



**MINUTES  
FREMONT PLANNING COMMISSION  
REGULAR MEETING OF MARCH 24, 2016**

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

PRESENT: Chairperson Salwan, Commissioners Bonaccorsi, Dorsey, Karipineni, Pentaleri, Reed

ABSENT: Commissioner Leung

STAFF PRESENT: Wayne Morris, Assistant Planning Manager  
Prasanna Rasiah, Senior Deputy City Attorney  
Kristie Wheeler, Planning Manager  
Wayland Li, Senior Planner  
Chavez Company, Remote Stenocaptioning  
Napoleon Batalao, Video Technician

APPROVAL OF MINUTES: None

DISCLOSURES: **Chairperson Salwan** and **Commissioner Pentaleri** met with applicant for item one and two. **Commissioner Dorsey** met with the applicant for item one. **Commissioner Bonaccorsi** met with the applicant for item one and met with a home builder that builds custom homes regarding item three.

**CONSENT CALENDAR**

THE CONSENT CALENDAR CONSISTED OF ITEM NUMBER1. IT WAS MOVED (REED/DORSEY) AND UNANIMOUSLY CARRIED BY ALL PRESENT THAT THE PLANNING COMMISSION

Item 1. **ROBSON HOMES STEVENSON PLACE – 39501 Stevenson Place – (PLN2015-00283 and PLN2016-00229)** -To consider an amendment to Planned District P-2014-00194, Vesting Tentative Tract Map No. 8324, and a Private Street to allow the development of 34 attached townhouse units and 12 detached townhouse units on 2.0 acres located on the south side of Stevenson Boulevard, west of Stevenson Place in the Central Community Plan Area. A Mitigated Negative Declaration (MND) was previously adopted for the proposed project in accordance with the California Environmental Quality Act (CEQA) and no further environmental review is required.

CONTINUED TO APRIL 14, 2016 PLANNING COMMISSION HEARING.

The motion carried by the following vote:

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

- Item 2. **VISTA GRANDE - 822 Hunter Lane – PLN2016-00127** – To consider Vesting Tentative Parcel Map No. 10451 for the subdivision of an existing ±1.59-acre parcel into three single-family residential lots, each approximately 21,000 – 27,000 square-feet, located in Planned District P-90-17 in the Mission San Jose Community Plan Area, and to consider a categorical exemption from the requirements of the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15332 (In-Fill Development Projects).

CONTINUED TO APRIL 28, 2016 PLANNING COMMISSION HEARING.

The motion carried by the following vote:

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

**PUBLIC/ORAL COMMUNICATIONS** None

### **PUBLIC HEARING ITEMS**

- Item 3. **CITYWIDE DESIGN GUIDELINES AMENDMENTS - Citywide - PLN2016-00267** - To consider amendments to the Citywide Design Guidelines to address privacy impacts related to second story additions and new two-story homes, and to consider an exemption from the requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3) in that the proposed amendments are not a project which has the potential for causing a significant effect on the environment.

**Senior Planner Li** gave a brief presentation on the item. The proposal would add a section to the Citywide Design Guidelines titled “Design for Enhancing Privacy.” The new section would include new design rules and design guidelines that would address potential privacy impacts from second-story additions and new two-story homes. Proposed Design Rule 2.42R would require upfront analysis of privacy impacts through site plans, and floor plans. Other proposed design guidelines and design rules

would provide guidance on the location, orientation and size of windows and balconies to minimize privacy impacts on adjacent properties. The proposed design guidelines and design rules outline methods to address privacy impacts, such as using landscaping to obscure sight lines, using clerestory windows, glazing or other screening techniques.

**Commissioner Bonaccorsi** asked which jurisdictions had been looked at for guidelines.

*Senior Planner Li stated that staff had looked at design guidelines from numerous other municipalities, including Palo Alto, Alameda County, and Mill Valley to identify major themes and best practices.*

**Commissioner Bonaccorsi** asked if the design guidelines addressed three-story homes.

**Planning Manager Wheeler** stated there are not many three-story homes in the city therefore staff had focused on two-story additions.

