



**MINUTES
FREMONT PLANNING COMMISSION
REGULAR MEETING OF JANUARY 23, 2020**

CALL TO ORDER: Chairperson Steckler called the meeting to order at 7:00 p.m.

PRESENT: Chairperson Steckler
Vice Chairperson McDonald
Commissioners Daulton, Rao, Yee

ABSENT: None
Two vacancies pending appointment.

STAFF PRESENT: Joel Pullen, Planning Manager
Bronwen Lacey, Senior Deputy City Attorney
Bill Roth, Senior Planner
Hang Zhou, Planner II
Kim Salazar, Recording Clerk
Chavez Company, Remote Stenocaptioning
Napoleon Batalao, Video Technician

APPROVAL OF MINUTES: **Vice Chairperson McDonald** moved to approve minutes for the regular meeting of December 12, 2019 and **Commissioner Daulton** seconded. Motion carried unanimously.

Chairperson Steckler moved the *Election of Officers for 2020* to the end of the agenda, under Miscellaneous Items. No objections were made.

DISCLOSURES: **Commissioner Daulton** met with the developers for Item 2 (PLN2020-00150) and spoke with locals in the area. He also visited and spoke with locals in the vicinity of Item 1 (PLN2020-00147).
Vice Chairperson McDonald visited the sites for Items 1, 2, and 3 (PLN2020-00167) and attended the community meetings for Item 2.
Commissioner Yee visited the site for Item 1 and spoke with residents in the area. He attended the community meeting for Item 2, met with the developer, and spoke with business owners and residents in that area. Finally, he spoke with business owners near the proposed clubhouse for Item 3.

Commissioner Rao drove by Items, 1, 2 and 3.
Chairperson Steckler also drove by the locations for Items 1, 2, and 3 and spoke with the applicant for Item 2.

Timestamps from the video webcast are listed below each Public Hearing Item Number and are in hours format, as follows: (hours:minutes:seconds). Video webcasts of Planning Commission meetings can be found at: <https://fremontca.viebit.com/#>

CONSENT CALENDAR

Chairperson Steckler moved Item 3, Metro West Victoria Station Flats Clubhouse Modification (PLN2020-00167), from Public Hearing to the Consent Calendar. No objections were made.

IT WAS MOVED (MCDONALD/YEE) AND UNANIMOUSLY CARRIED BY ALL PRESENT THAT THE PLANNING COMMISSION TOOK THE FOLLOWING ACTION ON ITEM NUMBER 3.

- Item 3. **METRO WEST VICTORIA STATION FLATS CLUBHOUSE MODIFICATION – 44862 South Grimmer Boulevard – PLN2020-00167** - To consider a modification to an approved Discretionary Design Review Permit to increase the size of the clubhouse for the Toll Brothers Metro West Victoria Station project from 2,582 square-feet to 9,072 square-feet and the number of floors from one to three, on property located at the northeast corner of South Grimmer Boulevard and the future Wisdom Road in the 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 a Final Environmental Impact Report (SCH#2013032062) was previously certified for the Warm Springs/South Fremont Community Plan, and a CEQA compliance checklist was prepared for the subsequent Old Warm Springs Boulevard South Master Plan, of which the proposed project is a conforming part.

APPROVED BASED ON FINDINGS AND SUBJECT TO CONDITIONS.

The motion carried by the following vote:

AYES: 5 – Daulton, McDonald, Rao, Steckler, Yee
NOES: 0
ABSTAIN: 0
ABSENT: 0
RECUSE: 0
VACANCY: 2 – pending appointment

CEREMONIAL ITEM

Chairperson Steckler presented a Resolution to **Roman Reed** for his 9+ years of service on the Planning Commission. Mr. Reed then said a few words in acceptance.

PUBLIC/ORAL COMMUNICATIONS

Kelly Abreu, Fremont resident, referenced a study conducted by the Turner Center for Housing Innovation at the University of California Berkeley, which indicated that California collects three times the national average of what developers pay in impact fees and that the City of Fremont collects three times the average for California, as per 2018 and 2019 data. Mr. Abreu went on to comment on the effects of Vision Zero in Europe and the benefits of non-motorized methods of transportation.

