



**MINUTES
FREMONT PLANNING COMMISSION
REGULAR MEETING OF APRIL 14, 2016**

- CALL TO ORDER:** Chairperson Salwan called the meeting to order at 7:00 p.m.
- PRESENT:** Chairperson Salwan, Commissioners Bonaccorsi, Dorsey, Karipineni, Leung, Pentaleri, Reed
- ABSENT:** None
- STAFF PRESENT:** Wayne Morris, Assistant Planning Manager
Prasanna Rasiyah, Senior Deputy City Attorney
Kristie Wheeler, Planning Manager
Joel Planner, Senior Planner
Aki Snelling, Associate Planner
David Wage, Associate Planner
Courtney Fox, Recording Clerk
Chavez Company, Remote Stenocaptioning
Napoleon Batalao, Video Technician
- APPROVAL OF MINUTES:** The regular meetings of March 10, 2016 were approved as submitted.
- DISCLOSURES:** **Commissioner Bonaccorsi** met with Mark Robson on item 3. **Commissioner Dorsey** drove by item 3 and met with Mark Robson and met with April Ellebracht, President of Save Kimber Park, regarding item 5. **Commissioner Karipineni** drove by the location of items 1 and 3 and met with the applicant for item 3, and met with April Ellebracht and walked around the site for item 5. **Vice Chairperson Leung** met with the design team for item 3 and had a phone conversation with the property owner for item 5. **Commissioner Pentaleri** met with Mark Robson on item 3 and met with April Ellebracht regarding item 5. **Commissioner Reed** drove by items 1, 3 and 5 and exchanged a text conversation with Mark Robson on item 3 and had a telephone meeting with Christine Broadwin on item 5. **Chairperson Salwan** met with the applicant for item 3 and spoke with the property owner and met with April Ellebracht for item 5.

CONSENT CALENDAR

THE CONSENT CALENDAR CONSISTED OF ITEM NUMBERS 1 AND 2.

IT WAS MOVED (BONACCORSI/KARIPINENI) AND UNANIMOUSLY CARRIED BY ALL PRESENT THAT THE PLANNING COMMISSION TAKE THE FOLLOWING ACTION ON ITEM NUMBERS 1 AND 2.

Item 1. **PAD 2 BUILDING PACIFIC COMMONS PLANNED DISTRICT AMENDMENT – 43950 Pacific Commons Boulevard - PLN2016- 00145** - To consider an amendment to Planned District P-2000- 214 and a Tentative Tract Map to facilitate development of a 6,500-square-foot retail pad building and allow an additional 43-space parking reduction within Planning Area 5 (The Block) of Pacific Commons , and to consider a finding that no further environmental review is required pursuant to the California Environmental Quality Act (CEQA) as a Final Environmental Impact Report (EIR) and Supplements to the EIR (SCH#19996052016) were previously certified and none of the conditions requiring a subsequent or supplemental EIR stated in Section 15162 of the CEQA Guidelines are present.

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

Staff Report:

Table “B” in the staff report incorrectly indicated that four long term bicycle spaces would be required, when only two were required. The staff report text correctly stated that two long term bicycle parking spaces were required.

Table “B” – Bicycle Parking

<i>Function</i>	<i>Parking Ratio/Standard</i>	<i>Square Feet (Pad 2)</i>	<i>Required Spaces</i>
Short Term Bicycle Parking	4 spaces, plus 5 percent of required vehicle parking	6,500	5 (6,500/250=26x.05=1.3+4=5.3)
Long Term Bicycle Parking	1, plus 5 percent of required vehicle parking	6,500	4 2 (6,500/250=26x.05=1.3+1=2.3)

Findings and Conditions of Approval:

The findings from the staff report should have been inserted into the Exhibit “E,” Findings and Conditions. Attached is a corrected version of Exhibit “E” that includes the findings from the staff report as well as the proposed condition B-11, discussed below.

The staff report indicates that long term bicycle parking is not shown on the plan but would be addressed as a condition of approval. The following condition should be incorporated into Exhibit “E,” Findings and Conditions:

B-11. Bicycle Parking. The project shall install short term and long term bicycle parking for the proposed P-2 Building in accordance with FMC Section 18.183.135 to the satisfaction of the Director of Community Development or designee. The short term requirement is four spaces, plus five percent of the required vehicle parking spaces. Based on this standard, a total of five short term bicycle parking spaces would be required. The long term bicycle parking requirement is one space, plus five percent of the required vehicle parking. Based on this standard, two long term bicycle parking spaces are required.

RECOMMENDED THAT THE CITY COUNCIL: FIND THAT THE PREVIOUSLY CERTIFIED FINAL EIR, INCLUDING THE 2000 AND 2010 SUPPLEMENTS TO THE EIR (SCH#19996052016), ARE SUFFICIENT FOR THE PROPOSED PROJECT, AND THAT NONE OF THE CONDITIONS REQUIRING A SUBSEQUENT OR SUPPLEMENTAL EIR IN SECTIONS 15162 AND 15163 OF THE CEQA GUIDELINES ARE PRESENT. THEREFORE, NO FURTHER ENVIRONMENTAL REVIEW IS NECESSARY.

AND

FIND THAT THE PROJECT IS IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S GENERAL PLAN. THESE PROVISIONS INCLUDE THE DESIGNATIONS, GOALS, OBJECTIVES AND POLICIES SET FORTH IN THE GENERAL PLAN'S LAND USE, ECONOMIC DEVELOPMENT, AND COMMUNITY PLAN ELEMENTS AS ENUMERATED WITHIN THE STAFF REPORT.

AND

INTRODUCE AN ORDINANCE APPROVING THE AMENDMENT TO PLANNED DISTRICT P-2000-214 AS SHOWN IN EXHIBIT "B" (DEVELOPMENT PLAN) AND EXHIBIT "C" (2014 REVISED SUPPLEMENT B, PACIFIC COMMONS MASTER PLAN), TO ADD A 6,500-SQUARE-FOOT PAD BUILDING AND ALLOW A 43- SPACE PARKING REDUCTION IN THE BLOCK, BASED ON THE FINDINGS AND SUBJECT TO CONDITIONS OF APPROVAL AS SHOWN IN EXHIBIT "E."

AND

APPROVE TENTATIVE PARCEL MAP NO. 10496, TO ALLOW A SUBDIVISION TO CREATE TWO LOTS AS SHOWN IN EXHIBIT "D," BASED ON FINDINGS SPECIFIED IN FMC SECTIONS 17.20.200, AND SUBJECT TO CONDITIONS OF APPROVAL AS PROVIDED IN EXHIBIT "E."

