



**MINUTES
FREMONT PLANNING COMMISSION
REGULAR MEETING OF JANUARY 28, 2016**

- CALL TO ORDER:** Chairperson Salwan called the meeting to order at 7:00 p.m.
- PRESENT:** Chairperson Salwan, Commissioners Karipineni, Leung, Pentaleri, Bonaccorsi
- ABSENT:** Dorsey and Reed
- STAFF PRESENT:** Wayne Morris, Assistant Planning Manager
Prasanna Rasiah, Senior Deputy City Attorney
Debra Margolis, Assistant City Attorney
Kristie Wheeler, Planning Manager
Steve Kowalski, Associate Planner
Chavez Company, Remote Stenocaptioning
Napoleon Batalao, Video Technician
- APPROVAL OF MINUTES:** None
- DISCLOSURES:** Commissioners Pentaleri, Salwan, Karipineni, and Vice Chairperson Leung met with the applicant for item number three. Commissioner Bonaccorsi: met with Applicant for item number three and was involved in email exchange and phone calls with Robson homes regarding item number four.

CONSENT CALENDAR

THE CONSENT CALENDAR CONSISTED OF ITEM NUMBER(S) 1 AND 2.

IT WAS MOVED (LEUNG/PENTALERI) AND UNANIMOUSLY CARRIED BY ALL PRESENT THAT THE PLANNING COMMISSION TAKE THE FOLLOWING ACTION ON ITEM NUMBER(S) 1 AND 2.

- Item 1. **PATTERSON RANCH DEVELOPMENT AGREEMENT 2015 ANNUAL REVIEW** - Northeast corner of Paseo Padre Parkway and Ardenwood Boulevard - PLN2016-00192 - To consider an Annual Review of Development Agreement DA-PLN2005-00185 for the Patterson Ranch project allowing the development of 500 single-family dwellings on approximately 102 acres of vacant land in the North

Fremont Community Plan Area. This annual review is not subject to the requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15378 in that it does not meet CEQA's definition of a "project."

Staff requests that the following corrections be included in the Staff Report and Conditions of Approval:

Staff Report: Shortly after the publishing of the staff report, it was brought to our attention by the Alameda County Water District (ACWD) that the applicant erred in stating that the developer completed the relocation to ACWD's satisfaction on October 30, 2015 in his 2015 Development Agreement Compliance Summary, attached to the staff report as Informational Item #1.

As such, item (c) of the "Development Agreement Terms" on page 3 of the staff report is hereby corrected to read as follows, with deleted text shown as ~~struck out~~ and added text shown as underlined:

(c) The applicant obtained approval from the Alameda County Water District (ACWD) to relocate a water main from within the project boundaries into the adjacent Paseo Padre Parkway and Ardenwood Boulevard public right-of-ways on March 30, 2015, ~~and completed the relocation to ACWD's satisfaction on October 30, 2015.~~ The portion of the main within the Ardenwood Boulevard right-of-way is currently being relocated under the supervision of ACWD. The portion of the main located within the project site has not yet been relocated. Both portions are expected to be completely relocated to the satisfaction of ACWD by the end of April 2016.

FOUND THAT THE ANNUAL REVIEW OF THE DEVELOPMENT AGREEMENT IS NOT SUBJECT TO CEQA PURSUANT TO CEQA GUIDELINES SECTION 15378 IN THAT THE ACTIVITY DOES NOT MEET THE CEQA DEFINITION OF A "PROJECT."

AND

FOUND ON THE BASIS OF SUBSTANTIAL EVIDENCE THAT THE APPLICANT/DEVELOPER HAS COMPLIED IN GOOD FAITH WITH THE TERMS AND CONDITIONS OF THE DEVELOPMENT AGREEMENT FOR THE PERIOD UNDER REVIEW (JANUARY 1 THROUGH DECEMBER 31, 2015) AS DESCRIBED IN THE STAFF REPORT.

Item 2. **VALERO MISSION/MOHAVE - 46370 Mission Boulevard – PLN2015-00165** - To consider a Conditional Use Permit Amendment and Discretionary Design Review Permit to modify the architecture and add a second floor office to a previously approved gas station with a carwash and a convenience food store located in the Warm Springs Community Plan Area, and to consider an exemption from the requirements of the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15301, Existing Facilities.

The motion carried by the following vote:

AYES: 5 – Salwan, Karipineni, Leung, Pentaleri, Bonaccorsi
NOES: 0
ABSTAIN: 0

ABSENT: 2 – Reed and Dorsey
RECUSE: 0

PUBLIC/ORAL COMMUNICATIONS - None

PUBLIC HEARING ITEMS

Item 3. **PARC 55 - 47003-47320 Mission Falls Court and 47323-47339 Warm Springs Boulevard - PLN2014-00045** - To consider a General Plan Amendment to change the land use designation for a 23.5-acre site from Tech Industrial to Urban Residential, 30-70 units per net acre, Medium Density Residential, 14.6-29.9 units per net acre, and Public Facility, a Rezoning of the same site from I-R Restricted Industrial to Preliminary Planned District (P-2014-45), and a Development Agreement to allow the development of a new age-restricted master-planned community containing up to 497 units for seniors aged 55 years and older, and including an approximately 15,000-square-foot public senior community center in the Warm Springs Community Plan Area, and to consider a Mitigated Negative Declaration prepared and circulated for the project in accordance with the requirements of the California Environmental Quality Act (CEQA).

Associate Planner Kowalski- Presented the application for the GPA and rezoning of twenty-three and a half acres from Tech Industrial to partly Urban Residential, partly Medium Density Residential and partly Public Facility. The New Planned District is for an age restricted residential community that would include:

- New Senior Community Center
- Five interconnected village communities connected
- One affordable housing village with a total of ninety units.

The site is currently vacant and owned by the applicant. The site is located near a residential neighborhood which contains public schools and parks, and a fire station is located across the street. Commercial uses are located a short distance away to the north along Warm Springs Boulevard.

