



**MINUTES  
FREMONT PLANNING COMMISSION  
REGULAR MEETING OF MARCH 23, 2017**

- CALL TO ORDER:** Chairperson Leung called the meeting to order at 7:00 p.m.
- PRESENT:** Chairperson Leung, Commissioners Cavett, Dorsey, McDonald, and Steckler
- ABSENT:** Commissioners Karipineni and Reed
- STAFF PRESENT:** Wayne Morris, Assistant Planning Manager  
Debra Margolis, Assistant City Attorney  
Erik Kaeding, Deputy City Attorney  
Kim Salazar, Recording Clerk  
Chavez Company, Remote Stenocaptioning  
Napoleon Batalao, Video Technician

Assistant Planning Manager Wayne Morris introduced Erik Kaeding as the new Deputy City Attorney for the City of Fremont.

**APPROVAL OF MINUTES:** Chairperson Leung asked if there were any objections to the minutes as presented for the regular meetings on January 26 and February 9, 2017. As there were no objections, Chairperson Leung acclaimed the minutes approved.

**DISCLOSURES:** Commissioner Cavette drove by both items and took pictures of Item 2. Commissioner McDonald did the same. Commissioner Steckler drove by both items, and Chairperson Leung drove by Item 2.

**CONSENT CALENDAR** None

**PUBLIC/ORAL COMMUNICATIONS** None

**PUBLIC HEARING ITEMS**

Item 3. **FOX AVENUE NAME CHANGE - PLN2015-00294** - To consider the renaming of a private street from Fox Avenue to Lotus Pond Common from the north end of Horseshoe Lake in the Quarry Lakes Regional Park to its terminus at Alvarado Niles Road in Union City, and to consider a categorical exemption from the California

Environmental Quality Act (CEQA) per CEQA Guidelines Section 15301, Existing Facilities.

**Assistant Planning Manager Wayne Morris** introduced the item. There was no staff presentation.

**Applicant Andrew Chou**, CEO of Purple Lotus Temple, announced he was available for any questions.

As there were no questions for the applicant, **Chairperson Leung** closed public hearing.

**Vice Chairperson Dorsey** moved to approve staff recommendation and **Commissioner McDonald** seconded.

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

AND

RECOMMENDED THAT THE CITY COUNCIL: FIND THE PROJECT IS CATEGORICALLY EXEMPT FROM THE REQUIREMENTS OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PER CEQA GUIDELINES SECTION 15301, EXISTING FACILITIES;

AND

FIND THAT THE PROJECT IS IN CONFORMANCE WITH THE RELEVANT PROVISIONS OF THE CITY’S GENERAL PLAN MOBILITY ELEMENT AND WITH THE ESTABLISHED PROCEDURES AND GUIDELINES FOR NAMING OF STREETS;

AND

APPROVE THE STREET NAME CHANGE FROM FOX AVENUE TO LOTUS POND COMMON.

The motion carried by the following vote:

AYES: 5 – Leung, Cavette, Dorsey, McDonald, and Steckler

NOES: 0

ABSTAIN: 0

ABSENT: 2 – Karipineni and Reed

RECUSE: 0

- Item 4. **YOUNG EXPLORERS - 39476 Fremont Boulevard - PLN2017-00124** – To consider a Conditional Use Permit to allow the conversion of an existing tutoring center into a child day care center for children ages 2 to 6 years old located in the Central Community Planning area, and to consider a categorical exemption from the requirements of the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15301, Existing Facilities.

**Assistant Planning Manager Wayne Morris** introduced the item. There was no staff presentation.

**Chairperson Leung** opened the public hearing.

**Jyotika Mehta**, Founder and CEO of Young Explorers, announced she was available for questions.

**Commissioner Cavette** asked for a detailed account of the updates planned for the playground.

**Jyotika Mehta** said additional entrance and exit gates will be installed into the existing fence and the pathway on the side entrance of the property. They will also upgrade the flooring with extra matting.

**Commissioner Cavette** presented a picture of the playground she had taken from the rear parking lot earlier today. She commented on the clear visibility of the play area and asked if there were any plans to change the fencing.