PUBLIC HEARING ITEMS

- Item 1. **Rex Homes General Plan Amendment Screening Request – PLN2020-00147** – To (00:23:36) consider a General Plan Amendment Screening Request to authorize formal processing of a General Plan Amendment application to convert the General Plan Land Use Designation of a 0.89 acre parcel located at 36400 Niles Boulevard from Private Open Space to Low Density Residential (2.3 to 8.7 units per net acre) to facilitate the development of five single family homes, and to consider a finding that the request is not subject to the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15378 in that it does not meet CEQA’s definition of a project.

Planning Manager Joel Pullen introduced the item and **Project Planner Hang Zhou** gave a brief presentation.

Chairperson Steckler opened the public hearing and invited the applicant to speak.

Hannah Chiu and **Erik Lundquist** of Hogan Land Services gave a brief presentation and responded to questions from the Commission with assistance from the property owner, **Yusef Attari**.

Chairperson Steckler invited public comments.

John Hinds commented on previous rulings by the Fremont City Council on projects related to the California Nursery Historic Park that designated specific areas for development and that of green or open space. He then alluded to the foreknowledge of the current owner of the parcel in question being designated as open space when he purchased it and his request to have it rezoned for development.

Robert Smith, resident of Niles, spoke in favor of the project and commented on potential benefits related to the local homeless population, safety, and a reduction in traffic speed and noise on Niles Boulevard.

Deborah Smith, Fremont resident, spoke in favor of the project saying that the current owner’s improved maintenance of the property in question has reduced blight in the area and, as a result, has positively impacted her quality of life.

Judy Zlatnik, Fremont resident, spoke in opposition to the project stating that it would not provide affordable housing, smaller unit sizes, nor would it be a desirable land use change, and that the area was not conducive to residential development.

Alice Cavette, Fremont resident, offered speculation as to why the property was originally zoned as Private Open Space and then made three recommendations for the Planning Commission to consider, should they move to approve the applicant's request for a General Plan Amendment.

Chris Cavette, Fremont resident, spoke in opposition of the project saying there were no significant benefits to the City of Fremont or to the Niles community that would support the applicant's requests for a General Plan Amendment.

Patty Allen, Fremont resident, spoke in opposition of the project and cited that additional driveways accessing Niles Boulevard would be a safety hazard and add to the already congested traffic on that street. She also commented on the displacement of Deodar cedar trees, the Quiet Zone project, and the claim of homeless in the area starting fires on the parcel in question.

Arun Saha spoke in opposition of the project and cited impacts on local trees and biological environment, traffic and safety, and the list of questionable proposed community benefits as reasons not to approve the project.

Michelle Powell, resident of Niles, spoke in opposition to the project saying that most of her reasons were already presented by other speakers. She went on to reiterate issues related to traffic, driveway placement, and the Quiet Zone project.

Wendy Arnold spoke in opposition of the project saying most of her points were already made by other speakers. She went on to emphasize the importance of Deodar cedar trees in the area, which she indicated were identified as legacy trees in the 2012 Fremont Tree Catalog. She also commented on information from the agenda packet that indicated the current land owner's knowledge of the restrictions of the parcel, prior to purchase.

Sharon Scharff spoke in opposition of the project and said that most of her points had already been covered. She then suggested that the Commission halt any further consideration of this project, calling it "*a frivolous proposal and detrimental to the community and the only advantage [was] to make a private party a profit.*"

Keith Parker, Fremont resident, spoke in opposition to the project, reiterating several points already made regarding traffic near the parcel, safety hazards, the presence of homeless in the area, and the foreknowledge of the current owner that the parcel was zoned open space when he bought the property. Mr. Parker also noted the parcel is on an earthquake fault.

Salma Attari, Fremont resident and co-owner of the property, spoke in favor of the project and listed some of the benefits that would result from creating residential housing on this parcel. She then urged the Commission to approve their General Plan Amendment Screening request.

Roger Marshall, Fremont resident and member of the Institute of Traffic Engineers, commented on the proposed plans with driveways accessing Niles Boulevard and Nursery Avenue, saying they were unsuitable and ridiculous.