Staff had conducted an Environmental Review. All of the impacts that were identified were able to be mitigated to less than significant levels.

- 497 age restricted units would generate less rush hour traffic than the existing light industrial/office buildings if they were all fully occupied by tenants.
- Demolition of the existing buildings would generate air quality impacts that could be mitigated using Standard Best Management Practices.
- Residents of the project would be exposed to significant noise from the rail road tracks, future BART tracks, and vehicular traffic on Warm Springs Boulevard and West Warren Avenue. These noises could be mitigated using standard noise-reducing construction methods and materials.
- Alameda County Water District stated that impact on water usage from the proposed land use change from light industrial to residential could be mitigated by requiring the developers to use highly efficient water conserving plumbing

fixtures and appliances, as well as, landscaping and irrigation that complies with the current state wide standards for water efficient landscaping and irrigation.

Staff recommended that the Planning Council recommend that City Council approves the General Plan Amendment as proposed for the rezoning of the twenty-three and a half acres. However, rather than rezoning the entire project site to a Preliminary PD, staff is requesting that the Commission recommend that Council rezone two and a quarter acres at the southwest corner of Mission Falls Court and West Warren Avenue to R-3-50 (multifamily residential) for the affordable housing component of the project. This would allow the affordable developer of the site to expedite the development of the site and the applicant to meet certain deadlines to obtain funding for the affordable housing component.

Commissioner Bonaccorsi asked staff if the adjacent Northwestern Polytechnic University had to be rezoned as well.

Assistant Planning Manager Morris stated it was reviewed by the Zoning Administrator only.

Commissioner Bonaccorsi asked how staff ensure compliance with mitigation for efficient plumbing.

Planning Manager Wheeler stated that the project will require subsequent entitlements, precise Planned Districts which would be conditioned to include the efficient plumbing fixtures, landscaping and irrigation, in the plans that are submitted for the building permits for each future component.

Commissioner Bonaccorsi stated he did mention the project to the organization Residents for Affordable Housing.

Chairperson Salwan invited the applicant to the podium.

John Wong, applicant, thanked Steve Kowalski and city staff that has worked with them and especially over the past two months and invited the designer for the project Tom Quaglia to speak about the specifics of the project.

Tom Quaglia, designer, presented the project. He described the Master Plan, ninety units in the Eden village will be affordable housing, a brand new 15,000 square foot senior center, Condo/Rental Apartments, and three more villages with options for home ownership. All of the multifamily buildings will have elevator access and ADA accessibility. He stated the location is great, two churches, a fire station, and grocery shopping, medical and dental offices all within a walking distance of under ten minutes. Senior living is typically located on the edge of the community unlike this project. Public sidewalks will be added, along with a new traffic signal at Warm Springs and Mission Falls Lane. The community center is going to be up to 15,000 square feet which will include a front porch which faces the public realm. Each of the villages will come back to the Planning Commission for approval with the exception of Eden which would only require staff level Design Review.

Chairperson Salwan asked for questions from the Commissioners.

Commissioner Bonaccorsi asked about the Initial Study addressing air quality impacts from construction, but a person from the community had posted a question on Facebook regarding the odors from the freeway and the sensitivity of the seniors.

Tom Quaglia stated that the location is three-quarters of a mile from the freeway. There would not be a requirement for an air quality management plan just because the community would be occupied by seniors. It was determined in the Initial Study that there would be no significant impacts from roads, freeways or railroads on the future senior population.

Chairperson Salwan opened the public hearing.

Neil Saxby, Assistant Director of Eden Housing which is an affordable developer, stated that for non-profit organizations, land is hard to buy, especially when close proximity to amenities is required in order to obtain the subsidies from affordable housing funding sources. This project is unique as it will be part of an integrated mixed income community, with a Senior Community Center, close proximity grocery stores, public transit and nearby parks.

Sally Morgan, Fremont resident, stated she was proud that Fremont is providing affordable housing for seniors. She stated she visited the property. She was concerned about the location on Warm Springs Boulevard and being so close to the freeway. She thought it was dangerous to have seniors walk along Warm Springs Boulevard because it is such a busy roadway. She brought up the issue of air pollution, and that it causes childhood asthma and now there is discussion about putting seniors here. She did not like that they plan on mitigating pollution impacts with air conditioners and better windows. She felt the City needs to think better about pushing seniors into an old industrial area.

Commissioner Pentaleri asked her what her request was.

Sally Morgan stated she is happy about the new senior center, but not about the freeway closeness, and that there had to be other locations in the City to develop senior housing that isn't so dangerous.

Vice Chairperson Leung stated the developer had planned to mitigate the traffic with adding an additional traffic signal and paved sidewalks. She asked if with these additions would help.

Sally Morgan stated no, she did not see how it was safe even with those improvements.

Vice Chairperson Leung stated across the street on Warm Springs Boulevard it is mostly residential. She asked Ms. Morgan regarding the air pollution, how bad could it be?

Sally Morgan stated that she was a kindergarten teacher and she had always taught her students that air pollution can cause asthma, but admitted that she was not an expert on the subject.

Commissioner Karipineni asked if Warm Springs is not walkable, then what would work.

Sally Morgan stated shuttles, not AC Transit because that wouldn't work and paratransit because you have to be 72.

Ted Bressler, Fremont resident, spoke in support of the project as there is a need for low income senior units. This project is to provide ninety low income units, nearly 500 total units, and a new Warm Springs senior center. John Wong has had a tradition for excellence with his projects in the City, and this proposal would continue that.

Gary Basrai, 43 year Fremont resident and local pharmacy owner, stated that he supports the project. He stated Warm Springs needs a senior center and affordable housing. The employees at his pharmacy travel as far away as from Tracy due to increased rental prices in this area.

