O'Connor replied that if there is a problem or if the sign for some reason was so bright, Mr. Dolan or Planning staff would determine whether or not the shield or less intense lighting or wattage would be necessary.

Chair Pearce asked Mr. Dolan if he is comfortable with that.

Mr. Dolan said yes.

Chair Pearce stated that it feels like a good compromise. She added that she wants to make sure that the Commission is sensitive to the neighbors' concern and can mitigate them while understanding that this is a commercial building.

Mr. Dolan added that it includes the understanding that if Planning ends up having a disagreement about how dim it needs to be, staff will bring it back to the Commission.

Chair Pearce stated that was correct. She indicated that she understands this is a sensitive area and a neighborhood concern, that it is a commercial building adjacent to a residential neighborhood. She emphasized that the Commission definitely does not want to throw this back and walk away; it would like to be involved if and when it needs to be.

Commissioner O'Connor noted that this area has been zoned and all built at the same time and that there should have been some understanding that with commercial building, things change over time, tenants change, and what they are requesting could also change. He added that with he also understands the sensitivity of the neighborhood and wants to do what the Commission can, and it sounds like the applicant is willing to do that as well.

Chair Pearce stated that she wants to be clear to the neighbors present, especially the man whose daughter is closest to this – noting that she also has a ten-year-old who goes to bed at 9:00 p.m. – that if this sign goes up and it turns out that it is really bright and the neighbors have a concern, they should make sure and talk to Planning staff because this is important to the Commission.

ROLL CALL VOTE:

AYES: Commissioners Allen, O'Connor, Olson, Pearce, and Ritter
NOES: None
ABSTAIN: None
RECUSED: None
ABSENT: None

Resolution No. PC-2013-55 denying the appeal, thereby upholding the Zoning Administrator's decision, was entered and adopted as motioned.

a. **<u>P13-2028, Anil and Divya Reddy</u>**
Application for Design Review approval to evaluate the conformance of an existing single-family residence in the Ruby Hill Development to the Ruby Hill Architectural Design Guidelines. The property is located at 3737 West Ruby Hill Drive and is zoned PUD-A/OS/LDR (Planned Unit Development – Agriculture/Open Space/Low Density Residential) District.

Marion Pavan presented the staff report and described the scope, layout, and key elements of the application.

Commissioner Posson inquired if a similar matter has ever come before the Commission where the Ruby Hill Architectural Design Guidelines (RHADG) have been questioned and the Commission reviewed them upon appeal.

Mr. Pavan said no.

Commissioner Ritter noted that he believes there had been some conversation earlier about this, but for the record, he inquired if the Ruby Hill Architectural Design Guidelines had been approved by the City.

Mr. Pavan said yes. He indicated that the first edition was approved in 1992 by the City's then Design Review Board; two modifications were later made, and because the Design Review Board had been dissolved by then, both modifications were approved at the staff level and signed off by the Associate Planner assigned to the Ruby Hill project.

Commissioner Ritter inquired if it was updated in January of 2000.

Mr. Pavan replied that one modification was done in 1995, and the second was done in 2000, which is as it is written now.

Commissioner O'Connor requested a clarification regarding the garage doors that staff's recommendation is that the glass doors be replaced with wooden doors that would match the other two garage doors.

Mr. Pavan replied that was correct.

Commissioner O'Connor inquired if the Ruby Hill Architectural Design Committee (RHADC) approved the glass doors that are there.

Mr. Pavan replied that the RHADC did not. He noted that page 4 of Exhibit B of the staff report shows the elevation of Garage #1 facing West Ruby Hill Drive, with rectangular garage doors matching the photo that provided to the Commission of the elevation of Garage #2. He indicated that what was approved were solid wood doors, which were replaced with these arched door openings with glass and iron doors and which, according to the RHADC, it never reviewed or approved.

Commissioner Allen stated that there appears to be a discrepancy between the plan on Sheet 1 of Exhibit B, which describes the front doors as iron doors, and the side-by-side comparison document which described them as wood.

Mr. Pavan replied that he is deferring to Mr. Terry Townsend to answer this question as he did the peer review of this project.

THE PUBLIC HEARING WAS OPENED.

Anil Reddy, together with his wife, Divya Reddy, applicants, stated that what is before the Commission tonight is not really about the colors of the house or whether they can have iron doors in the garage, but about their rights to having a custom home that meets the rules and the guidelines, the same rules and guidelines that have been allowed for 840 other homeowners who have built very elaborate, beautiful custom homes throughout the Ruby Hill community. He continued that it is not about opinions or personal taste or anything like that but is a simple case of having to do with what the rules and guidelines allow and also along the lines of the precedent set by existing homes that are already there. He indicated that they feel they should not be discriminated against in any way, that there is precedence, and that all the guidelines that have been applied throughout the community so far must be applied towards them. He stated that this is not about a character reference or a character attack, and added that there has been an orchestrated campaign by the Homeowners Association (HOA) in the last couple of months that have initiated the atmosphere, which is why it is even more important why the City needs to mediate and settle the matter as soon as possible in order not to have these prejudices and intolerances continue within the community.

Mr. Reddy stated that they initially wanted to build a custom home, and after their travels in Spain, where they fell in love with Spanish architecture in the region of Andalusia, the colors, the doors, the features there really caught their attention, and they set out to do that. He stated that they looked at various communities where they could build, and they looked at Ruby Hill in Pleasanton where his brother also lives and loved it. He indicated that they looked at the guidelines to see if it was possible to do what they wanted, and the guidelines not only allowed their Spanish-style home, but actually seemed to welcome it because of the close connection between the histories of Spain and California. He noted that the guidelines met the criteria for the traditional style from the Andalusia region in Spain, and the guidelines go further and warn the RHADC not to restrict the original creativity to dictate terms like “ornate” or “sound design” or “good taste” and to allow for special site considerations for Lot A, which is one of the most undesirable lot and one of the last lots to be built on due to the existing 100-foot wide and 50-foot high water tank right behind the lot, and they wanted to take advantage of that with some mini-features in the background.

Mr. Reddy stated that with that in mind, they set out to design the house, and within two weeks from the purchase of the lot, they came up with a concept that was used in stage one of the design review process with Terry Townsend, clearly showing the Andalusian features from southern Spain with arched doors, detailed columns, and so on. He indicated

that the home was completely designed by them, based on their travels to Spain, not by any professional architects, and they just used an out-of-state draftsman to draw the plans to code. He noted that it was absolutely a Spanish-style home from Andalusia, not a Monterey-style home from Monterey, Mexico, as part of the approvals they were promised in the approval letter and the guidelines and peer review inspections which were done and for which they paid a steep fee. He further noted that there were bi-weekly drive-by's, and on-site monitoring and inspections were conducted. He stated that he has seen and met with Terry Townsend numerous times as he drove by and stopped by their lot, and they talked about various things on the project.

Mr. Reddy stated that no objection was ever raised on any aspect of the home; not a single email was sent, not a single word regarding the 49 items that were mentioned after the construction was completed, saying, why we put that white on the house or the iron door or any of those 49 items, until after the house was completed. He displayed the permit plan and the as-built plan to show that there were not a lot of changes to the house as alleged; they did not build an entirely new home, and any modifications or the slightest aesthetic modification were not structural: no walls were changed or moved or added; they were very simple modifications including the front-facing garage doors which were done to be more in keeping with the guidelines that prefer garage doors not facing the street.