Bruce Cates, Fremont resident, stated his opposition to the project. He also spoke of the plans to renovate the California Nursery Historic Park and suggested that the City of Fremont purchase the land in question to incorporate it into the California Nursery as part of the entrance to the historic park.

Regina Kiehn, Fremont resident, expressed her opposition to the project and her disturbance at the applicant's description that the open space was useless. She also reiterated previous comments that the owners knew what the land was zoned for when they purchased it.

Chairperson Steckler invited the applicant back for rebuttal.

Erik Lundquist said that the proposal being heard tonight was conceptual and if the land owner was provided the opportunity to move forward with a formal application, that they would examine the finer aspects of the project and incorporate appropriate mitigation measures to offset the various impacts that were mentioned during public comments. He especially noted the issue of affordable housing, saying it was part of their screening application request. **Yusef Attari**, the property owner, then addressed public comments related: trees, ecological sustainability, density, and driveways.

Chairperson Steckler closed the public hearing.

Senior Deputy City Attorney Bronwen Lacey and **Planning Manager Joel Pullen** responded to questions from Commissioners.

Commissioner Daulton moved to recommend to the City Council a denial of this application for a formal processing of a General Plan Amendment, based on insufficient community benefit. **Vice Chairperson McDonald** seconded.

IT WAS MOVED (DAULTON/MCDONALD) AND CARRIED BY THE FOLLOWING VOTE (5-0-0-0-2) THE PLANNING COMMISSION – HELD PUBLIC HEARING;

AND

RECOMMENDED THAT THE CITY COUNCIL:

FIND THAT NO ENVIRONMENTAL REVIEW IS REQUIRED PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) AS THE

REQUESTS DO NOT CONSTITUTE A PROJECT AS DEFINED BY CEQA GUIDELINES SECTION 15378;

AND

DENY AUTHORIZATION OF FORMAL PROCESSING OF A GENERAL PLAN AMENDMENT APPLICATION FOR REX HOMES (PLN2020-00147).

The motion carried by the following vote:

AYES: 5 – Daulton, McDonald, Rao, Steckler, Yee

NOES: 0

ABSTAIN: 0

ABSENT: 0

RECUSE: 0

VACANCY: 2 – pending appointment

Chairperson Steckler called for a recess at 8:35 p.m. and reconvened the meeting at 8:40 p.m.

Item 2. **Ellsworth Residential General Plan Amendment Screening Request – PLN2020-00150** – To consider a General Plan Amendment Screening Request to authorize formal processing of a General Plan Amendment application to convert the General Plan Land Use Designation of an approximately 1.1 acre site located at 43401 and 43431 Ellsworth Street from Town Center Commercial to Low-Medium Density Residential (8.8 to 14.5 units per net acre) to facilitate the development of 16 single family houses, and to consider a finding that the request is not subject to the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15378 in that they do not meet CEQA’s definition of a project.
(01:44:25)

Planning Manager Joel Pullen introduced the item and **Project Planner Hang Zhou** gave a brief presentation.

Chairperson Steckler opened the public hearing and invited the applicant to speak.

Mark Robson, President and owner of Robson Homes, gave a brief presentation and responded to questions from the Commission.

Chairperson Steckler invited public comments.

Robert Tavares, Fremont resident, spoke in opposition of the project for two reasons: 1) based on a recent study, Ellsworth was considered to be the last commercial area left in the Mission San Jose District; and 2) by granting this request, it would provide opportunity for others wanting to convert smaller parcels into residential and that the historic commercial community of the Mission San Jose area would be lost to strictly residential.

Andrew Sass, Fremont resident, spoke in opposition to the project, saying that a town was more than a collection of houses and that it would not be reversible should the Commission allow this parcel to be zoned as residential.

Gael Stewart, owner of Mission Coffee, spoke of her history in the area as a business owner and said that the neighborhood was becoming more and more residential, describing it as a bedroom community.

Chris Cavette, Fremont resident, spoke in opposition to the project saying that the General Plan Amendment request being heard tonight would result in 100% residential with no commercial and that the developer is proposing detached multifamily homes built to multifamily medium density standards.

George High, Manager of the Mission Shopping Center on Ellsworth, spoke to the history of the shopping center and its founder R. H. Lincoln, who built it.