Cindy Mossetti, Fremont resident, and former Planning Commissioner for 17 years, stated that she supported the project. She had known John Wong for 18 years and he had always cooperated with neighbors in previous projects, and he lives in Fremont as well. With the development of a senior living community there is no impact on schools, however the developer would still be paying the impact fees to the School District. She stated this project will make community members want to “age in place.”

Chairperson Salwan welcomed the applicant back.

Tom Quaglia stated the potential for affordable housing being integrated into a good area has already been done in the City on Peralta with Eden and the Cottonwood Place development. They will be working on traffic management programs to help the seniors get around safely and conveniently.

Vice Chairperson Leung asked if there was going to be an HOA for each village.

Tom Quaglia stated that all of the villages will have an HOA with the exception of Eden.

Vice Chairperson Leung asked if there was a possibility for a shuttle.

Tom Quaglia stated there was a comprehensive study that was conducted which was two tiered and that they would work with the City on the possibility of having shuttle service. Also, there was a Transportation Demand Management (TDM) program and that any ongoing operating costs required by the City would be the burden of the HOAs.

Commissioner Karipineni asked about potential air quality issues and the extra sensitivity to seniors and would it be warranted in this instance.

Tom Quaglia stated that for individuals fifty-five and older there is no difference in threshold compared to the other age groups; the standards are ubiquitous. The buildings are being set back and designed properly to include closed air conditioning systems. There were no other mitigations that were triggered with regard to protecting the health of the seniors. The only time air quality would be affected would be during demolition and construction activities but these would be temporary.

Commissioner Karipineni asked if it was considered as a matter of choice.

Tom Quaglia answered yes, and stated that the indoor air filtration systems in today's HVAC units are highly evolved.

Commissioner Pentaleri stated that the commission reviewed the project during a study session held on January 14, 2016. He also stated the great thing about the project was the level of affordability.

Commissioner Pentaleri stated that Eden does have an age restriction of sixty-two and older, it was front loaded and the new senior center was a great component. Eden would not have to come back to the Planning Commission, so it could be built more quickly than the market rate components.

Associate Planner Kowalski stated that the proposed rezoning precluded the need for Eden to go to City Council since it would be rezoned to R-3-50 and would only require staff level design review.

Planning Manager Wheeler stated that it would go to the Zoning Administrator for design review and approval.

Commissioner Pentaleri asked if there was a certain time crunch for Eden's component.

Tom Quaglia stated March 2, 2016.

Commissioner Pentaleri stated he was surprised to see in the correspondence letters from attorneys requesting an extension of CEQA review. The letters indicated that they had not received all documents that were available for review and that they would not have enough time to review all of the documents, but then they submitted a letter indicating that there was no issue just a couple of days later.

Planning Manager Wheeler stated that it was union groups requesting the documentation.

Tom Quaglia stated that he and John Wong had met with all of the union groups and ultimately everyone was happy, and that was the reason for the second letter withdrawing the requests for the extension.

Commissioner Bonaccorsi asked if they planned to break ground with Eden by 2017.

Tom Quaglia stated that they needed to submit their application no later than March 2, 2016 and that would put them in the perfect position to close escrow and break ground by January 2017.

Commissioner Bonaccorsi asked when Eden would be habitable.

Neil Saxby indicated the project would take roughly sixteen months and should be ready by August 2018.

Commissioner Bonaccorsi asked when the lottery would be open for the occupancy of the Eden project.

Neil Saxby stated it would start three months in advance.

Commissioner Bonaccorsi asked what the weighting criterion was and if being a current Fremont resident would holder a higher weight.

Neil Saxby stated that it varies depending on jurisdiction

Commissioner Bonaccorsi asked that the staff look into exploring current resident preferences. He quoted Ms. Mosetti stating, "it's an opportunity for us to age in place."

Chairperson Salwan closed the public hearing.

Commissioner Karipineni asked if there were any concerns with security and if a senior living development would be a specific target for criminal activity.

Assistant Planning Manager Morris stated that staff would have to discuss the issue with the Police Department.

Vice Chairperson Leung applauded the developer for developing a senior community with affordable housing and a new senior center. She stated she is excited to see the project once it is complete.

Commissioner Karipineni stated that the project has a low impact there would be no impact on schools, traffic was net neutral, and impacts to water supplies could be mitigated. The project has a minimal environmental impact and increased benefits for the public. She commended the project.

Vice Chairperson Leung stated the project puts the City in the forefront to integrate senior housing within the community.

Commissioner Bonaccorsi stated that in order for a General Plan Amendment to be approved there needs to be extraordinary public benefit. It is very important to have a significant component, and the senior center alone does that, not to mention Eden's affordable component. He was also excited about the project.

Chairperson Salwan stated it is a very good project for seniors and that there needs to be more senior community centers in Fremont to meet the needs of the increasing senior population. The project would also provide significant pedestrian improvements for what is a pretty unsafe area today.

IT WAS MOVED (BONACCORSI/KARIPENENI) AND UNANIMOUSLY CARRIED BY ALL PRESENT (5-0-0-2-0) THAT THE PLANNING COMMISSION RECOMMENDED THAT THE CITY COUNCIL ADOPT THE MITIGATED NEGATIVE DECLARATION AND MITIGATION MONITORING PLAN IN ACCORDANCE WITH THE REQUIREMENTS OF CEQA, AS SHOWN IN EXHIBIT "A" AND FIND ON THE BASIS OF THE WHOLE RECORD BEFORE IT (INCLUDING THE INITIAL STUDY AND ANY COMMENTS RECEIVED) THAT THERE IS NO SUBSTANTIAL EVIDENCE THAT THE PROJECT WILL HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT AND THAT THESE ACTIONS REFLECT THE INDEPENDENT JUDGMENT AND ANALYSIS OF THE CITY OF FREMONT;

AND

FOUND AND DETERMINE THAT THE PROPOSED GENERAL PLAN AMENDMENT IS CONSISTENT WITH THE GENERAL PLAN AND FURTHERS THE PUBLIC INTEREST, CONVENIENCE AND GENERAL WELFARE AS DESCRIBED IN THE STAFF REPORT,