AND

APPROVE THE PROPOSED REMOVAL AND MITIGATION FOR 17 PROTECTED TREES PURSUANT TO THE CITY'S TREE PRESERVATION ORDINANCE, BASED UPON FINDINGS AND CONDITIONS IN EXHIBIT "E."

AND

DIRECTE STAFF TO PREPARE AND THE CITY CLERK TO PUBLISH A SUMMARY OF THE ORDINANCE.

Item 2. **DE LA CRUZ RESIDENCE CONDITIONAL USE PERMIT – 2410 Tecado Terrace - PLN2016-00188** - To consider a Conditional Use Permit to allow the demolition of an existing 2,548-squarefoot single-family dwelling and 400-square-

foot detached garage and the construction of a new 9,471-square-foot single-family dwelling in its place on a 4.86-acre parcel in the Measure T area within the Central Hill Area Community Plan area, and to consider a Categorical Exemption from the requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15302, Replacement or Reconstruction.

FOUND THAT THE PROPOSED PROJECT IS CATEGORICALLY EXEMPT FROM CEQA IN ACCORDANCE WITH CEQA GUIDELINES SECTION 15302, REPLACEMENT OR RECONSTRUCTION, AND FIND THAT THIS ACTION REFLECTS THE INDEPENDENT JUDGMENT OF THE CITY OF FREMONT;

AND

FOUND THAT THE PROPOSED PROJECT AS SHOWN IN EXHIBIT "A" IS IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S GENERAL PLAN AS DESCRIBED IN THE STAFF REPORT;

AND

APPROVED CONDITIONAL USE PERMIT PLN2016-00188 ALLOWING THE DEMOLITION OF THE EXISTING HOME AND THE CONSTRUCTION OF THE PROPOSED HOME AS SHOWN IN EXHIBIT "A," BASED ON THE FINDINGS AND SUBJECT TO THE CONDITIONS IN EXHIBIT "B;"

AND

ALLOWED THE REMOVAL AND REPLACEMENT OF FIVE PRIVATE, PROTECTED TREES AS SHOWN IN EXHIBIT "A," BASED ON THE FINDINGS AND SUBJECT TO THE CONDITIONS IN EXHIBIT "B."

The motion carried by the following vote:

AYES:	7 – Salwan, Bonaccorsi, Dorsey, Karipineni, Leung, Pentaleri, Reed
NOES:	0
ABSTAIN:	0
ABSENT:	0
RECUSE:	0

PUBLIC/ORAL COMMUNICATIONS None

PUBLIC HEARING ITEMS

- Item 3. **ROBSON HOMES STEVENSON PLACE - 39501 Stevenson Place - PLN2015-00283 and PLN2016-00229** - To consider Precise Planned District P-2015-00283, Vesting Tentative Tract Map No. 8324 and a Private Street to allow the construction of 34 attached and 12 detached townhouse units on a 2.0-acre property located on the south side of Stevenson Boulevard, west of Stevenson Place in the Central Community Plan Area, and to consider a finding that no further environmental review is required pursuant to the California Environmental Quality Act (CEQA) as a Mitigated Negative Declaration (MND) (SCH#2014052024) was previously adopted and none of the conditions requiring a subsequent or supplemental environmental document stated in Section 15162 of the CEQA Guidelines are present.

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

Exhibit “F” – Use and Development Provisions: Exhibit “F,” Use and Development Provisions included staff edits in track-changes format. Attached is a clean version Exhibit “F” with all edits accepted.

Associate Planner Wage gave a brief presentation of the item.

Commissioner Bonaccorsi asked if the project was relying on BART and AC Transit to reduce vehicle miles traveled (VMT).

Associate Planner Wage stated that the project was one and a half miles from the Fremont BART station and that there were two bus stops within a quarter mile of the project.

Commissioner Bonaccorsi asked if they had explored the idea of shuttles to the Fremont BART station to reduce VMT.

Associate Planner Wage stated that there were no special requirements.

Commissioner Dorsey asked about the parking lot located on Stevenson Place that was not marked as “private” and if it was considered as a possibility for overflow parking for the project.

Assistant Planning Manager Morris stated that the adjacent property owns a portion of the parking lot.

Commissioner Karipineni asked about on-street parking on Stevenson Place.

Associate Planner Wage clarified that 17 on-street parking spaces could be accommodated along the project frontage but a total 67 on-street parking spaces were available on all of Stevenson Place.

Chairperson Salwan invited the applicant to the podium.

Mike Enderby, applicant, gave a brief overview of the project. The project has two common open spaces which totaled almost two times the required 2,500 square feet and would include a tot lot. They had been working with MidPen on a Lot Line Adjustment (LLA). He stated the advantages of the LLA for MidPen were increased street frontage and driveway access. The advantages for their project were a 210 foot increase of street frontage on Stevenson Boulevard and would reduce the view of the MidPen parking lot. They had conducted a traffic analysis for both their project and MidPen at the intersection of Stevenson Place and Stevenson Boulevard.

Chairperson Salwan asked for questions from the Commissioners.

Commissioner Karipineni asked about the proposed bollards.

Mike Enderby stated that the bollards would be electric and retractable. Property management, waste management and emergency vehicles would have access. The bollards would allow a more open concept and gates would block that ability.

Commissioner Karipineni asked about the possibility of parking in the parking lot located across the street.

Mike Enderby stated that the City owned parking lot, as he as understood, and was for overflow parking for the driving range.

Commissioner Karipineni asked if they had attempted to contact the City about potential use for overflow parking.

Mike Enderby stated that they had not because they felt that there is plenty of parking on Stevenson Place and indicated that the business complex does not utilize the on-street parking. Also, due to the normal business hours and normal residential hours being opposite he does not feel parking will be an issue.

Commissioner Bonaccorsi asked if they had been in contact with the adjacent property owner or any of the tenants regarding their feelings about the parking reduction or if it would impinge on their potential use of on-street parking on Stevenson Place.

Mike Enderby stated that they had had phone conversations with the property owner and their number one concern was tenant's ability to leave after work and a possible increased wait time at the Stevenson Boulevard signal, which he indicated would only increase the queuing about 2.8 seconds. He stated that they had also expressed concern of residents/guests parking in their parking lot, which he did not think would be an issue. They would have an HOA and coordinate with MidPen to make sure residents/guests would not park in the business complex's parking lot.

Chairperson Salwan opened the public hearing.

Carlos Castellanos with MidPen housing, stated he supported the project and was excited to be working with Robson Homes to coordinate their projects. He spoke in support of the bollards to help control traffic and parking verses no control at all. He stated that MidPen would be requesting a parking reduction for their project as well.