Mr. Reddy stated that the home was built with approvals, including verbal approvals because that was the operating procedure, despite what was written on the approval letter and the requirement for approvals for everything. He stated that over 100 different materials were used throughout the project, and they do not have an original approval for a single one. He noted that it has come down to seven items, all of which were discussed on site at the start of the project itself because the vision of their home was so clear from day one, and they wanted to use these features. He added that there were some things that were not shown, and those things were discussed on site as the project went along without any objection.

Mr. Reddy then went to discuss the seven items.

1. *The heights of the constructed columns flanking the entrance to the auto court and the light fixtures on top of the columns do not comply with the RHADC approval.*

   Due to contractor errors, the two columns on the auto court ended up being a few inches taller. They sit next to really big walls, and RHADC really used this to disapprove a previously approved motor gate that is on the permit plans. Nearly two years after the permit plans, they claim historically they have uncompromisingly denied these gates.

2. *The bright white color applied to the front and side building elevations and the number of colors applied to the rear building elevations do not comply with the RHADG.*

   Similarly as the staff report notes, numerous homes are white stucco and currently exist in Ruby Hill and have been allowed to exist by the RHADC for many, many years now;

yet the RHADC claims these were applied without approvals, just as with the motor gates, but they failed to enforce this restriction as they are seen on other homes, but they wanted to enforce it on this home. The question is, why discriminate against them since this was a fundamental color for their home from the very start. There are some other white stucco homes throughout the community, very beautiful homes, custom homes, and homes that are bigger than their home in some cases, and these have been allowed with different shades of white as different manufacturers have different tones of white. The La Habra product ,which has a warmer tone and was mentioned in the approved plans, was what was used. There is a large precedent for white within the community. Regarding the allegation that the rear stucco colors are pastels, these are not pastels but are from the La Habra stucco traditional Mediterranean colors.

3. *A two-car garage was finished as a room with marble floors and ornate glass garage doors facing West Ruby Hill Drive in place of the solid doors shown on the building permit plans.*

   There is no restriction in the guidelines against the use of iron or metal or steel on a garage door. The only restriction is glazing or glass, and that is something they cannot understand, despite the precedent. These are beautiful doors, expensive doors, elaborate doors that are actually more in keeping with the guidelines which want garages to disappear as much as possible from the street view; but they are willing to replace it with solid sheet metal and match the color with the body of the door. Putting a tile floor in a garage does not change that to a living area; it actually remains a garage space.

4. *The ornate design of the glass entrance doors on the front building elevation facing West Ruby Hill Drive.*

   There are numerous, beautiful front entry iron doors throughout the community and there is nothing objectionable to the doors relative to all the other iron doors out in the community.

5. *Grading encroachments and drainage issues at neighboring properties.*

   This is an unfortunate allegation where they apparently fabricated an encroachment three feet into the property, and that is disproved through a surveyor. They are willing to hire a civil engineer to do it again, but unfortunately, that is a moving target and now the allegation has shifted to the removal of an existing berm there and grading over it. The property line does not appear to be in question here, and as the surveyor states, a pre-construction photo of an empty lot before they purchased the lot clearly shows that absolutely not a single berm existed there.

6. *The height of the rear yard gazebo and the design of the gazebo's canopy.*

   The gazebo is in the guidelines, which does not really reject a gazebo of this kind.

7. *The design of the capitals on the front and rear building columns.*

   Columns exist throughout the community, as do a lot of ornate custom features, including the motor gate.

In conclusion, Mr. Reddy urged and requested the Commission to select Option 3 so they can keep their home as built. He stated that it is a beautiful Spanish-style home that meets the guidelines and the letter of intent of the guidelines in the community overall, and meets the existing precedent of 840 homes that are very, very different from one another. He indicated that all of the materials used were absolutely done with approvals, verbal approvals, on-site approvals, with the knowledge during inspections. He further indicated that they would never apply this level of materials without approvals, verbal approvals done with the full knowledge of the RHADC. He stated that, in the end, the bottom line is that the house adds aesthetic value to the neighborhood and adds to the property values of the community, which is really what the guidelines are trying to achieve.

Mr. Reddy stated that in addition to Option 3, they are agreeable to certain conditions on them such as the removal of glazing and garage doors. He noted that the metal doors are basically nice sheet metal and are not prohibited as such, and if glazing were a prohibited item, they would not have done that. He indicated that everything will blend and be just as beautiful, with the arched door, replacing wood with metal, it would still be an arched door once the square goes to the right, but they would like to keep the metal doors with the glazing removed.

Mr. Reddy stated that they will work with the City to install a metal gazebo top that is less ornate, and they are willing to work with a civil engineer and the City Engineer with respect to the berm. He added that it is their understanding that the cash deposit currently with the City could be used towards changes that may need to be made, and they would like to continue to work with City Planning for design review approvals and not with the RHADC. He noted that both the RHADC and they approached City Planning, and they would like to continue this to the finished process because given everything surrounding them and this issue, they do not believe they will get a fair shake with the RHADC. He added that he would likewise want the Building Division to continue doing the inspections and bring this matter to conclusion very soon.

Commissioner O'Connor stated that he went out and took a look at the house, and he noticed that the left front corner at the front of the home is of a different color. He inquired if it is also a different material, if it is a stone or actually a faux stone done out of the stucco.

Mr. Reddy replied the trim is actually powder limestone applied with the La Habra Hacienda color, which is the beige tone that they were trying to achieve as seen in the pictures. He explained that the same ratio of limestone powder to the percentage of the color are applied and maintained, but depending on the time of the year and how the weather conditions are and how they are applied, sometimes there are natural variations on how the colors get absorbed, anywhere from a light beige to a medium beige.

Commissioner O'Connor inquired if that color is embedded in the powder and is not a paint.

Mr. Reddy replied that is correct. He added that likewise, the stucco is a laborious, hand-applied smooth finish that is troweled twice to achieve that marbleized texture to it with the color already built into it. He noted that they used the only white stucco that was available from La Habra.

Commissioner Ritter asked Mr. Reddy if he has ever been part of a homeowners association.

Mr. Reddy said yes, and very much so. He stated that it is good to have a homeowners association to keep the harmony of the neighborhood. He indicated that when they were building their home, they lived for five years with a homeowners association, and he would attend the board meetings. He noted that he was always civic minded and would go in on principle and raise some objections and get into trouble, but he understands the restrictions of homeowner associations.

Commissioner O'Connor noted that he heard Mr. Reddy say that the garage with the glass garage doors is not a living space. He asked Mr. Reddy if he is proposing to continue using that space as a garage.

Mr. Reddy said yes, that it is absolutely not a living space and was never meant to be a living space. He stated that they were designed and built with construction materials that are fire retardant and had a tile floor, but the room itself has not changed.

Terry Townsend stated that he is the consulting architect on the Ruby Hill Architectural Design Committee, which he will be referring to as the ADC. He distributed a packet of documents to the Commissioners, including the following prepared statement that he read into the record:

> *"I have been a licensed architect for 26 years, with 35 years of experience in the field. Each owner, when they purchase a lot or buy a home in Ruby Hill, agree to follow the CC&R's and the Architectural Design Guidelines. To date, 833 homes have been built by owners who have agreed to follow the rules; that is, until the Reddys chose to take a different path.*
>
> *"Like many other communities within Pleasanton, Ruby Hill has a set of Architectural and Landscape Guidelines and procedures that must be followed. Unlike other communities, the City has delegated compliance authority to the ADC. Any new construction must be submitted, reviewed, and approved by the ADC prior to construction. These procedures and guidelines are in place to maintain uncompromising standards of architectural and landscape quality for the community as a whole and have worked for over 800 homeowners.*

"The CC&R's and Design Guidelines prohibit any owner from building a home or other improvement that does not comply with the Final approved Design drawings without the prior written approval of the ADC.