**Jyotika Mehta** said they plan to add green privacy screen to the existing fence, so the playground will not be visible from the rear of the building.

**Commissioner Cavette** continued with several more questions, as follows:

- What will the footprint or square footage be of the new play structure indicated in the plans for the backyard?
- Will all 42 children be going outdoors at the same time?
- What is the day care's specific evacuation plan? If the front door is blocked, how do children and staff get out and away from the building?

**Jyotika Mehta** responded, in turn:

- The new play structure will be approximately 100 square feet.
- The children will rotate outdoors in classes of 18 to 20.
- The evacuation plan guides staff and children to exit the rear of the building, through two gates near the back fence.

There was further exchange between **Commissioner Cavette** and **Ms. Mehta** regarding the evacuation plan and the surrounding businesses having access to the pathway that connects to the playground. They also discussed the ratio of teachers to children, to which Ms. Mehta said they will increase their staff to accommodate increases to the number of children under their care.

**Assistant City Attorney Debra Margolis** noted that the issues in this line of questioning are addressed by the State for certification of the day care facility.

**Commissioner McDonald** commented on the number of times the Police Department had been called to the shopping center where the day care facility is

located, and inquired as to how the applicant handles situations when police are required.

**Jyotika Mehta** explained that the day care center has a locking system, by which a panic button automatically locks the doors and gates into the center. People can exit, but cannot enter into the day care center when the system is engaged. She also commented on their Emergency Disaster Plan and their provisions of food and water.

There was further dialogue between **Commissioner McDonald** and **Ms. Mehta** regarding the emergency evacuation plan and the mode and locations of exits.

**Commissioner Cavette** commented on the redwood trees around the property of the day care center and asked if the applicant would install protective screens to the base of the trees, to guard against splinters.

**Jyotika Mehta** said their contractor is currently working on installing safety screens, and agreed to have the safety screens and the green privacy fence listed as additional conditions of approval.

**Vice Chairperson Dorsey** asked the applicant how long she had been operating the tutoring center, her hours of operation, and how many times the Police Department had been called to the shopping center during her tenure.

**Jyotika Mehta** said she has been operating the tutoring center for four years and that the Police Department had never been called to the center during her hours of operation in that time. She also noted her hours of operation, which are 8:00 a.m. to 6:00 p.m.

**Chairperson Leung** asked the applicant to estimate how long it would take them to achieve full occupancy of 42 children, to which **Ms. Mehta** responded, six months and that they have a waiting list.

**Commissioner McDonald** asked if the square footage allotment for the occupancy of 42 children allowed for the installation of fixtures and furniture, to which **Ms. Mehta** said yes, and gave a detailed account of what items the State counts and allows for in their calculations (i.e., furniture, cabinets, bathrooms, office space).

**Chairperson Leung** closed the public hearing on this item.

**Commissioner Cavette** asked staff if the parking allotment of five spaces for the day care center was sufficient, to which **Assistant Planning Manager Wayne Morris** confirmed it was and that it fits the standard for their hours of operation.

**Commissioner McDonald** expressed concern for children under the age of 6, being cared for in this particular strip mall environment with potential risk factors stemming from neighboring stores and/or services.

**Assistant Planning Manager Wayne** expressed appreciation for Ms. McDonald's concerns and then explained the usual and customary practice of locating day care centers in strip malls, not only in Fremont but adjacent cities. He also commented on the screening process in obtaining a permit of this type.

**Deputy City Attorney Erik Kaeding** stated that the safety issues being discussed here are addressed through State licensure, and that the focus of the Planning Commission is related to land use and its appropriateness for the vicinity. He also referenced the *Findings for Approval* section of the staff report, located on page five.

There was a brief exchange between **Commissioner McDonald** and **Assistant Planning Manager Wayne Morris** regarding the various agencies involved in the evaluation process of this type of business application, (i.e., Fire, Police, State, City).

**Vice Chairperson Dorsey** moved to approve staff recommendation with two conditions, to add privacy screen to the back fence around the playground and to add a protective guard around the trees that are in the playground area.