**Commissioner Bonaccorsi** wanted the same guidelines to apply to three-story homes.

**Assistant Planning Manager Morris** stated that three-story single-family homes cannot be built in the City under straight zoning. He also indicated they had hired RRM as a consultant to draft the amendments to the Design Guidelines.

**Commissioner Bonaccorsi** stated that, in the City of Cupertino, a neighbor of a two-story home being built could opt out of privacy guidelines by completing a waiver. He asked if that had been explored.

**Assistant Planning Manager Morris** stated they had not explored that option due to the staffing levels. He added that staff does request that a neighbor building a two-story home speak to their neighbors.

**Commissioner Karipineni** asked about the status of solar rights.

**Planning Manager Wheeler** replied that it was currently being worked on, and that it may potentially be presented later in the year.

**Chairperson Salwan** opened the Public Hearing.

**Grace Chin**, resident of Mission Palms, stated that the proposed guidelines did not protect her neighborhood. She stated the guidelines seemed to tackle privacy but without concern for her neighborhood. She asked the Commission to consider a Designated Neighborhood for Mission Palms.

**Janet Barton**, resident of Mission Ranch, was glad that the guidelines addressed two-story homes. She noted that the Mission Ranch Designated Neighborhood incentivized single-story additions by allowing more square footage for one story homes than two-story homes.

**Lydia Choy-Fong**, resident of Mission Palms, stated that the view point of the neighborhood should be considered and that the proposed amendments would not have made a lot of difference for the house that was built on Palm Avenue. She stated

that the priority should be to maintain the privacy of neighbors, as opposed to architecture. She recommended that Rule 2.45R be a guideline and not a rule. She also stated that she was upset about the misinformation that had been circulated in her neighborhood. She stated that privacy landscaping should be effective immediately and not three to five years down the road. She asked that the amendments be enforceable to new property owners.

**Commissioner Reed** stated that he had read her letter regarding her new neighbor and stated that the Planning Commission would do what they could.

*Commissioner Bonaccorsi asked why she felt that a designated neighborhood for Mission Palms was still necessary even if they recommended approval of the amendments to the Citywide Design Guidelines to the City Council.*

**Lydia Choy-Fong** stated that the amendments deal with privacy and that the current guidelines were not effective. She stated, “the theory is good but the practice is bad.” She felt that Designated Neighborhood development standards would hold property owners to the guidelines. She also stated the required guidelines for privacy can be removed and replaced later.

*Commissioner Bonaccorsi referred to Ms. Barton and how the guidelines for Mission Ranch encouraged single-story homes. He stated the proposed Mission Palms Designated Neighborhood would not prohibit second stories, and would allow them if privacy guidelines are met. He asked if that was a concern.*

**Lydia Choy-Fong** stated that a Designated Neighborhood would solve many of the problems that they had been experiencing.

**Commissioner Pentaleri** supported staff’s recommendation and appreciated the emails from her and her husband. He stated that she had raised concerns about the Citywide Design Guidelines in the context of Mission Palms. He said that this prompted him to think about how the guidelines addressed the needs of the Mission Palms neighborhood. He acknowledged that landscaping changes over time, and wanted to ensure that that conditioned landscaping is permanent. He requested a continuance on the item to allow more time to review.

**Doug Cooper**, resident of Mission Palms, appreciated the interest from the community. He supported what Ms. Choy-Fong had brought up. He asked if landscaping could be required in the yard of the neighbor at the expense of the owner of the renovated home.

*Commissioner Bonaccorsi asked, if the neighbor does not want to water the landscape, if he would propose that as an option?*

**Doug Cooper**, replied yes.

**Robert Wilson**, resident of Mission Palms, felt that orienting second-story bedrooms to face the front instead of the rear would be a good solution. He expressed concern about the circulation of misinformation.

**James Wu**, resident of Mission Palms, stated he had lived on Olive Avenue for 16 years in a single-story home. He indicated that he would like to add a second-story if he could afford to build it. He was in support of the Citywide Design Guidelines and did not think that privacy was an issue.