AND

ADOPTED A RESOLUTION APPROVING A GENERAL PLAN AMENDMENT CHANGING THE LAND USE DESIGNATION OF THE SITE FROM TECH INDUSTRIAL TO URBAN RESIDENTIAL, MEDIUM DENSITY RESIDENTIAL AND PUBLIC FACILITY AS SHOWN ON EXHIBIT "B;

AND

FOUND PRELIMINARY PLANNED DISTRICT P-2014-45 AS PER EXHIBIT "E" FULFILLS THE APPLICABLE REQUIREMENTS SET FORTH IN THE FREMONT MUNICIPAL CODE;

AND

INTRODUCED AN ORDINANCE ADOPTING THE DEVELOPMENT AGREEMENT FOR THE PROJECT AS SET FORTH IN EXHIBIT "D;"

AND

INTRODUCED AN ORDINANCE APPROVING THE REZONING FROM I-R RESTRICTED INDUSTRIAL TO PRELIMINARY PLANNED DISTRICT P-2014-45 AND R-3-50 AS SHOWN ON EXHIBIT "C," APPROVING THE PRELIMINARY PLANS AS SHOWN ON EXHIBIT "E" AND THE USE AND DEVELOPMENT PROVISIONS SET FORTH IN EXHIBIT "F," BASED ON THE FINDINGS AND SUBJECT TO THE CONDITIONS SET FORTH IN EXHIBIT "G;"

AND

DIRECTED STAFF TO PREPARE AND THE CITY CLERK TO PUBLISH A SUMMARY OF THE ORDINANCES.

The motion carried by the following vote:

AYES: 5 – Salwan, Karipineni, Leung, Pentaleri, Bonaccorsi
NOES: 0
ABSTAIN: 0
ABSENT: 2 – Reed and Dorsey
RECUSE: 0

- Item 4. **MUNICIPAL CODE AMENDMENT PACKAGE - Citywide - PLN2015-00307 -**
To consider amendments to Title 12 (Utility Underground Districts), Title 15 (Building and Construction), Title 17 (Subdivisions) and Title 18 (Planning and Zoning) of the Fremont Municipal Code (FMC) to update definitions, clarify and amend standards, utilize consistent terminology for allowable uses, update special provisions for miscellaneous uses, and update zoning district references, and to consider an exemption from the requirements of the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15061(b)(3) in that the proposed amendments do not have the potential for causing a significant effect on the environment.

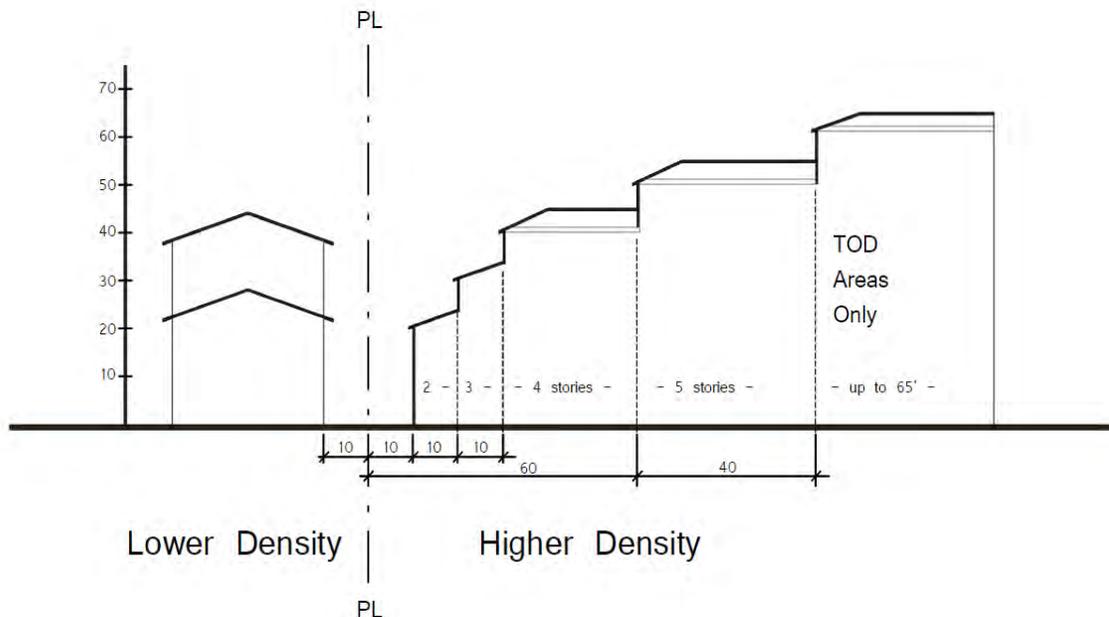
Staff requests that the following corrections be included in the Staff Report and Conditions of Approval:

Staff Report: There is a typographical error on page 4 of the staff report, which is corrected as follows, with deletions shown in ~~strike-out~~ text and additions shown in underlined text:

21. Clarifies that tandem parking may be authorized but is limited to no more than 30 ~~permitted~~ percent of the required parking for residential projects (18.90.030).