Kelly Abreu, Fremont resident, said that the General Plan should shift to residential, because that is what the economics dictates and to increase the density.

Jackson Nichols, Fremont resident, spoke in opposition to the project saying, “*With growing concerns about climate change, we ought to be considering ways to reduce traffic by making stores and services closer to the customers, not by making people drive to regional centers.*”

Dixie Divine, CEO/Co-Founder of Prime Commercial, spoke in support of the project saying, “*...it is my professional opinion that the property on Ellsworth is not suitable for retail development; the demographics just don't support it.*”

Wynn Kageyama, representing the League of American Bicyclists, spoke in opposition to the project saying that Robson Homes’ plan to narrow the street in their request for a General Plan Amendment would result in a fatal design flaw that would cause “crashes” and last the duration of the construction of these homes.

Georgina Dannatt, Fremont resident, spoke of hazardous materials (specifically perchloroethylene) that were found in soil samples taken during an investigation of an area in which groundwater flows to the proposed project location.

Julie Thomas, Fremont resident, spoke in opposition of the project saying that she was not here just for herself, but on behalf of 25 other residents that signed an objection letter to the project. She also gave several reasons to their objects, including: density, traffic, the request to be considered exempt from the California Environmental Quality Act, and the collective interest in the Mission San José Commercial Town Center.

John Weed, Fremont resident and an owner of four commercial buildings in Mission San Jose, spoke in opposition of the project and commented on the general zoning, which he identified as Town Center Pedestrian and Town Center T (transitional) and spoke of the allow uses for the area.

Chairperson Steckler invited the applicant back for rebuttal.

Mark Robson responded to several of the issues brought up during public comments, including but not limited to: commercial compatibility, taking or accretion, environmental issues, and the narrowing of streets. He also spoke to the square footage and type of commercial that would be supported by the area and responded to questions from the Commission.

Chairperson Steckler closed the public hearing.

Following deliberation, **Vice Chairperson McDonald** moved to recommend to the City Council a denial of this application for a formal processing of a General Plan Amendment, based upon the Economic Study that substantiates retail commercial viability for this area. **Commissioner Rao** seconded.

Chairperson Steckler and **Commissioner Yee** both voiced their objection to the motion to recommend denial to the City Council.

IT WAS MOVED (MCDONALD/RAO) AND CARRIED BY THE FOLLOWING VOTE (3-2-0-0-0-2) THE PLANNING COMMISSION – HELD PUBLIC HEARING;

AND

RECOMMENDED THAT THE CITY COUNCIL:

FIND THAT NO ENVIRONMENTAL REVIEW IS REQUIRED PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) AS THE REQUESTS DO NOT CONSTITUTE A PROJECT AS DEFINED BY CEQA GUIDELINES SECTION 15378;

AND

DENY AUTHORIZATION OF FORMAL PROCESSING OF A GENERAL PLAN AMENDMENT APPLICATION FOR ELLSWORTH RESIDENTIAL (PLN2020-00150).

The motion carried by the following vote:

AYES: 3 – Daulton, McDonald, Rao

NOES: 2 – Steckler, Yee

ABSTAIN: 0

ABSENT: 0

RECUSE: 0

VACANCY: 2 – pending appointment

DISCUSSION ITEMS None

MISCELLANEOUS ITEMS

ELECTION OF
OFFICERS FOR 2020:

Commissioner Yee nominated Vice Chairperson McDonald to serve as Chairperson and himself as Vice Chairperson. **Commissioner Daulton** seconded and the nomination carried unanimously.

Information from Commission and Staff:

- Information from **Planning Manager Joel Pullen**:
 - The next regular meeting is scheduled for February 13, 2020.
 - Mr. Pullen reminded Commissioners of the importance of consistent attendance at regular meetings, due to the two current vacancies.
- Actions from City Council Regular Meetings as reported by **Planning Manager Pullen**:
 - The Washington Hospital rezoning request was heard and approved on January 14, 2020.
- Information from Commission: None

ADJOURNMENT

Meeting adjourned at 10:12 p.m.

SUBMITTED and APPROVED BY:



Kim Salazar, Recording Clerk
Planning Commission



Joel Pullen, AICP, Secretary
Planning Commission