"During the Reddys Predesign Conference, Mr. Reddy shared sketches and photos that he claimed were inspired by Spain. The ADC did not approve this concept and informed Mr. Reddy that his proposed architectural style 'Moorish/Andalusian' was not consistent with any of the approved styles outlined in the Architectural Guidelines. Mr. Reddy became uncontrollably upset at the Predesign Conference, started yelling obscenities at the Committee and the meeting had to be terminated.

"The Reddys submitted a final design that conformed to the Monterey/Spanish Eclectic style. For this reason, the ADC approved their Final Design and authorized the Reddys to begin construction on June 30, 2010. Their approval letter clearly stated that colors and materials and landscaping had not been approved at that time. The letter also stated that any deviations or modifications first must receive written approval from the ADC. This is a standard letter sent to all owners in Ruby Hill.

"On March 6, 2012, the Reddys notified the ADC that they had completed construction and wanted a final inspection. At no point from June 30, 2010 through March 6, 2012 did the Reddys seek or receive any required written approvals from the ADC for any deviations to their approved plans.

"On March 18, 2012, on behalf of the ADC, I performed an inspection of the Reddys' residence. Upon inspection I discovered the Reddys violated the Design Guidelines and the CC&R's by not obtaining prior written approval to significant changes from the Final Approved Design. The ADC noted 49 items that needed to be corrected to conform to the Final Approved Design. Of those 49 items, the ADC granted variances on several items to accommodate the Reddys. This is consistent how we the ADC treats all owners, with a view toward assisting the Reddys in obtaining their final letter of approval. For example, in working with the Reddys, we granted a height variance for the building because it exceeded the maximum height at Ruby Hill. I can further discuss other variances that were granted during the process.

"There are eight outstanding items, not seven as identified in the Staff Report, where the Reddys chose to build something that was not on a final approved plans, were not built with the ADC's approval, would not have been approved if they had been submitted for approval, and violate the Design Guidelines. Staff has identified four items that are subject to further ADC review.

"The remaining four items not only violate the Design Guidelines, but should be subject to further ADC as well to ensure compliance. These include column heights at the auto court, the entrance doors, the building columns, and the rear garage doors.

"Due to time constraints, I would like to cover two of the items Staff disagreed with the ADC and would be happy to discuss the remaining two in the question and answer forum.

- *Entrance doors – the plans that the ADC approved specified three doors void of any iron work. We did so because of the Monterey/Spanish Eclectic style is not overly ornate and would include simplistic detailing throughout. It was our impression that the door was to be wood framed with a glass insert. The Reddys never followed up with the submittals for colors and materials, which would have included their front doors, until after the fact.*

At this point, Chair Pearce requested Mr. Townsend to wrap up his testimony.

Mr. Townsend proceeded to conclude his statement as follows:

"The Reddys have consistently failed to receive the necessary approvals for changes to the approved plans. Had they built the home approved by the ADC on June 30, 2010, we would not be here. However, the Reddys significantly altered the house during construction from a Monterey/Spanish Eclectic style that they originally agreed to build. If plans reflecting the current state of the house were submitted to the ADC today, they would not be approved.

"Therefore, we respectfully urge the Planning Commission to recommend Option 2 to have all outstanding items subject to review by the ADC. Option 2 allows the ADC to continue to do its work in ensuring architectural control in a way that has worked for the first 833 homes that were built in the Ruby Hill community. Thank you."

In response to Commissioner Allen's earlier question regarding the discrepancy between the plan on Sheet 1 of Exhibit B and the side-by-side comparison document describing the front doors, Mr. Townsend stated that the only drawings that were submitted and approved by the ADC were dated June 30, 2010. He noted that the drawings that the Commission was looking at that showed iron work were never submitted to and were never reviewed and approved by the ADC. He indicated that when they go out and do their final walk, they have the original design set that they look at. He reiterated that nothing else was submitted to the ADC, and that was the only approval that has been granted to the Reddys.

Commissioner O'Connor noted that obviously, someone from the ADC knew the house was under construction. He inquired if no one noticed or send a violation letter.

Mr. Townsend replied that there were repeated letters sent out. He indicated that they also did a site inspection during framing, but these are the items that were finished items and would not have been installed at that time, such as the colors. He stated that when he did his final walk, the garage doors were not installed; they were just openings. He added that they all assumed that the white on the house was a primer, and they were still waiting for roof materials, color materials, doors, windows, all of these samples that are normally submitted to the ADC for design review as mandated in his approval letter. He stated that

the ADC could then offer suggestions and write up a follow-up approval letter, and Mr. Reddy would be able to place those on the house.

Commissioner O'Connor requested confirmation from Mr. Townsend that all of those items – the garage doors, the roof, the colors – were void and not there when he did your final walk.

Mr. Townsend replied that a lot of times, the applicants would put multiple colors on a wall to try and determine colors, and he assumed that was what the colors on the back were. He indicated that his notations noted that, and in his follow-up letter, he asked the applicant if he was planning different color schemes and that he still needed to submit his colors and what is on your roof.

Commissioner O'Connor asked Mr. Townsend if he was requesting additional information that was never submitted to him.

Mr. Townsend replied that was correct and that none of that information was ever submitted to them.

Commissioner Ritter asked Mr. Townsend for clarification that there were 49 items that were variances, which he had narrowed down to eight items, four of which he approved variances for. He further asked if there would then be only four concerns left if the Commission selected Option 2.

Mr. Townsend explained that there are eight outstanding items, four of which the staff report agrees with the ADC, and the ADC would also like the remaining four to be referred back to the ADC as the ADC is the governing body and that is what it is there for. He noted that the Commission would set a precedent if it pulled out even one out of there.

Commissioner Allen ask Mr. Townsend if there were any other homes that he was aware of that have auto columns that are greater than 68 inches, and if so, why that was so.

Mr. Townsend replied that there are 800 homes out there, and void of going to each height and taking a tape measure, he could not answer that question. In terms of what the Reddys had, for what would normally be 48 inches, and in combination with the entry gate whose wall height he had also requested to increase, they were granted a variance of up to 60 inches, and then they built up to 68 inches and put a lamp on top of it. He indicated that the ADC does not have a good track record of what was approved and what gets built.

Commissioner O'Connor inquired if the lights were never part of the original 60-inch tall plan.

Mr. Townsend replied that what was on the design was 60 inches, including a finial, like a pine cone type of a design on a column cap, without a light above and beyond that.

Chair Pearce noted that the RHADG state that garage openings must be designed so they do not face the street and noted that the Reddys have a garage that faces the street. She inquired if the ADC approved that.

Mr. Townsend replied that the ADC does not approve garages that face the street. He stated that it is a little bit of a complicated formula: Over 75 feet is required from the back of curb distance, and for a four-car garage, a maximum of two garages could be facing the street, and a three-car garage could have a maximum of one garage facing the street.