Commissioner Bonaccorsi asked how much of a reduction they would be requesting.

Assistant Planning Manager Morris stated it was a 20 parking space reduction.

Commissioner Pentaleri stated that he had asked staff if they thought they were overcommitting the on-street parking and they had responded that there were 1490 linear feet on on-street parking and he felt that that was not an over commitment of on-street parking.

Chris Cavette, resident, stated that he did not support the design of the project with no driveway aprons or parking pads. He felt the applicant had developed the site at maximum density of the lot and he felt that flexibility in a Planned District should only be used to enhance a project not to allow for additional units. He stated that the reality of guest parking is that it is used as overflow for residents, as well as, guests.

Assistant Planning Manager Morris stated that the allowed density is 14.6-29.9 units per an acre and the project proposes 22 units per an acre, which is not at maximum density.

Cindy Bonior, CEO of the Fremont Chamber of Commerce, stated she was in support of the project and public-private relationship with MidPen Housing for affordable housing. Robson Homes provided substantial fees and a Lot Line Adjustment. The Chamber office is located directly across from the project and they are not worried about parking issues.

Sanat Dave resident stated his objection to the project and the proposed on-street parking. He stated that Fremont already has a congestion problem as well as too many cars parking on the street which he feels is getting out of hand. He stated that the City's vision is out of sync with the vision of the residents.

Mike Enderby stated that they had built the project to allow for almost twice the common open space that was required. They had coordinated with MidPen Housing to bring more affordable housing to the City. He felt that not all streets are the same regarding on-street parking, that Stevenson Place is unusual, and there was not a need to make room for an additional 13 parking spaces on-site when the street would accommodate for 67 spaces.

Commissioner Dorsey asked how many units would need to be removed to allow for the additional required parking spaces.

Mike Enderby stated two to three units.

Commissioner Dorsey asked if they could they design for less open space and additional parking spaces.

Mike Enderby stated that the lot is an unusual shape and that reducing the open space would not allow for additional on-site parking spaces. He indicated that they had a discussion with staff regarding adding additional on-site parking but that the site plan would not look as good with the additional parking spaces. The current design had the guest parking at either end of the development and they did not want to degrade the design nor the quality of the project.

Commissioner Dorsey asked what the rationale was for no driveways or aprons.

Mike Enderby stated that the project did meet Building Code requirements for the unit sizes and that extra asphalt would not have been the best use of land.

Commissioner Dorsey asked if the HOA would require residents to park in their garages.

Mike Enderby stated that it would and that is a condition of their permit.

Commissioner Bonaccorsi asked if they were willing to coordinate with the adjacent affordable housing project to reduce the use of on-street parking and if they were possibly open to offer a shuttle service to BART.

Mike Enderby stated he felt there was not an issue with parking and he did recognize that it is a 1.5 mile walk to BART but that requirements for transit usually relate to transit issues. Robson Homes has purposed to make a \$113,000 donation towards transit and would possibly support some of the funds going towards a shuttle.

Chairperson Salwan closed the public hearing

Commissioner Pentaleri stated that he felt that the Stevenson Place parking situation was very similar to what the staff report stated and Robson homes had presented. The development is not in the main flow of traffic and, therefore, he did not have an objection to the project utilizing on-street parking. He liked the bollard concept as it allows for pedestrian traffic and good flow throughout the two projects.

Vice Chairperson Leung stated she agreed with what the other Commissioners had stated about the project. She felt that they had the discretion to allow for the on-street parking but did not want to set a precedent for future projects.

Vice Chairperson Leung moved to recommend approval to the City Council with **Commissioner Reed** seconding.

Commissioner Karipineni stated that with her experience in the business complex and the area she had never had issues with parking. She felt that people would park on the street regardless, if it is closer than the on-site parking. She felt the orientation of the houses, facing Stevenson Place, looked very nice. She felt bollards could work very nicely and wanted a condition included that the HOA is responsible for maintaining them.

Commissioner Pentaleri offered a friendly amendment to recommend approval of the project along with approval of the bollards.

Assistant Planning Manager Morris asked that if the Commission is going to recommend approval of the bollards to allow staff to look at bollards as well as other alternatives. He stated that the Fire Department (Fire) does not like bollards. He indicated that staff had worked with Robson Homes and MidPen on open space by reducing setbacks between the two projects to make it one common development. He stated that there were General Plan policies that do not allow bollards or gates. He asked that they allow staff the flexibility to work with Fire to implement the bollards.

Senior Deputy City Attorney Rasiah asked **Commissioner Pentaleri** to restate the amendment.

Commissioner Pentaleri stated the friendly amendment would be to recommend approval as proposed allowing the applicant to restrict vehicular traffic but maintain a pedestrian connection.

Planning Manager Wheeler stated that the amendment would need to amend Condition of Approval D-1 that required the connectivity.

Commissioner Bonaccorsi asked what the concern with Fire was.

Assistant Planning Manager Morris stated that the issue would be the workability and if they were to fail there would be accessibility issues.

Associate Planner Wage stated that the issue would be on-site circulation. If there was a manual lock for each bollard, a delay would occur for multiple bollards and the reliability of electronic bollards is in question. Fire did indicate that if the Commission decided to allow an obstruction of some sort they would work with the applicant on a design.

Commissioner Bonaccorsi offered a friendly amendment that if they were going to recommend adoption to the City Council to at least have staff and the applicant explore a shuttle to BART that would serve both the Robson Homes and MidPen projects

Senior Deputy City Attorney Rasiah clarified that it would not be a formal Condition of Approval but that would be a recommendation that applies only to the Robson Homes project.

Commissioner Bonaccorsi stated yes.

Vice Chairperson Leung stated that she rejected the friendly amendment.

Commissioner Dorsey stated that in her experience that even if there was enough on-site parking people would choose to park closer if it were available. She stated that the new access on Stevenson Place in between units 38 and 39 would be the most direct entrance for Fire and that she could not see them going through the MidPen project to get to units 14 and 20 which are on the side where the bollards would be.

Commissioner Bonaccorsi stated that he was in opposition to the motion due to his friendly amendment failing and staff's concern about breaking up the continuity of the two developments as well as Fire's concern about the bollards and that they should not be put in the position to have to do a workaround on something that has some concern for technology.