Draft Ordinance: To provide clarity and avoid confusion, the following changes are made to the new step back provisions in the R-3 zoning districts, with deletions shown in ~~strike-out~~ text and additions shown in underlined text:

- On page 16, in Table 18.90.050: Additional minimum interior side and rear yard step back⁹ when abutting a ~~lower density~~ less dense residential general plan designation:
- On page 17, in footnote ⁸: Height may be increased to 65 feet maximum when within one-half mile of a transit station, and only for those portions of the building that have a step back of 100 feet from any property with a ~~lower~~ less dense residential general plan density designation.
- On page 19: (2) Step back provisions - Clarification and Details. Step backs apply when a proposed development site with a higher density land use designation abuts an interior side or rear yard of adjoining site with a ~~lower density~~ less dense residential general plan land use designation. Step backs ensure that buildings do not overwhelm adjacent properties by creating greater separation. As new buildings increase in number of stories step backs are applied to limit bulk and mass and to improve light and privacy for the adjacent property. Building heights may increase to the maximum heights once applicable step back requirements are met. For the purpose of this section, a half story shall count as a full story unless there are no windows, balconies, or decks facing the adjacent lot. Above grade garage podiums (including a half-level garage podiums) shall also count as a full story.
- Page 19 includes a notation to "Insert step back illustration here." The referenced illustration is attached.
- On page 34, Section 18.190.510 Sidewalk dining: (b) Location. Sidewalk dining areas within the public right-of-way are permitted only in areas zoned D-CA, D-E, CC-TN, CC-UO, CC-UN, TC-P, TC-T, WSI-3, WSI-4, WSI-4A, WSI-5, WSI-8 and WSI-9 districts or as otherwise permitted as part of an approved Planned District.



Planning Manager Wheeler gave a brief presentation on the proposed Municipal Code Amendments focusing on key points. The City adopted the General Plan Update in December 2011 and staff has since brought forward several code amendments to implement the General Plan, including updates to the City’s procedures and permitting requirements, a comprehensive update to the Residential, Open Space and Commercial zoning districts, and an update to the Affordable Housing Ordinance. The proposed Municipal Code Amendments before the Planning Commission would provide clarifications and corrections, update the land use tables to provide consistency in terminology, and provide step backs in the R-3 (Multi-Family Residential) Districts to address the interface between a proposed higher density residential project and existing adjacent lower density neighborhoods. Step backs would create greater separation between adjacent properties, help reduce building bulk and mass, and allow for more light and privacy. The building height may increase as appropriate step backs are met.

She stated she was asked by Commissioner Bonaccorsi if outreach was done. She stated the proposed step backs were tested on the Walnut Residences project and that the project would be able to meet the proposed step back requirements. She also had asked the architect who created the step back illustration to give feedback and he thought that the language is clear and met the intent which was to create less bulk and mass at the property line.

Chairperson Salwan opened the public hearing.

Chris Cavette, Fremont resident, stated he had read the entire package and would withhold comments on the step backs as there is more to the Walnut Residences project than just that. He stated that an obscure item was slid in with the proposed amendments, which was tandem or mechanical stacked parking up to 30 percent allowed for all residential projects, under all conditions, in all locations and he was not comfortable with tandem parking or mechanical. He stated he was hoping he could get the Commission and staff to consider this process. He stated he thinks the City should not have mechanical parking in R-1 Districts, and tandem parking should only be allowed in R-3. In addition, mechanical parking should be allowed in the TOD Overlay but it is largely unworkable elsewhere with multiple unrelated adults with multiple cars and different jobs. He would also like to see the percentage much lower. Also, he stated there is no definition of tandem parking in the Municipal Code, and there are no minimum dimensions for tandem parking.

Chairperson Salwan closed the public hearing and asked the Commissioners for questions.

Commissioner Pentaleri stated he wanted to review three things. He was happy to see the step back provisions included, these were great improvements. He did want some clarification on what the step backs addressed. As he understood it, it's talking about adjacencies within the current zoning and would not address the properties that might be up zoned.

Planning Manager Wheeler stated she was not sure she understood the question

Commissioner Pentaleri stated rezoned projects, existing conditions, and nonconforming.

Planning Manager Wheeler stated the assumption was that a higher density land use designation next to a less dense land use designation is where the step backs would apply. It is not anticipated that existing single-family zoning would be up zoned.

Commissioner Pentaleri stated that they had dealt with something that seemed like this in a single-family residential district and possibly the Hackamore project.

Planning Manager Wheeler stated that the amendments would have addressed Hackamore, and with that project a General Plan Amendment was required. She stated that the buildings on the perimeter were two stories.

Commissioner Pentaleri asked in the packet on page 242, the term "Bay Friendly" is used, had that term been defined.

Planning Manager Wheeler stated that the term is not defined in the Municipal Code; she stated that the City maintains a list of Bay Friendly plants and to address climate and soil conditions in proximity to the bay.

Commissioner Pentaleri stated StopWaste has identified a set of Bay Friendly landscape practices and he doesn't see it here. The City should ensure our ordinances cross-reference and give some specificity. He wanted to also address the tandem

parking. He has brought up the issue of tandem parking spaces from time after time. He thought that there is tendency or risk that they will be used for other purposes. Streets end up lined with cars, and people not interacting with each other. He does acknowledge in a more urban setting tandem parking could be good. He stated he would not like to see a blanket provision; he stated these are contemporary thoughts about architecture and thinks there is a place for it. He thought that we would do well by our community to be very thoughtful to where the City allows it.

Assistant Planning Manager Morris stated that we seem to be scared about something we haven't really seen a lot of. He stated three-car garages that are two cars wide with one tandem space, pedestrian wise and visibility wise from architectural point of view, it is more appealing. Without tandem parking the density for a lot of projects could not be achieved.

Commissioner Pentaleri asked if tandem parking is authorized as a blanket, if a developer wants to do tandem parking there would be nothing the Planning Commission nor staff could do to change it.

Assistant Planning Manager Morris stated the City is attempting to get away from Planned Districts and go towards straight zoning. By adding this amendment it would allow a developer to come to the Planning Division with a project where there is a certainty. If they know that the City allows tandem parking in these districts with up to 30 percent, if we don't go this way, we will perpetuate the Planned Districts going forward

Commissioner Pentaleri stated he had not known that the City was going that direction but he thinks that the more conventional single-family detached homes will become less and less frequent but would not want to see tandem parking in those cases.

Chairperson Salwan asked if Commissioner Pentaleri wanted to see the Municipal Code differentiate between TOD and single-family detached homes.

