MAYOR TIM FLAHERTY called a regular meeting of the city council to order at 7:00 pm in the Council Chambers, 100 Gregory Lane, Pleasant Hill, CA 94523, complete proceedings of which were electronically recorded. The meeting agenda was posted on the outdoor bulletin board at the above address on January 3, 2018 by Deputy City Clerk Juanita Davalos.

1. **PLEDGE OF ALLEGIANCE**

2. **ROLL CALL**

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<tr>
<th>Attendee Name</th>
<th>Title</th>
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<tr>
<td>Timothy M. Flaherty</td>
<td>Mayor</td>
<td>Present</td>
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<tr>
<td>Ken Carlson</td>
<td>Vice Mayor</td>
<td>Present</td>
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<td>Michael G. Harris</td>
<td>Councilmember</td>
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<td>Sue Noack</td>
<td>Councilmember</td>
<td>Present</td>
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<tr>
<td>Matthew Rinn</td>
<td>Councilmember</td>
<td>Present</td>
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3. **PRESENTATIONS**

None

4. **CITY MANAGER COMMENTS**

JUNE CATALANO, City Manager, reported that:

- there have been no major problems due to the recent rain storms;
- a link to a survey of the City's long-term financial plan for FY 2018-2023 is on the City's webpage; and
- the Mayor's Lunch would be held on January 24, 2018 at 11:30 a.m. at the Contra Costa County Club.

5. **COUNCIL ANNOUNCEMENTS AND REPORTS**

5.1. Reports from Councilmembers on Meetings or Conferences Attended at City Expense

None

5.2. Announcements from Councilmembers

COUNCILMEMBER NOACK reported her attendance at the volunteer reception held at the Pleasant Hill City Hall in December and expressed her appreciation to staff and volunteers.

MAYOR FLAHERTY, VICE MAYOR CARLSON and COUNCILMEMBERS HARRIS and RINN also reported their attendance at the volunteer reception.
6. **PUBLIC COMMENT**

MAYOR FLAHERTY opened public comment.

DAN SAFRAN, Pleasant Hill, expressed his wishes for a happy new year and extended his congratulations to Mayor Flaherty and Vice Mayor Carlson. He also thanked Councilmembers for their work and noted that the civility in how the City Council meetings proceed should be a model for the community.

MAYOR FLAHERTY closed public comment.

7. **CONSENT CALENDAR**

Motion (Harris/Noack) to approve all consent items, carried as follows:

AYES: Carlson, Harris, Noack, Rinn, Flaherty

7.1 Approve Checks Dated: December 15, 2017; December 22, 2017; December 29, 2017

7.2 Adopt Resolution No. 1-18 Authorizing Signatures for Withdrawal of City Funds and Rescinding Resolution No. 2-17

7.3 Approve Mayor's Recommended Appointments of Councilmembers to Various Committees and Boards

7.4 Adopt Resolution No. 2-18 Amending the Conflict of Interest Code and Rescinding Resolution No. 3-16

8. **ADMINISTRATION AND FINANCE**

None

9. **PUBLIC WORKS AND COMMUNITY DEVELOPMENT**

9.1 Public Hearing to Consideration of an Appeal of the Decision of the Planning Commission to Approve a Minor Use Permit and Appeal of the Decision of the Architectural Review Commission to Approve Architectural Review Permit (PLN 16-0428) for a Day Care, General Use At 409 Boyd Road, and Adopt Resolution No. 3-18 Denying the Appeals and Upholding the Planning Commission and Architectural Review Commission Decisions

GREG FUZ, City Planner, introduced LORI RADCLIFFE, Assistant Planner.

MS. RADCLIFFE explained that the appeal was an objection to the Planning Commission's (PC) decision to approve a Minor Use Permit for a day care, general use at 409 Boyd Road within two buildings currently used by the First Church of Christ, Scientist. She noted that the appellant also
submitted a separate appeal of the Architectural Review Commission's (ARC) decision to approve an Architectural Review Permit for the project. Ms. Radcliffe provided maps of the subject area and explained the project as a daycare for 72 children and 8 employees. She described the proposed hours of operation, outdoor play times, and exterior modifications for the buildings. Ms. Radcliffe provided a background on the site use and zoning process and noted key conditions of approval.