Chair Pearce asked what the intent of that portion of the Design Guidelines is.

Mr. Townsend replied that it is visibility; they do not want to see the garage doors from the street.

Commissioner Allen inquired if there were any other homes that had been approved with glass doors on the garage besides the one home mentioned in the staff report that has glass garage doors that was built for green purposes.

Mr. Townsend replied that there is another one that has an enforcement action on it as well.

Neal Sorenson, President of the Ruby Hill Homeowners Association, stated that perhaps the Commission, like many of those in the audience, are wondering why an agreement that was struck in the early 90's before the first shovel of dirt was ever turned on the Ruby Hill development is being discussed tonight. He indicated that it was more than just an agreement; it was an architectural vision for a beautiful, consistent, planned community, an agreement and process that have been successfully executed approximately 1,000 times over the past 20 years. He noted that that agreement has been challenged for the very first time in those 20 years.

Mr. Sorenson stated that he would like to bring up three main areas for discussion: (1) an agreement that has shown due process, a process that has been consistent and fair and a process that has ultimately been equitable to all those involved, regardless of stature or title. Mr. Sorenson stated that their Board, like the Commission, is a volunteer Board of elected officials. He noted that the entire Board is present tonight and although he was speaking on their behalf, he would like the introduce the members, all of whom are residents of Ruby Hill: George Belhumeur, Marty Birk, Diana Nathan, and Kailesh Karavadra. He explained that in a nutshell, the Board's responsibility is a fiduciary one to the homeowners which enforces the CC&R's and makes decisions that are in the best interest of all the residents. He pointed out that one of those responsibilities is to oversee all aspects of construction at Ruby Hill, and to this end, the Architectural Design Committee (ADC) was established. He indicated that the ADC consists of two professionally certified architects, along with administrative assistance. He stated that since its inception, the Board has approved 833 homes and over 200 modifications to homes with over 1,000 projects over 20 years. He noted that they have never had an appeal to the Board,

let alone to the City, and they believe this is a very strong indication that their process has been fair and equitable to all.

Mr. Sorenson stated that Mr. Reddy's story is relatively simple; he came to the ADC with a design for a home that did not meet the Design Guidelines and was told that he would have to redesign his home to meet those Guidelines. He continued that Mr. Reddy then brought in a re-designed home that met the Guidelines and which the Board approved, and then proceeded to build a home that was very close to the design that was originally rejected and was not in compliance with the plan that was approved. He added that when Mr. Reddy was asked by the ADC to explain why he had not followed the original approved design, he indicated that the modifications were verbally approved by various people. He stated that when it was pointed out that the Guidelines clearly say that modifications have to be in writing, Mr. Reddy claimed that he had a written approval but could not find it. He stated that Mr. Reddy then claimed that his house did, in fact, meet the guidelines, but he was unable to submit a single certified architect's opinion that supported his position. He continued that Mr. Reddy then claimed that his house was so beautiful that it should have been approved, and finally claimed that he was being discriminated against because of his race.

Mr. Sorenson stated that the ADC proceeded to conduct a two-part process that included two overriding questions on whether Mr. Reddy's house, as built, complied with the approved plans, and if the house, as built, complied with the Design Guidelines, and when the ADC answered "No" to both questions, Mr. Reddy appealed to the Board.
Mr. Sorenson continued that in preparation for that appeal, the Board hired an independent outside architect, actually the architect who was the original drafter of the Guidelines to ensure that he fully understood and could provide a professional opinion that would be given to Mr. Reddy. He explained that a staff report was prepared and an entire meeting was set aside to consider Mr. Reddy's appeal; Mr. Reddy and his lawyer were given notice of that meeting, but Mr. Reddy chose not to appear. He continued that the Board considered all of the evidence it had before it, including the professional opinions of the two licensed architects, and also sought input on the same two questions from Mr. Reddy's original designer, who could not or would not declare that the house met the appropriate criteria. He indicated that the Board then rendered its decision, which was put into writing and delivered to Mr. Reddy, with an offer to reschedule a hearing before the Board so Mr. Reddy would have an opportunity to present any of his arguments if he so desired. He noted that again, Mr. Reddy chose not to appear, and he then chose a path that included mediation, litigation, and appeals to the City.

Mr. Sorenson stated that the Board believes the process for building at Ruby Hill has been very effective, and that everyone is bound by its one over-arching rule to follow the Guidelines, rules, and regulations, regardless of whether the applicant is the President or CEO of a major corporation or an individual of lesser means or title. He added that more than one applicant has not been pleased with the ADC's requirements, but all worked with the ADC to reach a mutually acceptable resolution. He indicated that the Board recognizes that reasonable people can differ on how the English language should be applied; however, the evidence in this matter is overwhelming that the Board has been fair and equitable with

Mr. Reddy, has not required him to do what have not been required of others, and has relied on the opinion of experts in reaching its decisions. He asked not to pick and choose or piecemeal a solution together but to turn the holistic solution back to the entity and the process that has worked for so many years. He then strongly urged the Commission to send Mr. Reddy back to the Board with the direction that he follow the Guidelines, rules, and regulations.

Diana Nathan stated that she also serves on the Board and that Mr. Sorenson has expressed her opinions very clearly.

Neil Popli stated that he has been a resident of Ruby Hill for 11½ years and worked with most members on the Board when he built his home then. He indicated that he has been asked to speak on behalf of the 375 homeowners who signed the petition that was submitted to the Commission. He pointed out that and that the petition is by no means against Mr. Reddy. He noted that there are about 130 Iranians families in Ruby Hill and that he has never ever felt that he has been discriminated against in any way, shape, or form. He added that there is another member of the community in the audience who would say the same thing. He stated that the reason they all signed a petition and why they are here today is for one simple reason: the rule of the law. He added that this is about the architecture of the community and their support for the Board, that the rules of the community have to be followed. He indicated that this is no different than constructing a glass tower in Downtown Pleasanton or installing six different Coca Cola neon signs Downtown.

Mr. Popli reiterated that they are not here against Mr. Reddy, that Mr. Reddy is a very nice guy who is a professional with everything he does, but the challenge and issue at hand and that the Commission is going to have is whether it is prepared to have 835 of these meetings every week. He stated that the Commission might feel that this is a bunch of rich people arguing about why Mr. Reddy built this column two feet higher, but he compared it to driving fast on a road, and it is the ADC's responsibility to make sure that does not happen. He indicated that he had to make changes to his house when he was building it; he did not necessarily agree with the changes, but he made them because he was part of a community that respects its neighbors and its rules and regulations. He added that the Board is willing to work with Mr. Reddy to get this thing done the way it should be done, as it had previously worked with 830 others without any issues, challenges, or concerns. He noted that Mr. Reddy ran for the Board of Directors this past year and received 100 votes; 50 to 60 of those people signed the petition, and two of them actually went out and got signatures from others. He further noted that Mr. Reddy did not run for election saying that he has a beautiful home but that he would reduce the HOA dues and other things; basically promising change; he wanted to get his home approved.

Mr. Popli respectfully requested the Commission to turn the matter back to their Board and let it make the final decision.