Commissioner Pentaleri stated that was correct he would like to see front porches as opposed to tandem.

Planning Manager Wheeler asked if R-3 projects were more acceptable for allowing tandem parking.

Commissioner Pentaleri stated yes.

Commissioner Bonaccorsi clarified with Commissioner Pentaleri that TOD should have tandem parking maybe authorized, and there should be limiting language to propose.

Commissioner Pentaleri stated he is taking the opportunity tonight to lay out the reasoning behind his feelings

Commissioner Karipineni asked if there was a potential for modifications, and how frequently tandem or mechanical parking is proposed. And she was wondering if the added language is encouraging 30 percent, even though the intention is to limit it.

Planning Manager Wheeler stated that tandem and mechanical stackers had always been allowed and there had been at least a half dozen projects in the last year or two that proposed tandem parking.

Assistant Planning Manager Morris stated there will be more as we have more multi-family dwellings. In a project that has 20 to 22 units to the acre without tandem parking it would not be achievable. If the provision is passed, a straight R-3-18 with 30 percent tandem parking is straight zoning. A project proposing tandem parking would require a design review permit only with the Planning Commission and not need City Council approval as well. If it were to be dropped down to 10 percent more projects would have to go onto City Council because they would require Planned District zoning.

Commissioner Karipineni asked to clarify that the amendment is responsive and not proactive.

Planning Manager Wheeler stated the Peralta Crossing project proposed 40 percent tandem parking. The developer of the Connolly Center project saw the benefits of side by side garages and didn't propose any tandem parking. Tandem parking is part of a planning trend toward getting people to be less auto-oriented. There has been a dramatic shift on how parking is provided for projects. We're looking less at minimum parking requirements and more at maximum parking requirements. Also, tandem parking is a way to address a smaller unit or a couple (where it is seen most). Not everybody has a large family, there are people who have a one-car garage and it works for them. Couples who are 55 and older are looking to economize and this as well would be a good case for tandem parking.

Commissioner Bonaccorsi asked if there was any urgency to take action now or if it could come up in the next couple of months.

Planning Manager Wheeler stated that one item that staff would like to be adopted sooner rather than later affects the Master Plan for Old Warm Springs Boulevard South. There is a proposed change to the WSI land use table to accommodate that project.

Commissioner Bonaccorsi asked if the changes in the Municipal Code would affect the previously approved projects.

Planning Manager Wheeler no just WSI District for the Valley Oak project.

Commissioner Bonaccorsi asked if the changes would impact Parc 55.

Planning Manager Wheeler stated the changes would not affect Parc 55.

Commissioner Bonaccorsi asked if there were any unintended consequences to the step back provisions and thought that staff should talk to our stake holders about the

step backs. In his discussion with Robson Homes they had stated that the Hackamore project could not be done if the step backs were in place and there could be unintended consequences.

Planning Manager Wheeler stated she did not think so, because in the case of Hackamore the lots that were adjacent to the single-family neighborhood were two-stories.

Commissioner Bonaccorsi stated that in the case of Hackamore the proposed lot coverage requirements would have pushed up Hackamore and would have undermined some of the other benefits of the project.

Commissioner Pentaleri stated that the single-family homes that were adjacent had huge setbacks and full backyards.

Commissioner Bonaccorsi stated he had some concerns for smaller infill projects. The step backs may create tension that has not been thoroughly vetted. He then referenced page 237 in the packet, park land impact fees. The proposed change says “the city may condition the approval of a residential development upon the dedication of park land, ...” He stated that is a discretionary condition that is vetted in and he had no objection to that language and referenced page 271 in the packet, 18.290.090, Park land impact fees, “Each residential development project shall be required to pay a park land impact fee. However, if dedication of park land is proposed by a project applicant or required pursuant to Fremont Municipal Code section 17.25.270, the applicant shall receive a credit against park land impact fees, in accordance with Article III of this chapter.” He stated it seemed that the two ordinances should be merged together.

Senior Deputy Attorney Rasiah stated there were reasons for it to be listed in different places.

There were changes in the park land dedication option is set forth in the Quimby Act which is State law, which allows for the park land dedication through a residential map which is why it is in Title 17, the subdivision ordinance. The City has moved away from impact fees imposed through the Quimby Act, due to changes in legislation that made it more challenging to have parkland impact fees that could be expanded throughout the City, to mitigation fee act for park improvements throughout the City. The deletion of the park impact fees in reference to the Quimby Act change in impact fees. Park land dedication is optional; broadly speaking all projects will have to pay park land impact fees, it would be offset when dedication of parkland in the instances where that option is selected.

Commissioner Bonaccorsi stated thank you for the Quimby Act reference. In Title 18 there seemed to be a cross reference to that there is an overarching impact fee requirement.

Senior Deputy Attorney Rasiah stated proposed revisions already contain a cross-reference, he referenced page 237 in the packet, subsection (c), “The City has adopted park land impact fees pursuant to the Mitigation Fee Act as set forth in Chapter 18.290.”

Commissioner Bonaccorsi stated he would withdraw his concern. He then referenced page 238, Section 18.25.2265, Personal Services, General, “The definition specifically excludes “Other personal services” as defined in section 18.25.2266. Ear piercing as accessory to retail jewelry sales is allowed where retail sales are permitted.” He felt the two sentences should be switched.

Senior Deputy Attorney Rasiah stated they could look into reordering that paragraph.

Commissioner Bonaccorsi referenced Sections 18.25.2265 and 18.25.2266. In Section 18.25.2266, Personal services, other, “This definition specifically excludes: laundry and dry cleaning, massage establishments and any other personal service type uses specifically listed with district regulations.” He stated that it should be restricted to just other.

Senior Deputy Attorney Rasiah asked if Commissioner Bonaccorsi was stating that under Section 18.25.2266, Personal Services, Other, the exclusion needs to be more clear where that falls.

Commissioner Bonaccorsi stated yes, it may be better suited under Section 18.25.2265.