IT WAS MOVED (LEUNG/REED) AND CARRIED BY THE FOLLOWING VOTE (6-1-0-0-0) THE PLANNING COMMISSION – RECOMMENDED THAT THE CITY COUNCIL FIND, BASED ON ITS OWN INDEPENDENT JUDGMENT, THAT THE PREVIOUSLY ADOPTED MITIGATED NEGATIVE DECLARATION AND MITIGATION MONITORING AND REPORTING PLAN AS SHOWN IN EXHIBIT “A” (SCH#2014052024), ARE SUFFICIENT FOR THE PROPOSED PROJECT, AND THAT NONE OF THE CONDITIONS IN SECTION 15162 OF THE CEQA GUIDELINES ARE PRESENT AND, THEREFORE, NO FURTHER ENVIRONMENTAL REVIEW IS NECESSARY;

AND

FIND THAT THE PROJECT IS IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S GENERAL PLAN. THESE PROVISIONS INCLUDE THE DESIGNATIONS, GOALS, OBJECTIVES AND POLICIES SET FORTH IN THE GENERAL PLAN LAND USE, HOUSING, CONSERVATION, COMMUNITY CHARACTER AND SAFETY ELEMENTS AS ENUMERATED WITHIN THE REPORT;

AND

INTRODUCE AN ORDINANCE APPROVING A REZONING OF THE PROJECT SITE FROM PRELIMINARY PLANNED DISTRICT P-2014-00194 TO PRECISE PLANNED DISTRICT P-2015-00283 AS SHOWN IN EXHIBIT “B”, AND APPROVING THE PRECISE PLAN AS DEPICTED ON EXHIBIT “C” (CIVIL, ARCHITECTURAL AND LANDSCAPE PLANS), AND THE USE AND DEVELOPMENT PROVISIONS SET FORTH IN EXHIBIT “F” BASED UPON

THE FINDINGS AND SUBJECT TO THE CONDITIONS OF APPROVAL SET FORTH IN EXHIBIT "E;"

AND

APPROVE VESTING TENTATIVE TRACT MAP NO. 8324 AND PRIVATE STREET AS SHOWN IN EXHIBIT "D", BASED ON THE FINDINGS AND SUBJECT TO THE CONDITIONS OF APPROVAL SET FORTH IN EXHIBIT "E;"

AND

APPROVE THE PROPOSED REMOVAL AND MITIGATION FOR ONE PROTECTED TREE PURSUANT TO THE CITY'S TREE PRESERVATION ORDINANCE, BASED UPON FINDINGS AND CONDITIONS IN EXHIBIT "E;"

AND

DIRECT STAFF TO PREPARE AND THE CITY CLERK TO PUBLISH A SUMMARY OF THE ORDINANCE.

The motion carried by the following vote:

AYES:	6 – Salwan, Dorsey, Karipineni, Leung, Pentaleri, Reed
NOES:	1 – Bonaccorsi
ABSTAIN:	0
ABSENT:	0
RECUSE:	0

Chairperson Salwan called for a brief recess at 8:15pm.

Chairperson Salwan recused himself from Item 4 due to a conflict of interest and stepped down from the dais and **Vice Chairperson Leung** took over the Chairperson responsibilities.

- Item 4. **WARM SPRINGS TOD VILLAGE – 44960 Warm Springs Boulevard – PLN2016-00089** – To consider Vesting Tentative Tract Map No. 8265 to subdivide a ±34.4-acre parcel into 78 parcels, Private Streets and a Preliminary Grading Plan to facilitate development of the Warm Springs Transit Oriented Development Village Master Plan located at 44960 Warm Springs Boulevard at the southeast corner of Warm Springs Boulevard and South Grimmer Boulevard in the Warm Springs/South Fremont Community Plan Area, and to consider a finding that no further environmental review is required pursuant to the California Environmental Quality Act (CEQA) as the project is consistent with the Warm Springs Transit Oriented Development Village Master Plan for which an Environmental Compliance Checklist was prepared and with the Warm Springs/South Fremont Community Plan for which a Final Environmental Impact Report (SCH#2013032062) was previously prepared and certified.

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

Conditions of Approval:

- a. **Add New Condition:** Staff recommends that the Planning Commission add the following new condition under “Conditions to be satisfied prior to Final Map Approval” to rename “A” Street as “Tom Blalock” Street in honor of the Director of the Bay Area Rapid Transit (BART) Board.

Renaming of “A” Street. “A” Street shall be renamed “Tom Blalock” Street concurrently with the Final Map.

- b. **Revise Condition No. 23:** Upon review of the City’s proposed conditions of approval, the applicant requested a revision to Condition No. 23 to allow for additional time for the CC&Rs to be recorded. Given that the California Board of Real Estate (BRE) would have the final review and approval of the CC&Rs following the City’s review and approval, and that it takes time for the BRE to review and approve the CC&Rs, the applicant is requesting a modification to record the CC&Rs “prior to issuance of a building permit for the construction of the first residential condominium building,” rather than “concurrently with the Final Map.” Additionally, the applicant is requesting that the market-rate apartment lot (Lot 14) and the affordable housing apartment lots (Lots 1 and 2) not be a voting member of the Homeowners’ Association (HOA) for the project site, as rental units are not typically part of HOAs. However, because the applicant and the City would like to ensure the continued maintenance of the apartment lots within the project site, the condition has been revised to require the future owners of the apartment lots to record joint easement, use and maintenance agreements (JUAs) prior to conveyance of the apartment lots to the future owners, which would essentially require the future owners of the apartment lots to share in the cost of maintaining and repairing common areas used by the apartment residents in the project site. Additionally, the applicant would be required to submit the JUA to the City for review and approval prior to the first Final Map.

Staff recommends that the Planning Commission approve the proposed revised Condition No. 23.

23. CC&Rs. Prior to approval of the first Final Map, if multiple Final Maps are proposed, the applicant shall submit Covenants, Conditions and Restrictions (CC&Rs) to the City for review and approval. The CC&Rs shall define the responsibilities for the operation, maintenance, repair and replacement of the public right-of-way, if not publicly maintained, common areas within the development, and how parking spaces outside of the public right-of-way are allocated for each development. Prior to approval of the first Final Map, if multiple Final Maps are proposed, the applicant shall also submit two joint easement, use and maintenance agreements (JUA) to be reviewed and approved by the City that require (1) the owner of the proposed market-rate apartments lot (identified as Lot 14 on Vesting Tentative Tract Map No. 8265) and (2) the owner of the two affordable apartments lots (identified as Lots 1 and 2 on Vesting Tentative Tract Map No. 8265) to pay to the Master Homeowner’s Association (HOA) a proportionate share of the costs incurred by the Master HOA that benefit the market-rate apartments lot and the affordable apartments lots. The CC&RS shall reference the JUAs and shall