ERIC HU, Senior Civil Engineer, provided the traffic study overview and noted places of congestion near the project. He stated that the peak period between the 7am and 9am student drop-off would coincide with that of Sequoia Middle School. Mr. Hu explained that the delay impact during the morning peak period was rated as "less than significant" and described proposed site plan traffic modifications. He also explained potential next steps concerning traffic circulation.

COUNCILMEMBERS posted questions concerning the criteria for the traffic study, expressed their concerns about additional delays, and engaged in a discussion regarding: the possibility of staggered student drop off times; issues concerning other local commercial day care centers; the proposed playground area and its proximity to residences; noise attenuation; and traffic safety on major thoroughfares.

MR. HU explained the methodology used in the traffic study regarding trip generation during peak periods and proposed traffic circulation in the area. He also stated that the juniper trees in the area would not be removed.

MS. RADCLIFFE showed a map of nearby day care facilities and their proximity to schools. She also showed a map of the proposed playground area and described its location with respect to nearby residences.

MR. FUZ noted that approximately 20 local commercial day care facilities are mostly located in residential sites. He stated that solid wood fences have been proposed for noise reduction. Mr. FuZ addressed how the General Plan conditions were met for approval and that a reduction in property value was one of the factors taken into consideration.

PAMELA PARKER, Appellant, said that at the hearing before the ARC, someone familiar with fences and noise voted against the wooden fence saying that it would make no impact on reducing noise. Ms. Parker stated that she has lived in her home near the proposed day care for over 40 years. She voiced her objection to the proposal due to the extra noise and traffic to the area. Ms. Parker cited the heavy traffic congestion on Boyd Road and Soule Avenue and expressed her concern about safety. Ms. Parker showed a table of existing/proposed day care facilities and noted that none of them are similar to the proposed project.

In response to MAYOR FLAHERTY asking if Ms. Parker would want a masonry perimeter, MS. PARKER responded affirmatively and noted that a wooden fence would not reduce noise. She stated that she would want a higher fence.

BROOKE PARKER, Appellant, stated her opposition to the proposed day care facility. She also reported her attendance at the ARC meeting. Ms. Parker stated her wish for a concrete or masonry wall and noted that many senior citizens living in the area already have a difficult time sleeping due to noise. Ms. Parker expressed her wish to not change the character of the neighborhood.
COUNCILMEMBER RINN inquired about R-7 zoning at the other local day care sites.

PAMELA PARKER suggested that the focus should not be on zoning numbers, but on the actual addresses of where the sites are located.

DAVID BOWIE, attorney for the Applicant, remarked that the staff report was comprehensive and complete. He noted that the project is benign and would not change the zoning, but would only modernize the buildings and landscaping. Mr. Bowie stated that there would be potential noise from children, but the playground would be over 100 feet from the nearest property and that the children would be outside playing for only two hours a day. He stated that the traffic issues have already been addressed by the traffic engineer and would not be significant. Mr. Bowie said that the interests of the parties must be balanced and that the evidence demonstrates that there would be a less than significant impact on the area and that the property would be used for a good purpose. He requested that the City Council find the conditions acceptable and asked for approval.

SALVATORE CARUSO, project architect for the Applicant, said that the traffic study findings show less than conclusive impact to the area. He noted that the children's behavior and noise level would be supervised by teacher while outside. Mr. Caruso explained that the Applicant encountered the same complaints when opening her day care center in San Jose, but that once it opened, there were no complaints regarding noise or traffic. He said good schools increase property values.

MAYOR FLAHERTY asked about current uses of buildings A & B and occupancy rates.

MR. CARUSO reported that both buildings are currently being used as classrooms on weekends. He remarked that the proposed modifications are mostly for compliance with the Americans with Disabilities Act and that the proposed occupancy would meet fire code regulations.

COUNCILMEMBER NOACK and VICE MAYOR CARLSON asked about the landscaping and proposed fence height.

MR. CARUSO responded that no trees would be removed and that it would be possible to plant greenery by the fencing. He stated that a five foot fence is standard for businesses.

JOSHUA ROPER, Charles M. Salter Associates, Inc., said that he conducted an environmental noise assessment for the Applicant. Mr. Roper explained the difference in noise attenuation between different fence heights and composite materials.