Commissioner Bonaccorsi referenced page 242, (f) Installation and Maintenance of On-Site Artwork- Enforcement, subsection (f) (B), “Pay the City Center district art fee required by subsection (b) (2) of this section based upon the current fee schedule.” He stated he would add, “in effect as calculated under (b) (3) of this section.” He stated that his rationale for the change in language is that it could be read as whatever the fee schedule was at the time of the adoption as opposed to at the time of enforcement.

Senior Deputy Attorney Rasiah stated the language has been used in other art programs and it is commonly understood it would be the current fee schedule at the time of enforcement and not the current as it existed at the time of adoption.

Commissioner Bonaccorsi referenced the second portion of (f) (2) (B), “... and the square footage of the building, structure, or improvement for which the artwork was required” and asked if the square footage was covered under (b) (2) or if it was referencing something that was not covered under (b) 2).

Senior Deputy Attorney Rasiah stated the fee is based on the amount per square foot, which is based on the fee schedule that is amended from time to time and that is why it is framed in that way.

Commissioner Bonaccorsi referenced page 245 of packet, “When this column includes a number, the use is elaborated on in the North American Industrial Classification System (NAICS) Manual.” He asked if the proposed text should state just in and not on in.

Senior Deputy Attorney Rasiah stated it could go either way or they could change the text to say upon instead.

Commissioner Bonaccorsi referenced the second sentence, “When NAICS number is shown within parenthesis, the use is excluded and prohibited.” He stated it may need to be revised to read, “When the NAICS number...”

Chairperson Salwan asked if some of the details could be worked out via email.

Commissioner Bonaccorsi stated that the language did need to be worked out prior to voting and asked if they could postpone and request a continuance to a later date.

Senior Deputy Attorney Rasiah addressed Commissioner Bonaccorsi’s concerns regarding components of the proposed amendments not having had outreach. He stated that staff has recommended that the Commission recommend approval of the entire package to City Council, the Commission could recommend approval of certain components, changes to NAICS and WSI, and that staff could do outreach to the stakeholders between the meeting and the City Council meeting, rather than bring the entire package back to the Planning Commission.

Commissioner Bonaccorsi referenced page 256, Section 18.153.040, “... Accessory structures on historic sites may be eligible to use historic building codes...” He asked if eligible is the right word as it would be mandated and not an option as the applicant would have to follow the building codes.

Senior Deputy Attorney Rasiah stated that he thought that what that’s referring to is to avoid an impact to an historic site and in order to avoid significant impact on the historical resource or changes to that site. If the historic building code is followed the significant impact would be avoided.

Commissioner Bonaccorsi referenced page 260, Section 18.183.172, (b) (2), “shall be provided for all uses in accordance with the requirements of the California Green Building Standards Code.” He stated it does not talk about the number of spaces to be provided.

Planning Manager Wheeler stated that the number is stated in the California Green Building Standards Code.

Senior Deputy Attorney Rasiah stated it was intended to cross reference the Building Code, as it has its own Building Code adoption cycle, and they did not want the Zoning Code and Building Code to be out of sync.

Commissioner Bonaccorsi stated he was happy it does that, and asked what it did to past projects.

Senior Deputy Attorney Rasiah stated the Hastings Street mix use project Conditions of Approval refers to the Building Code for EV parking spaces and no building permits had been pulled yet. The project would be held to the standards of the current Building Code at the time the permits are applied for.

Commissioner Bonaccorsi stated he was under the impression that it was a Municipal Ordinance that operated independently of the Building Code. He asked if Senior Deputy Attorney Rasiah was aware of any other Ordinance within the City that operates independently of the Building Code.

Senior Deputy Attorney Rasiah stated that he was not, and that it was really a Building Code requirement that they are cross-referencing in the Zoning Code.

Planning Manager Wheeler stated language that was struck in that requirement had a minimum of one percent and that was less than required in the Building Code.

Commissioner Bonaccorsi referenced page 270, Sidewalk displays Section 18.190.520, (g), “Right to appeal. Decisions to approve, deny, modify or revoke an encroachment permit for a sidewalk display may be appealed to a hearing officer designated by the city manager. Any such appeals must be filed with the city engineer within 10 days after issuance of the city engineer’s decision.” He asked how the applicant knows when the 10 days starts and what the mechanism is to make sure the person who wants to appeal understands when the 10 days start.

Planning Manager Wheeler stated it is an encroachment permit that is reviewed by the City Engineer at the counter and is issued or denied at the time of applying, so the 10 days would start on that date.

Commissioner Pentaleri said it states the right to appeal the decision to modify or revoke, he asked if Commissioner Bonaccorsi was asking about someone who wants to appeal an approved encroachment permit.

Commissioner Bonaccorsi stated he was asking about owners/operators or businesses and if the encroachment permit is not 100 percent granted and there is some denial/modification, he thinks it should be 15 days as it does not state business days or calendar days.

Planning Manager Wheeler stated that all appeals are 10 calendar days.

Commissioner Bonaccorsi stated that he feels that that’s tight

Commissioner Bonaccorsi stated he would like to adopt as his motion what Senior Deputy Attorney Rasiah’s motion to move to approve Item 4 with the NAICS and WSI standards going forward but City staff to do outreach before going to City Council.

Senior Deputy Attorney Rasiah clarified that he had suggested that the Commission vote to approve the staff recommendation with staff only bringing the NAICS and WSI changes to City Council immediately while doing outreach on the remainder.

Commissioner Bonaccorsi stated he would like to move forward with that recommendation.

Commissioner Pentaleri stated he would like to make a friendly amendment for tandem parking in residential neighborhoods, modifying Section 18.90.030, tandem parking or individualized mechanical parking spaces, to only R-3 (multi-family) or TOD and not include single family detached districts (R-1).