**Linda Pu**, resident, supported the proposed amendments to the Citywide Design Guidelines. She stated that Designated Neighborhoods are a waste of resources, time and tax dollars.

**Jayant Bhowmik**, resident of Mission Palms, supported the proposed amendments to the Citywide Design Guidelines. If new Designated Neighborhoods are allowed, additional requests would keep popping up.

**So-Yi Slyvia Wong**, resident of Mission Palms, stated that Mission Palms was a mix of single-story and two-story homes. She stated it would be unfair to prohibit additional two-story homes. She pointed out that some new two-story homes have no problems, and some have many problems

**Chairperson Salwan** closed the Public Hearing.

**Senior Deputy City Attorney Rasiah** reminded the Commission that the issue of the Mission Palms Designated Neighborhood could not be discussed due to the Brown Act.

**Chairperson Salwan** asked what was permitted.

**Senior Deputy City Attorney Rasiah** stated that the Commission was looking at the proposed design guidelines amendments and whether or not to adopt the staff recommendations. The Commission could review and propose any adjustments to the staff recommendations.

**Commissioner Pentaleri** stated that he had reviewed staff's proposal and it looked like good work. He said that good work had also been done with the Mission Palms Designated Neighborhood. He felt that he had not reviewed the privacy guidelines from all directions necessary to make a recommendation to the City Council. He supported a continuance on the item. He invited the residents of the Mission Palms neighborhood to provide additional input as to what should be adapted into the Citywide Design Guidelines from the Mission Palms Designated Neighborhood plan.

**Commissioner Karipineni** asked for clarification on why the Commission could not discuss the Mission Palms Designated Neighborhood.

*Senior Deputy City Attorney Rasiah stated that the Commission cannot discuss nor act on items that had not been publicly noticed as part of the Brown Act. The agenda item's description did not include the Mission Palms Designated Neighborhood.*

**Commissioner Karipineni** asked if it would be appropriate to make a recommendation regarding that item.

*Senior Deputy City Attorney Rasiah stated that generally no under the Brown Act.*

**Commissioner Karipineni** wanted to consider the Designated Neighborhood and the Citywide Design Guidelines simultaneously. She was concerned about compliance and enforceability of the Citywide Design Guidelines, and wanted to explore the potential to strengthen some of the language. She supported **Commissioner Pentaleri's** motion for a continuance.

**Commissioner Dorsey** agreed with **Commission Pentaleri** and **Commissioner Karipineni**. She asked if it would be appropriate to ask for a study session for both the Citywide Design Guidelines and the Mission Palms Designated Neighborhood. She felt she needed more information to make a determination.

**Assistant Planning Manager Morris** stated he was not sure when a study session could take place.

**Planning Manager Wheeler** stated that zoning regulations are different than design rules and guidelines. She explained staff's reasoning for not bringing forth the designated neighborhoods. She stated they have been using the City's resources on both the Citywide Design Guidelines and the Designated Neighborhoods. She stated they have done the best they could and it is hard to address the needs of a few that affect the many. She addressed the feelings of miscommunication, she stated that all parties were in the chambers in November, heard the presentation and could have asked questions. She stated they could potentially come back later with the Designated Neighborhood at the direction of the City Council.

**Commissioner Reed** stated that he was moved by two comments that were made about the Citywide Design Guidelines lacking "teeth" and being "business as usual". He asked about enforceability of the guidelines.

*Assistant Planning Manager Morris stated the removal of required landscaping could be enforced upon. If there is an issue, it should be brought forward.*

**Commissioner Reed** asked, if they decided to table the item, if it could give builders more time to do whatever they wanted.

*Assistant Planning Manager Morris stated that the amendments that were being proposed are an improvement over what was currently in place. The guidelines may be refined again in five or six years. He stated that delaying action could provide an opportunity for new construction with privacy impacts*

**Planning Manager Wheeler** stated that since the Palm Avenue issue has arisen, staff has been paying much greater attention to second-story additions. There is not a requirement that homeowners meet with their neighbors but they have been requiring that plans show the privacy sensitive areas on adjacent lots.