MAYOR FLAHERTY called a recess at 8:36 p.m.

MAYOR FLAHERTY reconvened the meeting at 8:46 p.m.

MAYOR FLAHERTY opened public comment.

MARK DO瑟, Pleasant Hill, stated that he works from home and sees the traffic patterns on Boyd during peak morning hours and in the afternoon. He noted that 72 students being dropped off in only 27 cars is not realistic and that turn restrictions on Boyd will make it difficult for cars
to access the 680 freeway. Mr. Doser requested additional police enforcement due to cars traveling at excessive speeds on Boyd.

DAVID SILBERSTEIN, real estate broker, explained that he worked with the church and daycare operator to broker the deal. He said that having a daycare close by would benefit the community and noted the beauty of the proposed site. Mr. Silberstein stated that the church is a business and could operate a school without having to go through the hearing process, however, the church needed to sell the property due to low membership. He said that the church wanted to give back to the community and thought a school would be the best use of the property.

TOD GOMES, Pleasant Hill, requested the slide showing the distances of the homes in relation to playground be shown. Mr. Gomes described a blind hill on Kahrs and said that he drives this street several times a day. He expressed his concern about safety for the children and noted that there would be more than 27 cars generated from the proposed project.

SHANNA HOLDEN, Pleasant Hill, noted that she was a teacher at Sequoia Middle School and expressed her concern about traffic in the area. Ms. Holden said she has seen accidents in the area. She asked for additional police presence to train people on the new traffic flow if the proposed project is approved.

VIOLET VOTIN, Pleasant Hill, commented that there have been a number of accidents in the area and that the traffic details have not been thought through. Ms. Votin said that quality schools are important, but not day care centers. She stated that the proposed location would not be the right place for a 72 student daycare center.

JOHN MILLER, Citizens for a Safe Pleasant Hill, stated that he lives on Kahrs Avenue and expressed his concerned about traffic safety. He noted that the most dangerous streets are Boyd Road, Soule Avenue, and Kahrs Avenue. Mr. Miller said that he works from home and that it is noisy if children are playing outside. Mr. Miller expressed his belief that property values would be negatively impacted. He commented that 72 students plus employees would result in more than 27 cars and requested that City Council approve the appeal or allow for additional traffic studies.

BEN LEE, Pleasant Hill, remarked that he has a 5 month old son and that an accessible daycare in the area is necessary. Mr. Lee said that he understands the traffic and safety concerns, but notes that the City has already completed a traffic study. He stated that if he enrolls his son in the proposed day care, he would be the first person to make sure that safety issues are addressed. Mr. Lee requested that City Council consider the needs of young families in the area.

STEVEN ERKEL, Pleasant Hill, commented on the difficulty in finding day care. He stated that he would be invested in safety and the wellbeing of the school if his child attended the school. Mr. Erkel said that there is no proof that the proposed day care would materially affect traffic.

GORDON SWIDLER, Pleasant Hill, expressed his support in favor of the proposed day care center and noted that it is an excellent idea and a wonderful use of the property. He expressed his opinion that traffic in the area would not be materially impacted. Mr. Swidler explained that he conducted his own traffic study of over 1000 students at Sequoia versus the 72 students at the proposed day care. He said that he enjoys hearing kids at Sequoia playing and considers it "music
to his ears.” Mr. Swidler stated that the day care would support families and not negatively impact property values.

HEIDI GORTON-RIGAZZI, Pleasant Hill, provided a handout to Councilmembers. Ms. Gorton-Rigazzi commented that she lives directly across from the entrance of the church. She said she has two young children attending preschool in Pleasant Hill, but expressed her opposition to having a 72 student day care business across from her quiet home. Ms. Gorton-Rigazzi expressed her concern about safety at nearby busy intersections and noted that there are no sidewalks on certain sections of Kahrs so pedestrians would have to walk in the street. She also mentioned the blind hill on the entrance to the church and explained dangerous traffic situations. Ms. Gorton-Rigazzi expressed her support for a day care center in a more appropriate location.