Commissioner Bonaccorsi clarified with Commissioner Pentaleri would like to move for R-1 Districts to be removed from the list of approved tandem parking and

only allow R-3 and TOD Districts to allow tandem and mechanical parking. He asked if staff had any objections.

Assistant Planning Manager Morris stated with the Hirsch project, and understands what Commissioner Pentaleri is stating, a five bedroom house, without tandem parking that the garage is going to have a 30-foot garage door instead of possibly 20-foot garage door with a tandem space and the porch being larger.

Commissioner Bonaccorsi asked what was the zoning classification for Hirsch.
Planning Manager Wheeler stated it was a Planned District.

Commissioner Bonaccorsi stated he understood that staff is trying to move away from PDs to streamline discretionary approval to end with the Planning Commission and not have to go onto City Council. He asked if in the limited instances of tandem parking and it sounds like it should not happen much, if the amendment is limited to R-3, PDs, TODs, if staff would be happy with that.

Assistant Planning Manager Morris stated if it is amended to state that the PDs would still have to go to the Planning Commission and then onto City Council just to allow for tandem parking.

Senior Deputy Attorney Rasiah stated that if you reference R-3, TOD and PD, the R-3 already has some flexibility built into it, and if it is already R-3 it is more likely than not that applicants will choose the R-3 route as it's a shorter timeframe.

Commissioner Bonaccorsi moved for a friendly amendment with R-3 and TODs only to allow for tandem and mechanical parking in those districts only, as well as, staff would look into outreach prior to the City Council.

Commissioner Karipineni seconded to motion.

Senior Deputy Attorney Rasiah clarified that taking some of the changes to the City Council and clear that they don't go back to the Planning Commission.

Planning Manager Wheeler stated she is a bit concerned with the motion as it seems that there are a few modifications that would affect developer stakeholders but the majority of the proposed Municipal Code Amendments would be held up.

Commissioner Bonaccorsi stated he understands her concern.

Planning Manager Wheeler stated staff could do some outreach between now and the February 16, 2016 City Council meeting.

Commissioner Bonaccorsi stated that staff could be appeal to City Council.

Senior Deputy Attorney Rasiah stated staff could think about it and decide what approach to take. Staff would have to determine how much outreach would be needed.

Commissioner Bonaccorsi stated that the stakeholders did need to be approached and that it should not take a great deal of time.

Senior Deputy Attorney Rasiah stated outreach might delay other portions of the proposed amendments another City Council meeting of two.

Commissioner Bonaccorsi stated that if the step backs become a bigger issue then they could be carved out to prevent delaying other aspects of the proposed amendments.

Senior Deputy Attorney Rasiah clarified where the motion stands.

Vice Chairperson Leung stated that in making changes to the Municipal Code, in making the language more consistent, the original ordinance was outreached previously, does that mean outreach is once again required.

Senior Deputy Attorney Rasiah stated there was a 10-day public notice to the public hearing.

Planning Manager Wheeler stated there was no official public outreach as these items were minor enough to not need outreach.

Planning Manager Wheeler stated there was a newspaper ad.

Commissioner Bonaccorsi stated that staff does know who to do outreach to.

Vice Chairperson Leung clarified with outreach would request input or view point from the stakeholders.

Planning Manager Wheeler stated that is correct.

IT WAS MOVED (BONACCORSI/KARIPINENI) AND CARRIED BY THE FOLLOWING VOTE (5-0-0-2-0) THE PLANNING COMMISSION – RECOMMENDED THAT THE CITY COUNCIL FIND THAT THE PROJECT IS EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PER CEQA GUIDELINES SECTION 15061(B)(3) IN THAT IT DOES NOT HAVE THE POTENTIAL FOR CAUSING A SIGNIFICANT EFFECT ON THE ENVIRONMENT;

AND

FOUND THAT THE PROPOSED MUNICIPAL CODE AMENDMENTS ARE CONSISTENT WITH THE GENERAL PLAN, INCLUDING THE POLICY AND IMPLEMENTATION MEASURE IN THE LAND USE ELEMENT AS ENUMERATED IN THE STAFF REPORT;

AND

FOUND THAT THE PROPOSED MUNICIPAL CODE AMENDMENTS WOULD FURTHER THE PUBLIC INTEREST, CONVENIENCE, AND GENERAL

WELFARE OF THE CITY, IN THAT THE AMENDMENTS WOULD ENSURE CONSISTENCY OF THE MUNICIPAL CODE WITH THE GENERAL PLAN AS REQUIRED BY STATE LAW, AND PROVIDE FOR ZONING DISTRICT USES AND DEVELOPMENT STANDARDS THAT ARE RELEVANT TO CURRENT DEVELOPMENT TRENDS, EASY TO USE, FLEXIBLE, AND EQUITABLE;

AND

RECOMMENDED THAT THE CITY COUNCIL INTRODUCE AN ORDINANCE APPROVING THE PROPOSED AMENDMENTS AS SET FORTH IN EXHIBIT "A."

The motion carried by the following vote:

AYES: 5 – Salwan, Karipineni, Leung, Pentaleri, Bonaccorsi
NOES: 0
ABSTAIN: 0
ABSENT: 2 – Dorsey and Reed
RECUSE: 0

DISCUSSION ITEMS None

MISCELLANEOUS ITEMS

Information from Commission and Staff:

- Information from staff: Staff will report on matters of interest.
 - **Assistant Planning Manager Morris** stated the next meeting February 11, 2016 and there will be a study session at 5:30, regarding the Civic Center project, and the second after the regular meeting discussing the Valley Oak project.
 - Report on actions of City Council Regular Meeting
- Information from Commission: Commission members may report on matters of interest.
 - **Commissioner Bonaccorsi** stated that Vice Chairperson Leung and Chairperson Salwan, as well as, he went to the City's 60th anniversary celebration

Meeting adjourned at 9:54 p.m.

SUBMITTED and APPROVED BY:



Wayne Morris, Secretary
Planning Commission



Courtney Fox, Recording Clerk
Planning Commission