Paul Deol stated that he is the neighbor whose property Mr. Reddy knowingly encroached upon. He indicated that Mr. Reddy knew where the property line was, and when his contractor, who also worked for him *[Mr. Deol]*, refused to move the property line, Mr. Reddy did it himself. He added that Mr. Reddy then brought up the issue that he had been discriminated against. He noted that he has been here for 11 ½ years and has never felt discriminated against. He added that he also his house there, went through all the rules, had his plans approved, built the house, and got his occupant's permit. He stated that Mr. Reddy should follow the same Guidelines and that the matter should be sent back to the Board.

George Belhumeur stated that he does not have a lot to say at this point as everything has been covered by the previous speakers. He added that the one thing he does want to say is that Mr. Reddy indicated this case is very simple, and he is correct: it is a simple case of not following the rules and Guidelines that everybody else has followed. He noted that if this house were submitted today for approval by the ADC, it would not be approved as Mr. Townsend has indicated. He added that in his opinion, Mr. Reddy is asking for forgiveness instead of asking for permission, which he should have done.

Gurdip Jande stated that he has lived in the Ruby Hill community for 3½ years and that he agrees with the previous speakers. He indicated that the only thing he would like to add is that he goes for walks four to five times a week along the five-mile Ruby Hill Drive to get some exercise, and he sees 80 to 100 homes on Ruby Hill Drive. He stated that this home in question just sticks out, not in a positive way, because it is so different from everything else, and is a distraction from the rest of the community.

Shetoo Parikh stated that he does not have anything extra to say beyond what has already been said and agrees with the HOA's recommendation to let this matter be turned over to the Board and the ADC for resolution.

Ameet Bhansali stated that like others have already said, he would request the Commission to hand this matter back to the HOA. He indicated that the only thing he will add is that he has been a resident of the community for 16 years and has never ever come across any case of discrimination.

Sharlene Limon stated that she is also a resident of Ruby Hill and that this is her first experience of being in a gated community where there are some serious rules. She indicated that the reason her husband and she chose to move to Ruby Hill is because they came from a very clustered and upscale community in Fremont that had no rules, and over the course of the 20 years they lived there, they had neighbors who decided to paint their house a color that stuck out from all the other houses and did not bother to paint the sides, did not maintain the landscaping, and put their mailbox in a bucket with rocks when it fell over. She noted that when they moved to Ruby Hill, she was not really happy about the idea of having rules because she likes to march to her own drummer; but she has really come to appreciate what that means in terms of knowing that their property values are secured. She stated that all of her neighbors understand what the rules are; they all signed up for rules and agreed to them, and when they were told we had to make changes and

they did not like it, they knew it was the right thing to do. She added that as someone who lives in Ruby Hill, she should follow the rules, and if these rules are not followed by everybody, they will all eventually find themselves in a place like they were in Fremont, and that was a very unhappy place to be.

Ms. Limon stated that she appreciated how much time the Commission has taken in looking at all the points, and that the only thing that concerns her with someone who has an artistic background is that each of those points cannot be taken separately because all of them together creates the ambience of that house, which has an extremely Moorish feel to it. She noted that the house does not look like any other house as a whole in Ruby Hill and does not fit there, and that it could be plopped down in Morocco and would look like it belongs there.

David Perry stated that he has lived in Ruby Hill for nearly 18 years and that he is on his second house in Ruby Hill. He further stated that when they bought their first house in Ruby Hill, there was a retail center on the corner, a commercial center which is now the winery, and what is now the widened Highway 84. He indicated that he is bringing all this up because he has spoken before on some of those issues, and he knew about all those things before he purchased his house in Ruby Hill: he was fully aware that the retail center was going to be built, that the commercial property on the corner would be built, that Highway 84 would be moved over to be Isabel Avenue and would eventually come very close to the Premia development where he lived. He added that he knew of the CC&R requirements and the contractual obligations that all property owners and homeowners have for the Architectural Design Guidelines, and that none of this was a surprise when he moved in.

Mr. Perry stated that Mr. Townsend has been to his house about 10 times during its construction, and he did not like the multiple colors of paint on the house and the multiple tiles for the pool; and they complied and got their house built. He pointed out that there are roughly 800 homes in Ruby Hill, and many of those homes have been bought and sold more than once; families have expanded their homes, have added backyards, and have painted their houses, and they have all gotten through without ever having to come to this point. He concluded by saying that he came down here to support the Ruby Hill HOA and, as an organization and a neighborhood in the community out there that they are very proud of, would ask the Commission to support Option 2 and turn this back to the architectural design committee for resolution.

Kailesh Karavadra stated that he has been a resident in Ruby Hill for five years and has lived in Pleasanton since 2000. He indicated that she is very supportive of all the comments that have been made about the HOA and the ADC. She added that this is their community, and what they are asking for today is all about the ability to continue to drive the consistency, to have the partnership, the collaboration, and the spirit of give-and-take, to be able to continue to live and work in the same way it has been for the last 15-20 years that Ruby Hill has been. She stated that this is really about the precedent and asked the Commission to throw this matter back to the ADC and let that process continue as it has been working for all these years.

Marty Birk stated that he is a member of the Ruby Hill Board and concurs with the comments made by Ms. Karavadra.

Carl Wolfston stated that he has been in Ruby Hill since 1997 and has built a home there. He indicated that he did go through the hassles of the Architectural Committee, which was a pain at times, but at the end it worked where both sides went back and forth and agreed. He noted that the Committee was very detailed about what they had to do, down to the point of the fountain and how far out of the ground it should be, and it did a great job of explaining and knowing what had to be done so there were no problems at that point. He stated that basically, it does work, and asked the Commission let the system work and follow the Guidelines.

Ellen Cheung stated that at the 20th annual meeting of the Ruby Hill HOA held on October 28th, the residents were told that there were 40 known items of non-compliance with the Reddys home, and the City's staff report states on page 5 that there were only seven or eight, which could be further reduced down to four or even less. She stated that those who work in the regulated industries, such as the development and manufacturing of medical devices or the development of pharmaceuticals and bio-pharmaceuticals, know that these industries are regulated by the Federal government and when its agents come for an inspection, a list of 49 items of non-compliance versus a list of 7 items is the difference between day and night: one would be a matter of shutting down the company, which the other might just require a letter to address the issues.

Ms. Chueng stated that she realized that this really is no laughing matter because the life of the Reddy family has been adversely impacted by this long list of non-compliance. She inquired when this reduction from 49 issues down to 7 did occur, what the motivation is behind such an overzealous finding of fault or non-compliance, and if this is a common occurrence with every home that is constructed in Ruby Hills or just a unique situation with the Reddy family and why. She questioned if the reason is because Mr. Reddy challenged the 2012 Board of Directors election processes or because he publicly asked questions about a bad debt item line item on the financial statement, or if there are other reasons or a combination of reasons that led to such a regulated review.

Ms. Cheung stated that when she read some of the letters in the staff report's appendix, she concludes there are other reasons. She noted that she found the last letter in the whole packet offensive and hurtful. She further noted that the staff report indicated two examples of non-compliance within the community where no remedial actions were taken. She added that there are a lot of other examples she could come up with within the community that are non-compliant with the Guidelines.

Ms. Cheung questioned how the ADC decides to grant exceptions for some homeowners and non-compliance for some homeowners, and how these are documented. She noted that there are a lot of writings in the letters in the appendix that said the Reddy family bypassed the review process, but because there are not a lot of examples of facts given in those letters, it is hard to know what "bypassing the review process" means. She noted

that there obviously was the inspection and the internal resolution processes, but the question is if this a unique situation at Ruby Hills. She pointed out that what it sounds like is that there is a dispute that came to an impact, and that the American way is to bring in a third party or outside party to help settle the disagreement or to address that it even exists.