NANCY BATTEY, 1st Church of Christ, Scientist, stated that church representatives met with a number of realtors and the number one consideration was a school and number two consideration was a senior dementia care facility. She said that the church decided on a day care as it was the best for the community since it was difficult to find quality day care in the area. Ms. Battey commented that the area has a number of schools, so it would be appropriate to also have a day care in the area. She noted that the traffic study shows an insignificant impact to traffic.

KIM D'AMBROSIA, Pleasant Hill, expressed her concern of unsafe conditions in the highly congested traffic area. She remarked that there is a fire station on Boyd which would need to have quick access to the roads during emergencies. Ms. D'Ambrosia stated that a day care should be in the proper space and that the proposed area is oversaturated and traffic would be negatively impacted.

The following people submitted public comment cards, but did not speak:

Tom Duffy, Pleasant Hill
Jeff Wygal, Pleasant Hill.

MAYOR FLAHERTY closed public comment.

COUNCILMEMBERS continued their discussion regarding traffic issues and posed additional questions to staff which were answered by Mr. Fuz and Mr. Hu.

BRYAN HILL, Interim Police Chief, Pleasant Hill Police Department, reported that there was one accident in the vicinity during 2017. He stated that it is standard practice for more police presence when traffic changes are made in order to monitor and enforce. Chief Hill said that the police department has not received many complaints for speeding on Boyd Road and that such complaints would usually be made at the beginning of each school year.

In response to COUNCILMEMBER NOACK’s question about any traffic assessments on the blind hill, MR. HU responded that staff drives by the site regularly and although there is a vertical crest, it did not violate the design request.

COUNCILMEMBER HARRIS asked about the sidewalks in the area.
MR. HU noted that there are broken sections of sidewalks along Kahrs Avenue. He said that although it would be desirable to have continuous sidewalks, it is not considered a hotspot.

COUNCILMEMBER HARRIS questioned the discrepancy between the traffic studies showing no significant impact to the area versus testimony from nearby residents.

MR. FUZ stated that there are objective technical standards under CEQA to determine if impact is significant or not. He said that testimonies from neighbors are subjective and additional conditions were added to address the subjective concerns. Mr. Fuz remarked that the conditions could be reviewed within one year to see if substantial differences exist.

COUNCILMEMBER NOACK remarked that the traffic congestion in the area is due to Sequoia Middle and Elementary Schools and Pleasant Hill Middle School and that the day care would not significantly impact traffic. She stated that the City should address the traffic issue. Councilmember Noacks stated that she contacted the Superintendent of the Mount Diablo Unified School District (MDUSD) and suggested staggered start times for Pleasant Hill Middle School. She said that the MDUSD needs to address the traffic issues since most of Sequoia students are not from Pleasant Hill, and therefore are not able to use alternative modes of transportation.

COUNCILMEMBER RINN noted that his daughters attend Strandwood Elementary School and that Councilmembers should have a discussion with the MDUSD about community based schooling.

VICE MAYOR CARLSON said that he met with Ms. Yang and her team and Ms. Battey from the church about two years ago. He noted that he lives in the neighborhood and agrees that traffic is congested during peak hours at Sequoia, but he has not seen an accident.

COUNCILMEMBER NOACK also reported that she met with Ms. Yang and her team and Ms. Battey.

MAYOR FLAHERTY said that when he spoke with Ms. Parker, his first reaction was opposition to the proposed project. Mayor Flaherty stated that he has since reviewed the record as to what would be the actual impact on the neighborhood. He noted that there would be some impact from cars, but most of the day care activities would take place indoors. Mayor Flaherty expressed his concern with occupancy, but by taking into consideration the record, zoning and use, the City Council would not have much discretion.

COUNCILMEMBER HARRIS also reported speaking with Ms. Parker. He said that the proposed project should be looked at from an objective viewpoint instead of a subjective viewpoint. Councilmember Harris expressed his hope that the neighbors and day care facility would become good neighbors. Councilmember Harris requested a change in condition to increase the fence height from five feet to six feet.

COUNCILMEMBER NOACK asked staff to set up meetings with the MDUSD to discuss scheduling for the following year and on ways to reduce traffic. She encouraged the public in attendance to write to the MDUSD about their traffic concerns. Councilmember Noack stated her support for a 6 foot fence but expressed her wish for additional greenery by the fence to mitigate the noise. She noted that adding sidewalks on Kahrs Avenue should be a priority and requested
additional police presence at the beginning of traffic circulation changes. Councilmember Noack said that the Redwood trees on the property should be protected.