require the Master HOA to comply with the JUAs, but the owners of the market-rate apartments lot and the affordable apartments lots will not be members of the Master HOA. The CC&Rs and the JUAs shall identify those provisions which are relevant to the City and shall provide that those provisions may not be modified without the express written review and approval of the City. The CC&Rs shall also require that the Master HOA maintain all properties within Vesting Tentative Tract Map No. 8265, regardless of separate ownership of properties; however, the CC&Rs shall provide that one or more subassociations will maintain the residential condominium buildings. Furthermore, the market-rate apartments lot JUA shall require the apartment building be maintained by the owner of the market-rate apartments lot and the affordable apartments lots JUA shall require the apartment buildings on the affordable apartments lots be maintained by the owner(s) of the affordable apartments lots. The approved CC&Rs shall be recorded prior to issuance of a building permit for the construction of the first residential condominium building; the approved market-rate apartments lot JUA shall be recorded prior to conveyance of the market-rate apartments lot or prior to issuance of a building permit for the construction of the market-rate apartments building, whichever occurs first; and the approved affordable apartments lots JUA shall be recorded prior to conveyance of either of the affordable apartments lots or prior to issuance of a building permit for the construction of either of the apartment buildings to be constructed on the affordable apartments lots, whichever occurs first.

Associate Planner Snelling gave a brief presentation on the item.

Chairperson Leung asked for questions from the Commissioners.

Commissioner Bonaccorsi asked why it was important to the City to have the applicant have the affordable housing agreement in place by December 11, 2015, as a condition of the Master Plan and why it no longer seemed important.

Senior Deputy City Attorney Rasiah stated that there was a lawsuit in San Jose that was in flux during the drafting of the Master Plan and since the court ruled in favor of San Jose, it was no longer important to have the affordable housing agreement in place by that date. He stated that the City's Affordable Housing Ordinance requires that the affordable housing agreement be processed concurrently with the final map.

Chairperson Leung invited the applicant to the podium.

Rick Nelson, applicant, gave a brief update on the progress of the project. They had made significant progress with the new elementary school, the design is in progress and they anticipate the start of construction in the spring of 2017 with a fall 2018 completion date.

Commissioner Pentaleri asked about lettered lots "hh" and "ii" located off the traffic circle.

***Rick Nelson** stated the lots were for access to the garage.*

Commissioner Bonaccorsi asked for an update on the tax credits regarding affordable housing.

Rick Nelson stated that they have not entered into an agreement yet with an affordable housing provider and the first step is having legal parcels.

Chairperson Leung opened the public hearing.

Dr. James Morris, Fremont Unified School District Superintendent, stated it was historic that the City and School District were working together with the Warm Springs developers to build a new elementary school. He appreciated that the developer had stepped forward and contributed a significant amount of funds to build a school in the neighborhood to fully mitigate the school impacts.

Chairperson Leung closed the public hearing.

IT WAS MOVED (BONACCORSI/REED) AND CARRIED BY THE FOLLOWING VOTE (6-0-0-1) THE PLANNING COMMISSION – FOUND THAT NO FURTHER ENVIRONMENTAL REVIEW IS REQUIRED UNDER CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) GUIDELINES SECTION 15183 BECAUSE THE PROJECT IS CONSISTENT WITH THE WARM SPRINGS/SOUTH FREMONT COMMUNITY PLAN, FOR WHICH A FINAL ENVIRONMENTAL IMPACT REPORT (SCH#2013032062) WAS PREVIOUSLY PREPARED AND CERTIFIED, AND BECAUSE THE PROJECT IS CONSISTENT WITH THE ENVIRONMENTAL COMPLIANCE CHECKLIST THAT WAS PREPARED FOR THE AREA 9 MASTER PLAN THAT FOUND THAT THE DEVELOPMENT DENSITY AND INTENSITY WOULD BE CONSISTENT WITH THE COMMUNITY PLAN AND THAT THERE WERE NO SIGNIFICANT EFFECTS PECULIAR TO THE PROJECT OR SITE;

AND

FOUND THAT VESTING TENTATIVE TRACT MAP NO. 8265, PRIVATE STREETS AND PRELIMINARY GRADING PLAN ARE IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY’S GENERAL PLAN, INCLUDING THE GOALS AND POLICIES SET FORTH IN THE LAND USE, COMMUNITY CHARACTER AND HOUSING ELEMENTS AS NOTED IN THE STAFF REPORT;

AND

APPROVED VESTING TENTATIVE TRACT MAP NO. 8265, PRIVATE STREETS AND A PRELIMINARY GRADING PLAN FOR ±34.4 ACRES ON THE SOUTHEAST CORNER OF SOUTH GRIMMER BOULEVARD AND WARM SPRINGS BOULEVARD AS SHOWN IN EXHIBIT “A” BASED UPON THE FINDINGS AND SUBJECT TO CONDITIONS IN EXHIBIT “B.”

The motion carried by the following vote:

AYES: 6 – Bonaccorsi, Dorsey, Karipineni, Leung, Pentaleri, Reed
NOES: 0
ABSTAIN: 0

ABSENT: 0
RECUSE: 1 – Salwan

Chairperson Salwan returned to the dais and returned to his Chairperson responsibilities.

Commissioner Bonaccorsi recused himself from Item 5 due to a conflict of interest and stepped down from the dais.

- Item 5. **KIMBER STUDY AREA GENERAL PLAN AMENDMENT - 10 East Las Palmas Avenue - PLN2016-00148** - To consider a City initiated General Plan Amendment to change the land use designation of a 12.72-acre property at 10 East Las Palmas Avenue in the Mission San Jose Community Plan Area from Kimber Study Area to an appropriate designation and amend the General Plan text to remove references to Kimber Study Area, and to consider a finding that no further environmental review is required pursuant to the California Environmental Quality Act (CEQA) as a Final Environmental Impact Report (EIR) (SCH#2012052065) was previously certified and none of the conditions requiring a subsequent or supplemental EIR stated in Section 15162 of the CEQA Guidelines are present.

Planning Manager Wheeler gave a brief history of the item.

Senior Deputy City Attorney Rasiah gave a brief legal history of the item.

Senior Planner Pullen presented staff's recommendation on the item.

Chairperson Salwan asked for questions from the Commissioners.

Commissioner Pentaleri referred to a letter from the property owner's attorney, Andrew Sabey, and his assertion that staff was biased and included significant misrepresentations in their report; he asked if staff continued to stand by their report.

Planning Manager Wheeler stated that staff stands by its report and that the author of the letter is entitled to his opinion.

Commissioner Pentaleri asked staff to explain the original entitlements and what a Planned District (PD) is and how it relates to land uses and zoning.