**Chairperson Salwan** stated there were definitely two issues: the privacy guidelines and the Designated Neighborhood. He wanted a more comprehensive review of the Citywide Design Guidelines. He wanted to take a look at the issues more broadly and how it affects the entire city. He wanted to see the Design Guidelines approved that night and a more comprehensive study done in the future.

**Commissioner Bonaccorsi** stated the Commission had four options in front of them at the meeting in November. The first option was "if the situation was appropriate it could recommend approval to City Council." He recalled that he and **Commissioner Pentaleri** agreed that Mission Palm should be a Designated Neighborhood. The second option was to simply deny the proposal and that **Commissioner Dorsey** made a motion for that option, but it failed due to lack of a second. The third option, which was adopted, was to table the Mission Palms Designated Neighborhood item. He stated he had no problem tabling the privacy guidelines, but felt that they would be

making a mistake to think that that would solve all the problems in Mission Palms. There are only two neighborhoods that have come forward in nine years (Glenmoor Gardens in 2007 and Mission Ranch) to ask for a designated neighborhood. He said that he would support **Commissioner Pentaleri** motion to continue the item and requested a placeholder to consider the Designated Neighborhood for Mission Palms.

*Senior Deputy City Attorney Rasiah reiterated that the Designated Neighborhood was not on the agenda for the night and the Brown Act prohibited the Commission from discussing it or acting upon it. He stated that the Commission could lawfully ask that the item be brought back to the commission and it would be up to the City Council as to whether or not to have staff devote time to that purpose.*

**Chairperson Salwan** asked if that would be a separate item or under commission referrals.

*Senior Deputy City Attorney Rasiah stated that, if the Commission wanted to recommend the Design Guidelines to the City Council and ask staff to bring back the Designated Neighborhood proposal at a future date or request that the City Council direct staff to bring back the Designated Neighborhood at a future date, they could.*

**Commissioner Bonaccorsi** asked if there was anything prohibiting them from requesting that staff bring back the Designated Neighborhood without recommending that to City Council.

*Senior Deputy City Attorney Rasiah stated that the Commission could request staff to bring it back, but it is ultimately the City Council that decides if staff resources are going to be devoted to the item.*

**Commissioner Pentaleri** expressed appreciation for the work of staff in November and again that night. He explained that the rationale for his motion was because he felt that he has not had time to sufficiently review and make a recommendation. He moved to continue the item for at least two weeks to revisit individually and to have more input from the community. He wanted to revisit the Mission Palms item after revisiting the Citywide Design Guidelines.

**Planning Manager Wheeler** stated it was unlikely that the item would be back any sooner than June because the agendas for the next several meetings were booked.

**Commissioner Pentaleri** stated that he understood, but was still unable to make a decision that night. He restated the motion to continue the item for at least two weeks.

**Commissioner Bonaccorsi** seconded the motion.

**Commissioner Pentaleri** explained the reason for his motion is he wants to be able to have specific written input regarding which specific Mission Palms Guidelines should be incorporated or adapted into the Citywide Design Guidelines. He informed the public of their ability to meet individually or in small groups with an individual Planning Commissioner.

**Assistant Planning Manager Morris** clarified with **Commissioner Pentaleri** that, when staff does bring back the Citywide Design Guidelines, they would not be comparing it to anything else.

**Commissioner Pentaleri** stated that was correct.

**Chairperson Salwan** felt that they had all of the information that they needed and that he would rather see the privacy guidelines move forward with a recommendation that the Mission Palms item be brought back to the Commission for review. He felt that postponing the adoption of the privacy guidelines would be delaying the guidelines for many new homes that would be coming up for review.

**Commissioner Bonaccori** asked that, if the motion for a continuance was adopted, staff would look for an opportunity to bring the item back sooner than June.