COUNCILMEMBER HARRIS noted that the potential for change in property value is subjective so it would be difficult to take that into consideration. He expressed his opposition to allowing offsite parking in the neighborhood and requested that as a condition of approval.

MR. FUZ said that no offsite parking could be included as a condition of approval. He also said that a current condition of approval pertains to special events which would divide the attendees into two groups to avoid parking spillover into the neighborhood.

COUNCILMEMBER HARRIS made a motion to deny the appeals and uphold the Planning Commission and Architectural Review Commission decisions with the two additional conditions of a six foot fence and not allow offsite parking.

JANET COLESON, City Attorney, clarified the motion on the record.

MAYOR FLAHERTY noted an error which stated the drop-off times as “between 7:00 a.m. to 9:00 p.m.”, but should be corrected to read as “7:00 a.m. to 9:00 a.m.”

**Motion (Harris/Carlson) to Adopt** Resolution No. 3-18 denying an appeal of Minor Use Permit and Architectural Review Permit PLN 16-0428, upholding the decisions of the Planning Commission and the Architectural Review Commission to approve a day care, general use at an existing church located at 409 Boyd Road with two additional conditions, carried as follows:

- **AYES:** Carlson, Harris, Noack, Rinn, Flaherty

9.2 **Public Hearing and Adopt Resolution No.____-18 Repealing Resolution No. 18-03 and Adopting Updated Public Notification Procedures for Public and Private Projects throughout the City**

MAYOR FLAHERTY stated that a request had been made to continue the item to February 5, 2018.

**Motion (Harris/Carlson) to Continue** the Public Hearing and Adopt Resolution No. ___-18 Repealing Resolution No. 18-03 and Adopting Updated Public Notification Procedures for Public and Private Projects throughout the City, carried as follows:

- **AYES:** Carlson, Harris, Noack, Rinn, Flaherty

10. **OTHER**

10.1 **Accept Report on Study of Commercial Cannabis Uses and Adopt Urgency Interim Zoning Ordinance No. 920 to Extend for 10 Months and 15 Days the Temporary Moratorium on Medical and Adult-Use Commercial Cannabis Uses**
JANET COLESON, City Attorney, explained the purpose of the moratorium and noted important time frames. Ms. Coleson stated that she would closely watch and study other jurisdictions concerning cannabis regulation and would report to the City Council before the expiration of the temporary moratorium.

MAYOR FLAHERTY inquired about information from police departments from nearby jurisdictions.

BRYAN HILL, Interim Police Chief, Pleasant Hill Police Department, responded that there have been some robberies in connection with cannabis deliveries.

MS. COLESON, explained that the expiration of the moratorium would cause the loss of local control over cannabis regulation and business licensing.

MAYOR FLAHERTY opened public comment.

MICHAELA TOSCAS, cannabis advisor and advocate, provided a handout to Councilmembers. She commented that medical cannabis is a necessity and that banning it would make the black market thrive. Ms. Toscas displayed a map of delivery services in the area and noted that having regulated store-fronts would abolish black market delivery services. She stated that most people would rather purchase cannabis at a store-front operation. Ms. Toscas reported that an increase in crime is a misconception and that criminal activity in the states of Colorado and Washington have decreased since cannabis has been regulated. She also reported that cannabis delivery services have been taken out in Colorado and Washington due to the availability of purchasing cannabis from store-fronts.

MAYOR FLAHERTY closed public comment.

MS. COLESON read the proposed urgency ordinance into the record.

Motion (Carlson/Noack) to Accept the report on study of Commercial Cannabis Uses and to Adopt Urgency Interim Zoning Ordinance No. 920 to extend for 10 months and 15 days the temporary moratorium on medical and adult-use commercial cannabis uses, carried as follows:

AYES: Carlson, Harris, Noack, Rinn, Flaherty

11. ADJOURNMENT

MAYOR FLAHERTY adjourned the meeting at 10:18 p.m. The next regular meeting will be held on Monday, January 22, 2018, beginning at 7:00 p.m.