Senior Planner Pullen stated that the original PD was approved in 1973 and this particular parcel was approved as open space within the development to serve the surrounding community's needs, however, the General Plan land use designation for the parcel remained Low Density Residential. In 2011, during the General Plan Update, the City proposed to change land use designation for this parcel to Private Open Space.

Commissioner Pentaleri stated that typically applications for a PD are due to the applicant deviating from the approved zoning and land use and he asked if this was the case for the original PD P-73-1.

Planning Manager Wheeler stated that PDs were common in the 1970s and could not speculate as to why this development was done as a PD.

Commissioner Pentaleri asked if there was a Precise Plan that accompanied the original PD.

Senior Planner Pullen stated yes.

Commissioner Pentaleri clarified that the approved Precise Plan that accompanied the PD described the lot as open space. He stated that he was unaware of any mechanism that would change the validity of the Precise Plan whether the parcel was privately owned or owned by an HOA or owned by a corporation.

Senior Planner Pullen stated he was correct.

Commissioner Pentaleri referenced the letter from Mr. Sabey, stating there was an assertion that the qualifier that a residential (inserted in the letter) development was conditioned for conforming the General Plan. He asked if the City Council resolution adopting the General Plan update in 2011 described that if an application for a residential development was approved during the established one year time frame the City would conform the General Plan.

Planning Manager Wheeler stated that it did give time for the property owner to submit a revised application which might have included residential.

Senior Deputy City Attorney Rasiah stated that the language in the General Plan Resolution was designed to allow that one year period for a residential project to be approved but it did not limit the applicant to residential.

Commissioner Pentaleri asked if the staff report was correct in stating that during the 45 day public review period for the draft EIR the applicant (Fremont Mission Hills LLC) submitted a revised project for a new private swim and tennis club with no residential development.

Planning Manager Wheeler stated yes.

Commissioner Pentaleri clarified that at that point the applicant had entitlements for a project that the City believed would be consistent with the Private Open Space land use designation.

Senior Planner Pullen stated yes.

Commissioner Pentaleri stated that he read in the staff report that Private Open Space is described as “typically” applied to private land use. He stated that he believed one the rationales Fremont Mission Hills, LLC used to claim that Private Open Space is inconsistent with the project is that the parcel is owned by a for-profit commercial enterprise rather than a so called privately owned parcel. He asked if “typically” indicated that private ownership is not a requirement for Private Open Space land use designation.

Senior Planner Pullen stated that private ownership is not a requirement.

Commissioner Pentaleri referenced a letter from Dwayne Kennedy, which stated that Mr. Kennedy felt that the western most third of the parcel should be designated Commercial with the remainder being designated General Open Space. He asked if it would be unusual to designate two land uses without a subdivision of a property.

Planning Manager Wheeler stated yes.

Commissioner Dorsey asked if the law suit was on the basis of the original procedure or the Private Open Space land use designation.

Senior Deputy City Attorney Rasiah stated that the initial complaint challenged the procedure as well as the validity of the Private Open Space land use designation, which was thrown out in court due to the untimely filing of the claim.

Commissioner Karipineni stated that she struggled with the letter from Mr. Sabey that directly contradicted the staff report.

Planning Manager Wheeler stated that staff is not prepared to rebut Mr. Sabey's letter and she did not believe that the opinions expressed were true.

Commissioner Karipineni stated that the letter was worded in such a way that it seemed to be taken from official minutes or otherwise.

Planning Manager Wheeler stated that she did not know where the author's opinion came from. She indicated that when the City adopted the Private Open Space initiative, a subsequent General Plan Amendment was adopted to re-designate a number of open space parcels in existing neighborhoods that were greater than two acres to Private Open Space.

Vice Chairperson Leung asked if there were any legal implications for the City to change the PD while the parcel is privately owned.

Senior Deputy City Attorney Rasiah stated that the parcel was the subject of two applications by the property owner to create the Preliminary and Precise Planned District for the club which had been approved.

Vice Chairperson Leung asked if the parcel was Low Density Residential with a restaurant and some kind of housing and then the land was sold would the City have the right to change the PD land use designation.

Senior Deputy City Attorney Rasiah clarified her question, asking her if she meant that if the land use designation, not the zoning, was a set designation, did the City have the right to change that designation to something else.

Vice Chairperson Leung stated that while the ownership is private would there be any legal implication that would possibly open the City up for another law suit.

Senior Deputy City Attorney Rasiah stated that staff's recommendation is Private Open Space, and if the Planning Commission and City Council can make findings in support of that designation as supported by evidence in the record then that would be a valid change in the land use designation.

Vice Chairperson Leung asked if that meant that the property owner would not have the ability to petition or take any action if the recommendation is passed by the Commission and City Council.

Senior Deputy City Attorney Rasiah stated that they do not believe there would be a basis and staff felt confident in their recommendation.

Vice Chairperson Leung asked what the purpose of the meeting was as she had read the supplemental documentation about the Court's ruling stating that when this parcel was re-designated to Kimber Study Area the City had the responsibility to go over every applicable State Planning and Zoning Law before determining the approved land use designation. She stated that there were a lot of contradicting facts in the staff report and the letter from Mr. Sabey and she felt that she had not had enough time to digest what was what. She stated that her point was that the purpose of the meeting was for the Planning Commission, together with the staff, and based on the report

from the community meeting and survey from the City website to discuss what most appropriate land use designation was, instead of staff having a final recommendation and reporting to the Commission.

Planning Manager Wheeler stated that the purpose of the meeting is the same as any application that comes before the Commission; staff makes a recommendation to the Commission on all applications. She stated that it is up to the Planning Commission to consider recommending approval of staff's recommendation to City Council or make another recommendation to City Council.

Vice Chairperson Leung asked if they were merely making recommendation as to whether they support staff recommendation or not.

Planning Manager Wheeler stated that the Commission will either make a recommendation to adopt staff's recommendation or the Commission can make another recommendation to City Council. She indicated that the staff recommendation is not meant to be the only choice before the Commission.

Chairperson Salwan asked what the difference is between the Mission Hills Swim and Tennis Club and clubs offered by other HOAs.

Planning Manager Wheeler stated she was unsure of any similar clubs in Fremont and that the club is not owned by an HOA.

Chairperson Salwan opened the public hearing.