Victoria Rosenberg stated that she has lived at Ruby Hills for 17 years. She indicated that they had not lived in a community with rules and regulations and that when they first moved here to California, this was a new undertaking for us. She noted that she was surprised when she moved into Ruby Hill with her small children that this Committee wanted to tell her where she could put her children's play structure, not a permanent structure that would stay there forever. She indicated that they had to go to the Design Review Committee and negotiate on where it would be and what she would plant to cover such a play structure so it was not as offensive to the neighborhood. She stated that her point is that for 17 years, they have been abiding by the rules of the ADC and that she does not think anyone should be able to come in 18 years later and make changes and modifications that do not conform to the rules without a written approval from the ADC. She concluded by saying that she concurs with her neighbors and asked the Commission to give the matter back to them at Ruby Hill.

Mr. Reddy stated that it is ironic that both sides are talking about upholding the CC&R's and the rules and have quoted from the CC&R's and the rules that they cannot dictate what style of home and references can be built, particularly when this is built out of the warm weather Mediterranean region of Europe and Spain with a thousand mile coastline, and a long history with California. He further stated that there is no other better country in Europe than Spain that would fit that bill as far as the Guidelines are concerned.

Mr. Reddy stated that they have never ever said the house was going to be anything different than what was built. He indicated that the original concept plan from the pre-design concept plan used at the very first meeting of the ADC with Terry Townsend, step one of the design review process, showed that the design concept that was approved and the final approved plan are almost a mirror image of the original concept plan; nothing had changed from the original concept to the final approved permit plans. He added that the as-built plan showed no wholesale exaggerated 49 items that completely change the style of the home. He emphasized that that is not true and that it never happened; that there was no walk out of the room, and that the meeting was never canceled. He indicated that they had one meeting at which the pre-design review was done, and the next was the second part of the design review process that was done the second week following. He stated that the ADC meets every two weeks and that the meetings were scheduled and held on May 28th and June 11th, with the third and final meeting on June 25th when the plan was approved.

Mr. Reddy stated that the house is not a Monterey/Spanish Eclectic home, that they never built a Monterey/Spanish Eclectic home. He indicated that they were the architects of the home and that they know what the style is.

Divya Reddy stated that they would not have built a whole deck if they were told that the house was a Monterey/Spanish Eclectic home, that they would have sold that lot and left. She noted that the ADC cannot show any evidence that was even discussed or mentioned anywhere until 2012 when they asked for the final approval.

Mr. Reddy confirmed that it was never mentioned in any plans or any emails, they cannot produce one evidence to show that it was written anywhere, that the house they built was anything but a Spanish home. He referred to an earlier comment he considered disparaging about the house being a Moroccan style and reiterated that this is Andalusian style. He indicated that he has traveled to Morocco, and Morocco does not have a church bell tower anywhere. He emphasized that they built a very beautiful Spanish home with a very beautiful feature, a bell tower in the back yard, to distract from the water tank in the lot behind theirs, and that they have done similar things to change the main curb appeal of the home.

Mr. Reddy stated that the Board failed to acknowledge the dozens of precedence that exist in Ruby Hill, and that is the discrimination he was talking about. He indicated that he was not talking about racial discrimination but about being discriminated from a design standpoint. He noted that dozens of homes are allowed white stucco and that a Spanish home that they espoused also needed to have white stucco. He questioned why they cannot have a motored gate when other homes are allowed to have one. He indicated that they have followed every rule there is, every guideline, and that they are not in violation. He added that they are willing to discuss and work on minor things like glazing. He stated that they are not stubborn, insisting on their way or the highway, and that he is being portrayed as some sort of trigger-happy who does whatever he wants. He indicated that that it is farthest from the truth, that he is an engineer who is very logical-minded and has followed every single rule, passed every inspection of the City and even of Ruby Hill, and that they have made so many accommodations to even get to the final design of the house.

Ms. Reddy stated that instead of pointing all the fingers at them, the ADC should follow the rules. She noted that the Board stated in its May letter that ADC will do the supervision and monitoring and will drive by. She further noted that the ADC took $6,000 from them and knew they were owner/builders. She added that the ADC came by and drove by and never stopped; it never sent an email and not a single communication until March when they asked for the final approval.

Mr. Reddy referred to an earlier statement made that Mr. Townsend went to his house 10 times while it was under construction, and stated that he remembers the 10 times Mr. Townsend visited his house on the job site and, therefore, Mr. Townsend knew what was going on.

Ms. Reddy stated that a white van came up to the job site in July 2011, and no one asked what was going on. She noted that if the ADC had cleared whatever misunderstanding they may have had, they would not be here tonight. She emphasized that never once, as an HOA, did they ask what was going on.

Mr. Reddy stated that the house is a casualty of a larger issue that they have faced. He indicated that out of principle, out of civic duty, he has done certain things that has rubbed the ADC the wrong way: maybe he was not tactful, and maybe he should have finished the house, moved in and painted it whatever he wanted, and put whatever gates he wanted like everybody else in the community was doing. He added that he has also challenged the Board very openly in many instance in the last three years, and that is the real reason why this is happening. He stated that there are 300 people here, but there are also 1,000 people out there that are quietly supporting them. He indicated that they have nothing against their fellow homeowners here, but they believe that they follow the rules and that the rules should apply equally to everyone, including all the precedents that have been set.

THE PUBLIC HEARING WAS CLOSED.

Chair Pearce called for a break at 9:25 p.m. and reconvened at 9:35 p.m..

Commissioner Allen referred back to her earlier question regarding the discrepancy about the front doors design between the two plans. She stated that if she understood Mr. Townsend correctly, the plan with wrought iron doors, which he had never seen, was approved by the City of Pleasanton, but that the only plan he saw was the one that had wood front doors. She indicated that she is just trying to reconcile in her mind the difference between the two and how the plan showing wrought iron doors could have been approved by the City.

Mr. Pavan confirmed that the drawings provided to the Planning Commission and stamped by staff do show an item on the floor plan of a wrought iron door assembly, but there is no reference on the elevations about where that door assembly will be. He agreed that there appears to be an internal inconsistency in those drawings. He indicated that when he drafted the staff report, he saw the notation on the plan but then referred to the side-by-side comparison prepared by Ruby Hill that stated that wood doors were approved but wrought iron doors were installed, and in terms of the analysis and in order to resolve that difference, staff deferred to the side-by-side comparison done by Ruby Hill. He indicated that it is unfortunate that there is a difference in the drawings but that that difference does not alter staff's recommendation to the Commission to keep the doors as installed.

Commissioner Ritter stated that he understood that when a builder comes and builds a house, there are steps between the approval process and the completion process, but that he does not understand how the City and Ruby Hill processes go. He inquired if the plan first goes through the Ruby Hill process and then gets stamped by the City.

Mr. Pavan confirmed that was correct.

Commissioner Ritter stated that it sounds like not much action took place between June 30, 2010 and March 6, 2012, but a house was built. He added that it seems like things that had taken place in the steps could have been corrected sooner.

Mr. Pavan stated that a building permit was issued for the drawings, of which Exhibit B is a part, and construction started. He indicated that staff cannot speak to what happened and how they happened from that point in time forward, but the house was constructed in a manner that differs from the Guidelines of the Ruby Hill approval.