**Chairperson Salwan** stated that adoption of the privacy guidelines should be just one step in a more comprehensive approach. He wanted to advance the privacy guidelines to make it easier on the neighbors and the City.

**Commissioner Dorsey** said that adoption of privacy guidelines was a good start and that it was good to have something in place that they could make changes later on if necessary. She asked, if the motion for a continuance failed, if they could make a motion to approve the item with the condition to review them at a later time.

*Senior Deputy City Attorney Rasiah stated yes.*

**Commissioner Reed** felt that the privacy guidelines strengthened the ability to enforce and address privacy.

**Commissioner Karipineni** thought it would be good to reexamine more specific processes and look at what criteria is being used. She wanted to look at the privacy guidelines, as well as the Designated Neighborhood items holistically and was interested in the potential to revise the items at a later date. She asked staff to explain the opportunity to approve the item and then review and make revisions at a later date.

*Assistant Planning Manager Morris stated that approving the item with the condition to review at a later date could be done, but that staff was not in favor of that. He pointed out that 155 two-story additions had been reviewed since 2010, and only one had been a major issue.*

**Chairperson Salwan** stated that it had been done before.

**Commissioner Pentaleri** stated that June is not that far away and that staff should get the item back on the agenda sooner if possible. He urged support for a continuance.

IT WAS MOVED (PENTALERI/BONACCORSI) AND CARRIED BY THE FOLLOWING VOTE (4-2-0-1-0) THE PLANNING COMMISSION – CONTINUED THE ITEM TO A DATE UNCERTAIN.

The motion carried by the following vote:

AYES: 4 – Bonaccorsi, Dorsey, Karipineni, Pentaleri  
NOES: 2 – Salwan and Reed  
ABSTAIN: 0  
ABSENT: 1 – Leung



RECUSE: 0

**Chairperson Salwan** called for a 10 minute recess for the stenographer at 8:47 pm.

- Item 4. **DENSITY BONUS ORDINANCE UPDATE - Citywide - PLN2016-00276** – To consider an update to the City's Density Bonus Ordinance for compliance with recent revisions in state law, and to consider an exemption to the requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3) in that the proposed update is not an activity that would have the potential to cause a significant effect on the environment.

**Planning Manager Wheeler** gave a brief presentation of the item.

**Senior Deputy City Attorney Rasiah** clarified that the proposed amendments simply implement state law.

**Commissioner Pentaleri** asked about the replacement of low with lower.

*Senior Deputy City Attorney Rasiah stated the change in terminology was to coincide with state law. Lower means 70 percent of median income and State law makes a distinction between low and very low in order to provide a formula for a Density Bonus between low, very low and moderate. He indicated that lower is not applicable in every instance within the ordinance.*

**Commissioner Pentaleri** stated that his concern was that the change in definition appeared later in the ordinance. He referred FMC Section 18.165.010, purpose and intent, "...this chapter is intended to provide incentives for the production of housing for very low income, lower income, and senior households and for the production of housing for moderate income households residing in condominium and planned development projects." He stated that the sentence seemed very ambiguous.

*Senior Deputy City Attorney Rasiah stated that the phrase "residing in condominiums and planned development projects" is referring to moderate income units only.*

**Commissioner Pentaleri** asked if the intent is to provide housing only in condominiums or planned developments or is it to help residents living in condominiums or planned developments.

*Planning Manager Wheeler stated that the intent is the production of housing for moderate income household.*

**Commissioner Pentaleri** asked if there was a typo in the definition of "affordable housing cost" where moderate income used a different multiplier than very low and lower income.

*Senior Deputy City Attorney Rasiah stated it was not a typo but was consist with state law.*

**Commissioner Pentaleri** asked about the definition of "Major transit stop" and if the 15 minute intervals for the intersection of two major bus routes were combined or individual.

*Senior Deputy City Attorney Rasiah stated it was intended as each individual bus route.*

**Commissioner Pentaleri** stated that it should be explicitly clear.

*Senior Deputy City Attorney Rasiah* stated that he could make a motion to request that staff take a look at it alongside the state law.