The following speakers spoke in support staff's recommendation (please note the speakers are numbered as to the order they spoke in, number 9 spoke against staff's recommendation and the exchange is listed below):

1. **Edward Wustenhoff**, resident and member of Save Kimber Park
2. **Sunil Dhar**, resident and member of Save Kimber Park
3. **Ed Ellebracht**, resident and member of Save Kimber Park
4. **Marcia Dang**, resident and member of Save Kimber Park
5. **April Ellebracht**, resident and President of Save Kimber Park
6. **Lorraine Wilson**, resident
7. **Laird Matthews**, resident and member of Save Kimber Park
8. **Gordon MacLeod**, resident
10. **Grace Chin**, resident
11. **Sanat Dave**, resident
12. **Diane Geschke**, resident
13. **Renuke Dhar**, resident
14. **Mariam**, resident

Their rationale was:

- In 1976, the developer sold the parcel to Kimber Park Associates and made the grant deed subject to a purchase agreement which stated, "buyer is aware of Kimber Park homeowners desires and expectations that most of lot 342 remain

natural and serve as an open space private park facility... buyer and seller hereby agree that said covenant are pertinent to and shall run with the land.”

- All of the provisions of the Protect Fremont Open Space Initiative challenged in Mr. Sabey’s lawsuit were upheld in court.
- The parcel being zoned as Private Open Space with the additional protection of the initiative prevails over the neighborhood description in the old General Plan.
- General Open Space is not appropriate due to the parcel size and the property owners had voluntarily chosen to exclude residential during their project approval.
- Commercial zoning in the middle of a planned community would set a bad precedent.
- The Open City Hall online survey results from April 5 thru April 8, 2016, showed the majority of residents voted for Private Open Space.
- The open space is great for exercise and walking pets.
- General Open Space/General Commercial only requires a majority vote to change the land use designation, whereas, Private Open Space requires an unanimous vote by City Council and/or a General Election.
- Homes are purchased as an investment into the entire neighborhood and having this open space is an amenity.
- Concern that the property owner is looking to develop the parcel other than what was previously entitled.
- Private Open Space designation is the only way to protect the parcel from development for good.

Vice Chairperson Leung asked Ms. Ellebracht (speaker 5) if she believed the deed that they had talked about was part of the intention of an HOA at the time.

5. April Ellebracht stated that the deed restriction was added in the back in forth between the City and the applicant during the Precise Plan review.

Vice Chairperson Leung asked if it was not the same as the one done in the 1970s.

April Ellebracht stated that there was an old deed restriction attached to the original plan and there was a new one attached to the current approved plans.

Vice Chairperson Leung asked how many neighbors in Kimber Park were currently members of the club or the percentage of members.

April Ellebracht stated that since she is not the owner of the club she does not have access to that information.

Vice Chairperson Leung asked if the club is being accessed by neighbors whether they are club members or not.

April Ellebracht stated that in the very beginning the original owners of the club may have offered a slight decrease in the price but it had always been open to anyone who wanted to join it.

Vice Chairperson Leung asked if the park or open space was accessible by any of the neighbors whether they were members or not.

April Ellebracht stated that nonmembers were not allowed to walk through the open space; there was however, an easement path which nonmembers can walk on.

7. **Laird Matthews**, resident and member of Save Kimber Park, called a point of order to City staff and the Chairperson. It was his understanding that on November 29, 2011, **Vice Chairperson Leung** had written a letter in support of the property owner he had asked that the Planning Commission request that she recuse herself.

Vice Chairperson Leung stated it was prior to her time as a Planning Commissioner and that she did not have any financial connection with the property.

Senior Deputy City Attorney Rasiah stated that she would have to determine if there was a conflict of interest.

Vice Chairperson Leung stated that it would not be a conflict of interest.

9. **Andrew Sabey**, attorney for the property owner Fremont Mission Hills LLC., stated that he had written a letter and with it submitted a correction to the staff report because he felt that the staff report was inaccurate, misleading and biased. He stated that the report did not acknowledge what was approved by the City Council in 2014, a private commercial development and Private Open Space was not the correct Land Use Designation.

Vice Chairperson Leung asked Mr. Sabey why his comments and letter were submitted so late on the day of the meeting.

Andrew Sabey stated that they would have gotten it in sooner, however, they only had a few days to review and comment on the staff report.

Vice Chairperson Leung asked him to explain the difference between Mission Hills Swim and Tennis Club and a paid HOA club.

Andrew Sabey stated that the difference between a private commercial enterprise and an HOA maintained club is that an HOA club is owned and controlled by the HOA and use is limited to members only. Mission Hills Swim and Tennis Club was a commercial enterprise that was like any other privately owned gym in the City where anyone from anywhere could pay to use the club.

Vice Chairperson Leung stated that he had not answered her question; she asked him how the nature of the zoning for Mission Hills Swim and Tennis Club was different from the zoning of an HOA club.

Andrew Sabey stated the difference is that anyone who wants to join the club and pay the dues has the ability and HOA clubs are exclusive for members of the HOA only. An HOA club is on property that is a common area and the title is owned by the HOA.

Commissioner Pentaleri asked Mr. Sabey if he or his client were angling for some different use of the property than the one that had been entitled.

Andrew Sabey stated that the parcel had been designated under the General Plan as Low Density Residential since 1973 and the City approved the application for a commercial project. He asked what the appropriate land use designation would be for another commercial gym such as Equinox. He stated that the most appropriate land use designation under the General Plan would be a Commercial designation.

Commissioner Pentaleri stated that Mr. Sabey had not answered his question; he rephrased his question asking, how it would hurt them if the project that they had been entitled was permitted under the Private Open Space Designation.

Andrew Sabey asked why it was so important to the neighbors that it become Private Open Space. He stated that it was about property value and a land use designation of Private Open Space would strip the parcel of its property value.

Commissioner Reed stated that he agreed with **Commissioner Pentaleri** and asked Mr. Sabey if he understood that there was the perception that the property owner was trying to have the parcel zoned in such a way that another project would be permissible at a later date.

Andrew Sabey stated that he did not think there was anything wrong with a commercial property owner saying that in 10 to 20 years the gym might fail.

Commissioner Reed asked Mr. Sabey if he agreed that lenders lend against operating cash flow and not property value.

Andrew Sabey stated both and that there would not be any operating cash flow until the project was built and in order to obtain financing they would have to borrow against the property value which will be reduced if the parcel is designated Private Open Space.

Commissioner Reed stated he was in support of staff recommendation.

Chairperson Salwan asked Mr. Sabey to explain how designating this parcel Private Open Space is “spot zoning.”

Andrew Sabey stated that spot zoning is a violation of constitutional rights, equal protection and due process under the law. He stated that you cannot treat similarly situated parcels differently which is what happened in this case and is a classic example of spot zoning.