Commissioner Ritter inquired if, in the process, it is the applicant's job to go back to the design staff to show the steps, or if it is the Ruby Hill ADC's job to watchdog them.

Mr. Pavan replied that according to the Guidelines, it is incumbent upon the applicant or owner to contact Ruby Hill and let them know if they want to make any changes. He added that the City has, as part of its custom home design approval, a comparable condition that the applicant/contractor has to contact staff about any changes to the plans for review and approval prior to effecting those changes.

Commissioner Posson disclosed that he met with Mr. Birk, who offered to have the Commission come out and meet with him, on Friday and they looked at the home and the plans. He noted that that was before he got the staff report and that after reviewing the staff report, he went out there again on Sunday morning by himself and looked at the property against the plans. He added that he also took up the applicant at his invitation to look at the property and that he went out there last Monday reviewed the property with the applicant.

Commissioner Allen stated that she also met with Mr. Birk as well as with the applicants and that she visited the property three times. She noted that she spent about an hour driving through the entire community and retesting some areas so she is prepared to think about things like equity and principles tonight.

Chair Pearce stated that she did a site visit but did not meet with anyone.

Commissioner Allen stated that she supports Option 2, which finds that the applicant's home as conditioned does not conform to the Design Guidelines and that the applicants need to correct the home, but with the exception of the front doors, which she believes should stay as built. She indicated that she spent a while reading Judge Appel's ruling as to why he denied the application for the homeowners to occupy the house, and there were three things that stood out for that: (1) Homeowners Associations and Design Boards such as Ruby Hill's have substantial discretion in making their decisions. (2) As many residents mentioned tonight, many individual owners do subordinate their rights when they are part of the community such as that, and the Reddys and all homeowners in Ruby Hill are aware of this when they purchased there. (3) In addition, the judge did note that the Reddys had multiple opportunities to address why they deviated from their submitted and approved designs with the Design Group, and they did not do so; and that really troubled her.

Commissioner Allen stated that based on those three things, in principle, she does not think the City should second-guess the Design Guidelines or the ADC's decisions unless she can find, as a member of the Planning Commission, that there was compelling evidence to the contrary. She noted that overruling without really strong, compelling evidence to the

contrary invites more homeowners to disregard Design Guidelines and planning processes and to use the City to arbitrate disagreements, and she would not want to do anything that would risk that area.

Commissioner Allen then referred to the seven issues presented in the staff report and stated that she agreed with staff's thinking on five of those items but disagreed with the other two:

1. Lower the height of the pilasters that flank the front entrance to the auto court. The ADC approved a variance from 48 inches, which is the standard in the Design Guidelines, to 56 inches with the light or finial or 60 inches without the light. The homeowners ended up building up to 68 inches and they have a light, although they acknowledged there was a construction error.

   Commissioner Allen stated that she is not aware of other homes that do have anything that is higher than 68 inches, and she has asked the applicant, the City, and Mr. Townsend, and nobody has shown her examples of anyone that is out of compliance. She indicated that in reading the staff report, she believed the gist was that staff was saying that eight inches was pretty close and so they would let it go. She stated that she does not want to let it go because eight inches is eight inches, and being in the ballpark is not following the Design Guidelines. She added that if one house is allowed to sort of be eight inches higher, and then the next house is built and uses this house as a precedent, the second house is now eight inches higher than the first, and this could end up with 15-, 20-, or 30-foot high columns over time. She indicated that for that reason, she thinks this is one of those things that the City should support.

2. Replace the capitals that were built on the home with the capitals approved on the plan.

   Commissioner Allen stated the reason she went back to the community today and spent an hour driving all over was to look at the capitals, and she believes that the capitals built on the Reddys home are inconsistent with the approved plans and with what is in the neighborhood. She noted that she did not see any capitals anywhere near the more elaborate design that they had, but saw ones that look like the plan that was approved. She indicated that she believes the capitals need to be replaced and have a design consistent with the community and the plan that was approved.

In summary, Commissioner Allen stated that when homeowners choose to live in an HOA, they subordinate their rights to the Board and Design Board as part of the process, and in that regard, there is nothing she saw that causes her to overrule the decisions made by the Design Board. She noted that on the issue about precedent is important because the Reddys brought up examples of other homes that are in the light or white colors. She asked herself how much a precedent is, if it is one house or ten houses or a hundred, and indicated that she made the call that there were not enough white houses for her to call it a precedent. She added that those houses were not approved and that she does not know if there were some overriding reasons that the Design Board may actually have chosen to

approve them. With respect to the Reddy house, she noted that they never submitted their color scheme, and the Guidelines states three different times that the color is absolutely critical in this community, that contrasts are very critical to look at, and that stark white is not allowed.

Commissioner Olson stated that he is not going to comment on the seven or eight items because that would only be his personal opinion and his opinion here does not count. He pointed out that the governing body here is the ADC, and while staff made a valiant effort to find middle ground with Option 1, he is not going to support Option 1. He noted that like Commissioner Allen, he is in favor of Option 2 that this has to go back to the ADC. He added that it was pointed out that this is how the City operates in this matter: the City does not provide approvals until after ADC has rendered an approval, and that is the way it has successfully operated for years in Ruby Hill, and it ought not be changed.

Commissioner Olson stated that his counsel to the Reddys is that they settle down a notch and sit down with the ADC and try to work things out, and his counsel to the ADC is that they look at the eight items and see if they can find some middle ground there. He noted that some of those items are egregious and others are not, but that that is just his opinion. He hoped that both sides can come together and come to a civil discussion on this and work it out.

Commissioner O'Connor stated that it goes without saying that these are the hardest types of meetings the Commission has. He indicated that he went through the list of the seven or eight items that were being discussed all night and that as he actually looked at each one individually, he felt that he could say he can certainly each to stay; however, individually, they do not tell the whole story, and when the house is considered as an entire structure, as a whole package with all of these changes, it is a very unique-looking house, and there is nothing else in Ruby Hill that looks that way.

Commissioner O'Connor stated that he thinks it is unfortunate that when this home was being built, the owners, with this type of money involved in the construction of this home, did not insist on getting something in writing from the ADC that would protect them when they made changes. He indicated that even though he thinks their original plans did show multiple finishes on the home, some arch stone, some brick veneer, and a lot of stucco, it certainly was not clear that the structure was going to look like this. He added that in this sense, it is really hard to go through and pick one, two, or three of these items to let pass when there are enough that need to go back to the ADC. He concurred with Commissioners Allen and Olson that the whole plan should go back to the ADC and that he is supporting Option 2 as opposed to staff's recommendation of Option 1.

Commissioner Ritter stated that this goes back to his first question to the Reddys. He indicated that he joined an HOA by buying a house in one, and he learned that he could not do a lot of things; however, the flip side is that he knew his neighbor could not do a lot of things either, and he liked that. He added that when he was looking at the 49 points, he thought that a lot of them, such as the HVAC equipment and the tarp, could just be checked off, and the ADC got it down to about seven or maybe even four.

Commissioner Ritter stated that, along with Commissioner Olson, he agrees that it is not the Commission's job to do this; the Commission's job is to make sure that it has approved the Architecture Design Guidelines of the City of Pleasanton, and it sounds like the Planning Commission and City Council did just that in January. He added that he believes the HOA and the ADC are more capable of making those design decisions. He indicated that he also supports Option 2 and really thinks that the applicant, the HOA, and the ADC need to get together because elevating this to the courts does not get it better for anybody.