**Chairperson Salwan** opened the public hearing and closed due to no one wishing to speak.

**Commissioner Bonaccorsi** said that state planning and zoning law requires continued affordability for 30 years or longer but after the adoption of AB 2222 it is 55 years or longer. He thought that previously the City had required 55 years and reduced it to 30 years.

*Senior Deputy City Attorney Rasiah* stated that the Affordable Housing Ordinance provisions were previously 45 years and were reduced to 30 years with the redevelopment agencies, but what this was referring to is different and coincides with state law.

**Commissioner Bonaccorsi** asked if this change impacts the ordinance.

*Senior Deputy City Attorney Rasiah* stated that the amendments are to conform to state law.

**Commissioner Bonaccorsi** referred to Section 18.165.075 which indicated the “city shall not require a vehicular parking ratio, inclusive of handicapped and guest parking, that exceeds the ratios shown in the following table.” He stated that it sounded like it caps the maximum parking per bedroom and seems to disincentive creating more handicapped parking in a population that might require more.

*Senior Deputy City Attorney Rasiah* stated that that was what state law provided.

**Commissioner Pentaleri** made a motion approve staff recommendations and that staff review the definition of a “major transit stop.”

**Commissioner Reed** seconded the motion.

IT WAS MOVED (PENTALERI/REED) AND CARRIED BY THE FOLLOWING VOTE (6-0-0-1-0) THE PLANNING COMMISSION – FOUND THAT THE PROPOSED ZONING TEXT AMENDMENT IS EXEMPT FROM THE REQUIREMENTS OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PURSUANT TO CEQA GUIDELINES SECTION 15061(B)(3) BECAUSE THE PROPOSED AMENDMENT DOES NOT HAVE THE POTENTIAL FOR CAUSING A SIGNIFICANT EFFECT ON THE ENVIRONMENT.

AND

FOUND THAT THE PROPOSED ZONING TEXT AMENDMENT IS CONSISTENT WITH THE GENERAL PLAN, INCLUDING POLICIES IN THE LAND USE AND HOUSING ELEMENTS AS ENUMERATED IN THE STAFF REPORT.

AND

FOUND THAT THE PROPOSED ZONING TEXT AMENDMENT FURTHERS THE PUBLIC INTEREST, CONVENIENCE, AND GENERAL WELFARE OF THE CITY BECAUSE IT WOULD ENSURE THAT CHAPTER 18.165 IS IN

COMPLIANCE WITH STATE DENSITY BONUS LAW AND THAT THE CITY IS MEETING ITS LEGAL REQUIREMENTS.

AND

RECOMMENDED THAT THE CITY COUNCIL INTRODUCE AN ORDINANCE AMENDING FREMONT MUNICIPAL CODE CHAPTER 18.165 (DENSITY BONUS AND AFFORDABLE HOUSING INCENTIVES) AS SHOWN IN EXHIBIT "A."

The motion carried by the following vote:

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

## DISCUSSION ITEMS

## MISCELLANEOUS ITEMS

Information from Commission and Staff:

- Information from staff: Staff will report on matters of interest.
  - **Assistant Planning Manager Morris** announced that the next regular meeting was scheduled for April 14, 2016.
  - Report on actions of City Council Regular Meeting
  - **Planning Manager Wheeler** said that, at the March 22, 2016 meeting, the Council adopted the General Plan Amendment prioritization policy.
- Information from Commission: Commission members may report on matters of interest.
  - **Commissioner Dorsey** stated that she had read in the newspaper that the school district voted to reclaim Marshall Elementary that was leased to Stratford. They had given Stratford a 24 month notice.
  - **Commissioner Karipineni** stated that she had read in the newspaper that day that 18 of the 28 elementary schools had to enter a lottery for kindergarteners.
  - **Commissioner Salwan** stated he had attended the State of the City address that day.

Meeting adjourned at 9:27 pm.

SUBMITTED and APPROVED BY:



Wayne Morris, Secretary  
Planning Commission



Courtney Fox, Recording Clerk  
Planning Commission