The following people filled out speaker cards but did not come forward when their names were announced multiple times throughout the meeting:

Carol Drake

Bhupi Sondhi

Chris Cavette

Don Hertzfeldt

Liz Poe

Chairperson Salwan closed the public hearing after re-calling the names of people who had submitted speaker cards.

Commissioner Pentaleri referred to Mr. Kennedy’s letter which inquired about a land use designation, Resource Conservation/Public Open Space; he asked if there was such a land use designation.

Senior Planner Pullen stated that it was reserved for public owned property only.

Commissioner Pentaleri stated that it is important to him to base his decision on his interpretation of the facts and his judgment and conscience. He said that he did balance the property rights on both sides of the item. He stated that he remembered

the last time the item had come before the Commission and that it was very clear to him that the entitlements that had been granted perfectly align with the Private Open Space land use designation and while he had listened to the arguments made by the property owners representatives he was in support of staff's recommendation.

Commissioner Dorsey stated that while she had previously voted against the expansion of the swim and tennis club, she felt that the property owner's delay in building the approved expansion was proof of an ulterior motive. She stated that she felt that it had come to light that legal counsel for the Mission Hills, LLC had submitted their rebuttal letter to the staff report hours before the meeting as a tactic. She stated she would be in support of staff's recommendation.

Commissioner Karipineni stated that she agreed with **Commissioner Pentaleri** that it is a balancing of rights and not just a matter of siding with the majority. She stated that she attended the meeting willing to consider what the best designation would be for the property. She felt that Mr. Sabey had misrepresented the club when he compared it to Equinox. She stated that she did not understand why they were going through the process to change the designation if the intention was to build a project that had already been entitled. She stated that she had not seen a good reason to designate this parcel anything other than Private Open Space, therefore, she was in support of staff's recommendation.

Vice Chairperson Leung asked if the survey that the City had done was designated only for the Kimber Park residents or was it citywide.

Planning Manager Wheeler stated that it was citywide.

Vice Chairperson Leung asked if the community at large was able to participate in the community discussion as well.

Planning Manager Wheeler stated yes.

Vice Chairperson Leung asked why invitations were only sent to the Kimber Park residents and not citywide.

Planning Manager Wheeler stated that invitations to the community meeting were sent out to Kimber Park homeowners only and then the survey was opened up citywide to address a broader group of Fremont residents.

Vice Chairperson Leung stated that she had thought about the balance of property owner rights and the neighborhood. She stated that she had looked at the process, the report and analysis done by staff and the history of the parcel. She did not feel that Private Open Space was the best designation for the parcel and she stated that she thought that the project should be sent back to staff to study more and bring back another recommendation. She stated for that reason she would be voting against staff's recommendation.

Commissioner Reed stated that it was very clear that Private Open Space was intended for the parcel from the beginning therefore, he was in support of staff recommendations.

Chairperson Salwan stated he felt staff had reviewed all of the land use designations and had given reasons why other land use designations were not appropriate. He stated he based his decision on his experience, knowledge and information that had been conveyed and, therefore, he was in support of staff recommendations.

IT WAS MOVED (REED/DORSEY) AND CARRIED BY THE FOLLOWING VOTE (5-1-0-0-1) THE PLANNING COMMISSION – RECOMMENDED THAT THE CITY COUNCIL FIND, BASED ON ITS OWN INDEPENDENT JUDGMENT, THAT NO FURTHER ENVIRONMENTAL REVIEW IS REQUIRED PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) AS A FINAL ENVIRONMENTAL IMPACT REPORT (EIR) (SCH#2012052065) WAS PREVIOUSLY CERTIFIED AND NONE OF THE CONDITIONS REQUIRING A SUBSEQUENT OR SUPPLEMENTAL EIR STATED IN SECTION 15162 OF THE CEQA GUIDELINES ARE PRESENT;

AND

FIND THAT THE GENERAL PLAN AMENDMENT IS CONSISTENT WITH THE GENERAL PLAN AND, WHERE THE AMENDMENT IS TO THE TEXT OF THE GENERAL PLAN, IT IS CONSISTENT WITH THE OTHER POLICIES AND CHAPTERS IN THAT IT WOULD BE CONSISTENT WITH THE GOALS AND POLICIES OF THE LAND USE ELEMENT AS DESCRIBED IN THIS STAFF REPORT;

AND

FIND THAT THE GENERAL PLAN AMENDMENT FURTHERS THE PUBLIC INTEREST, CONVENIENCE AND GENERAL WELFARE OF THE CITY BY ALLOWING THE EXISTING SWIM AND TENNIS CLUB, AND ITS APPROVED EXPANSION, IN A MANNER MOST CONSISTENT WITH THE FRAMEWORK OF THE PROPERTY’S APPROVED DEVELOPMENT PLANS AND CONDITIONS, RESTRICTING RESIDENTIAL AND COMMERCIAL USES, AND MAINTAINING THE PROPERTY WITH AN OPEN SPACE CHARACTER CONSISTENT WITH THE SURROUNDING NEIGHBORHOOD;

AND

RECOMMEND THAT THE CITY COUNCIL ADOPT A RESOLUTION APPROVING THE GENERAL PLAN AMENDMENT REDESIGNATING THE PROPERTY AT 10 EAST LAS PALMAS AVENUE FROM KIMBER STUDY AREA TO PRIVATE OPEN SPACE AS SHOWN ON EXHIBIT “B” AND TO REMOVE GENERAL PLAN REFERENCES TO THE KIMBER STUDY AREA AS SHOWN ON EXHIBIT “A.”

The motion carried by the following vote:

AYES: 5 – Salwan, Dorsey, Karipineni, Pentaleri, Reed
NOES: 1 – Leung
ABSTAIN: 0
ABSENT: 0
RECUSE: 1 – Bonaccorsi

Commissioner Bonaccorsi returned to the dais.

DISCUSSION ITEMS

MISCELLANEOUS ITEMS

Information from Commission and Staff:

- Information from staff: Staff will report on matters of interest.
 - **Planning Manager Wheeler** stated that item 5 would go to City Council on June 7th.
 - **Assistant Planning Manager Morris** stated the next meeting will be held on April 28, 2016.
- Report on actions of City Council Regular Meeting.
 - **Assistant Planning Manager Morris** stated that on Tuesday, April 12, 2016 the City Council approved the Saber Cat revised grading plan.
- Information from Commission: Commission members may report on matters of interest.
 - None

Meeting adjourned at 11:01 pm.

SUBMITTED and APPROVED BY:



Courtney Fox, Recording Clerk
Planning Commission



Wayne Morris, Secretary
Planning Commission