Commissioner Posson stated that he has a logic fairly similar to that of Commissioner Olson. He indicated that as he went through the plans and looked at the Guidelines, what really led him to that same decision to support Option 2 was the judge's finding in denying the injunctive relief, where he cited case law that substantial deference is afforded to decisions by community association boards exercising discretion within the scope of their authority under the CC&R's. He noted that in looking at the decisions made by the ADC, he did not see anything where it had not properly exercised its discretion. He added that there is also a section in denying the injunction where it talks about individuals subordinating their rights for the rights of the community when they join an HOA. He stated that a number of Commissioners have spoken to that already and that he agrees that Option 2 is the appropriate decision.

Chair Pearce agreed with the rest of the Commissioners. She stated that, unfortunately, there are neighborhood disputes, and they are the most difficult things the Commission deals with. She noted that the Reddys seem like lovely people and that if she could decide issues on whether or not she thinks people are nice, things would come out differently sometimes; however, there is a process in place that has worked for a long time, and it's a process that brings everything back to the ADC and to the Board. She stated that she would not repeat anything that her fellow Commissioners have already said but would only exhort everybody here to really try to work together to resolve these issues. She pointed out that it clearly does not stop with the Planning Commission and that she anticipates appeals on up the chain; but she thinks that is a lot of wasted time and money, potentially if there were compromises to be had. She noted that Ruby Hill is a lovely place to live in and that she hates to see this dividing neighbors.

Commissioner Olson moved that the Commission select Option 2, finding that the applicants' home, as conditioned, does not conform to the RHADG and requiring the applicants to correct their home in compliance with the RHADG as administered by the Ruby Hill Architectural Design Committee.
Commissioner Allen seconded the motion.

Commissioner O'Connor stated that he would really like to see the ADC as well as the applicants work this out amicably and that he really hopes there can be some compromise in what the ADC is willing to accept.

Commissioner Ritter noted that staff gave the ADC some good ammunition and feedback to review an thanked staff for doing all that extra work.

ROLL CALL VOTE:

AYES: Commissioners Allen, O'Connor, Olson, Pearce, and Ritter
NOES: None
ABSTAIN: None
RECUSED: None
ABSENT: None

Resolution No. PC-2013-56 indicating that the Commission selected Option 2 was entered and adopted as motioned. opt

c. <u>P13-2458, City of Pleasanton</u>
Application to amend Section 18.88.120 (In-Lieu Parking Agreement for the Downtown Revitalization District) of the Pleasanton Municipal Code to allow the City to waive in-lieu parking fees in exchange for fulfilling Downtown Revitalization District Design and Beautification objectives of the Downtown Specific Plan.

Also consider the Negative Declaration prepared for the project.

This item has been continued to the January 8, 2014 meeting.

7. MATTERS INITIATED BY COMMISSION MEMBERS

<u>Economic Development Strategic Plan</u>

Commissioner Olson stated that earlier today, he sent each of the Commissioners an email with two documents that have to do with the Economic Development Strategic Plan. He noted that the first one is a great document and that at least one of the Commissioners, Commissioner Allen, is familiar with this as a member of the Economic Vitality Committee, who provided input for this as did members of staff and the City Council. He added that this is a really good read as to where the City need to head in terms of economic development in this City. He indicated that the second document is a longer one and has a lot of data in it that supports what is in this Plan and would strongly recommend each of the Commissioners to read this because it certainly has implications for the Planning Commission as it review projects.

Commissioner Ritter asked Commissioner Olson if there is any one part of the documents that he would recommend.

Commissioner Olson replied that he read October 13th, 17-page document.

Housing Element

Commissioner Allen inquired when the Commission might hear more about the Housing Element happening and the Commission's role in the process.

Mr. Dolan replied that staff is currently working on a Request for Proposals for some consulting help. He indicated that staff does not believe there is really enough decisions to merit a Task Force and that, in fact, the Planning Commission is being tasked with the primary decision-making other than the City Council. He stated that the updating of the policy document is what is really going to be asked of the consultant to do, and staff hopes to get someone on board by early next year. He noted that there will be some data collection, some number crunching, and some documentation of all the progress made from the last time. He added that the City has been bringing these implementing ordinances forward, and it does not require a lot of decision-making.

Mr. Dolan stated that he would assume the Planning Commission's primary role and challenge will be, again, the inventory of sites, and there are some moving parts. He added that he thinks it would probably come before the Commission by February of next year with an agenda item that really lays out a schedule and some of those moving parts, as well as interpretations on some potential changes and HCD rules about how what the City can count and what it will not count can affect that number.

Commissioner O'Connor asked Mr. Dolan, in view of the East Pleasanton Specific Plan coming on board, if staff will be looking to rezone in this inventory of sites, and if rezoning if being contemplated before the site plan is in place.

Mr. Dolan replied that that was the original plan that staff shared with the Task Force just the other night at its last meeting; however, there is a certain amount of concern emanating from some of the neighborhoods, and the Task Force decided that some additional outreach needs to be done beyond the Task Force representation and hold some meetings. He noted that those two processes are not necessarily going to line up and that it is going to be more difficult to get things rezoned in advance of the Housing Element deadline.

Mr. Dolan stated that there is a mechanism in housing law which allows the City to make a commitment to rezone within a certain timeframe, so the City might have to avail itself of that option. He noted that that is fine as long as the City does not do what it did two times ago, which is have a program that commits to doing the rezoning and then not doing them for seven years.

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

a. Future Planning Calendar

No discussion was held or action taken.

b. Actions of the City Council

No discussion was held or action taken.

c. Actions of the Zoning Administrator

No discussion was held or action taken.

d. Selection of Planning Commission Chair and Vice Chair for 2014

Chair Pearce stated, for the benefit of the new Commissioners, that traditions vary among Commissions and that the Planning Commission's tradition generally is that the Vice Chair becomes the Chair for the next year and the next senior Planning Commissioner becomes the Vice Chair.

Commissioner Pearce moved to nominate Arne Olson as the 2014 Chair of the Planning Commission and Greg O'Connor as the Vice Chair for 2014. Commissioner Allen seconded the motion.

ROLL CALL VOTE:

AYES: Commissioners Allen, Pearce, and Ritter
NOES: None
ABSTAIN: Olson and O'Connor
RECUSED: None
ABSENT: None

e. Adoption of Planning Commission Schedule of Meeting Dates for 2014

Commissioners concurred with the Schedule of Meeting Dates for 2014.

f. Matters for Commission's Information

<u>East Pleasanton Specific Plan Task Force:</u>

Chair Pearce stated that the Task Force had a meeting last week with a lot of great community participation. She noted that the meeting went over by 40 minutes and that the Task Force is going to do significant outreach to the neighborhoods. She indicated that the Task Force has one more meeting in February, followed by the outreach. She added that she has one more meeting on that Task Force too.

<u>Historic Preservation Task Force:</u>

Chair Pearce noted that the Historic Preservation Task Force guidelines and recommendations will come before the City Council at its December 17th meeting.

9. ADJOURNMENT

Chair Pearce adjourned the Planning Commission meeting at 10:10 pm

Respectfully,

JANICE STERN
Secretary