**Commissioner Steckler** seconded the motion and the additional conditions.

**Vice Chairperson Dorsey** spoke to her motion, by commenting on her experience as a public school teacher for 17 years and the thoroughness of the aforementioned agencies in conducting evaluations prior to granting a license of operation.

**Commissioner Cavette** commented on the size of the playground and expressed concern that it could not accommodate a large number of children.

**Chairperson Leung** asked staff how many day care centers were currently operating within the City Center, to which **Assistant Planning Manager Wayne Morris** estimated 7 or 8.

As there were no further comments and a motion on the floor, **Chairperson Leung** called for a vote.

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

AND

FOUND THE PROJECT IS CATEGORICALLY EXEMPTED FROM THE REQUIREMENTS OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PER CEQA GUIDELINES SECTION 15301, EXISTING FACILITIES;

AND

FOUND THE PROJECT IS IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S GENERAL PLAN, INCLUDING THE DESIGNATED GOALS AND POLICES SET FORTH IN THE LAND USE

AND ECONOMIC DEVELOPMENT ELEMENTS OF THE GENERAL PLAN AS ENUMERATED IN THE STAFF REPORT;

AND

APPROVED THE CONDITIONAL USE PERMIT TO ALLOW A CHILD DAY CARE CENTER AS DEPICTED IN EXHIBIT "A" BASED ON FINDINGS CONTAINED IN FMC SECTION 18.230.060 AND SUBJECT TO CONDITIONS OF APPROVAL SET FORTH IN EXHIBIT "B."

The motion carried by the following vote:

AYES: 3 – Leung, Dorsey, and Steckler

NOES: 2 – Cavette and McDonald

ABSTAIN: 0

ABSENT: 2 – Karipineni and Reed

RECUSE: 0

## DISCUSSION ITEMS

## MISCELLANEOUS ITEMS

Information from Commission and Staff:

- Information from staff: **Assistant Planning Manager Wayne Morris** introduced item 6.1, *Appoint Planning Commissioner to Niles Canyon Scenic Highway Advisory Committee*, to which one member of the public requested to speak.
  - **Robert Daulton** spoke of the need to protect Niles Canyon as a Scenic Highway and commented on recent changes in and around the canyon. He concluded by requesting that whoever takes this position would stand up for a holistic approach in the preservation of the canyon and the existing scenic highway.
  - There was a brief discussion regarding the Advisory Committee. **Chairperson Leung** asked **Commissioner Steckler** if he would consent to serve, to which he agreed.
  - **Vice Chairperson Dorsey** moved to appoint **Commissioner Steckler** to the Niles Canyon Scenic Highway Advisory Committee and **Chairperson Leung** seconded. Motion carried by the following vote:
    - AYES: 5 – Cavette, Leung, Dorsey, McDonald and Steckler
    - NOES: 0
    - ABSTAIN: 0
    - ABSENT: 2 – Karipineni and Reed
    - RECUSE: 0
- Report on actions of City Council Regular Meeting:
  - **Assistant Planning Manager Wayne Morris** reported that City Council approved the Hobbs Residential project on March 14 and gave a brief update to the General Plan Prioritization Request for Crystalline Drive, which was heard at the same meeting.

- **Assistant City Attorney Debra Margolis** reported on the decision in the Niles Mixed Use lawsuit. The City Council granted the petition for writ of mandate, which means that the developer will need to prepare an Environmental Impact Report (EIR) in order to proceed with the project. Discussion ensued.
  - **Vice Chairperson Dorsey** asked about the tour for Commissioners, to which **Assistant Planning Manager Wayne Morris** said it would probably be scheduled sometime in May.
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- The next Planning Commission meeting is scheduled for April 13, 2017.
  - Information from Commission: None

**ADJOURNMENT**

Meeting adjourned at 7:51 p.m.

SUBMITTED and APPROVED BY:



Kim Salazar, Recording Clerk  
Planning Commission



Wayne Morris, Secretary  
Planning Commission