



**MINUTES
FREMONT PLANNING COMMISSION
REGULAR MEETING OF FEBRUARY 12, 2015**

- CALL TO ORDER: Chairperson Pentaleri called the meeting to order at 7:00 p.m.
- PRESENT: Chairperson Pentaleri, Commissioners Bonaccorsi, Dorsey, Karipineni, Leung, Reed, Salwan
- ABSENT: None
- STAFF PRESENT: Kristie Wheeler, Planning Manager
Prasanna Rasiah, Senior Deputy City Attorney
Cliff Nguyen, Associate Planner
Joel Pullen, Associate Planner
Bill Roth, Associate Planner
Alice Malotte, Recording Clerk
Chavez Company, Remote Stenocaptioning
Napoleon Batalao, Walter Garcia, Video Technicians
- APPROVAL OF MINUTES: Regular meeting of January 22, 2015, were approved as submitted with **Commissioner Dorsey** and **Commissioner Leung** abstaining
- DISCLOSURES: **Commissioner Dorsey** drove by Item 3 site; met with Item 4 developers; along with communicating with members of various commissions regarding Item 6.
Commissioner Salwan spoke with Item 5 applicant.
Commissioner Karipineni communicated with Item 3 applicant and drove by Item 3 site; met with Item 4 applicant and drove by site, as well as, for Item 5. She communicated with members of various commissions regarding Item 6.
Commissioner Leung drove by Item 4 site and met with applicant last year and drove by Item 5 site.
Commissioner Bonaccorsi drove by Item 3 site and spoke with various applicant representatives; drove by Item 4 site and spoke with applicant last year and indirectly had received emails and Facebook posts; and regarding Item 6, had communicated with Chairperson John Nguyen-Cleary, Human Relations Commission, as well as, Doug Ford.

Chairperson Pentaleri met with Item 3 applicant during the middle of last year and had exchanged telephone calls and emails with applicant the middle of last week; received email from Judy Zlatnik regarding Item 4; communicated with John Cleary-Nguyen regarding Item 6, along with Dick and Tim Roberto of Rise Coalition.

CONSENT CALENDAR

THE CONSENT CALENDAR CONSISTED OF ITEM NUMBERS 1 AND 2.

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

- Item 1. **FREMONT RECYCLING & TRANSFER STATION – 41149 BOYCE ROAD – PLN2014-00360** – To consider an amendment to Conditional Use Permit PLN2002-00270 to allow the Fremont Recycling & Transfer Station to accept self-haul solid waste from outside the Tri-Cities area for processing. An Environmental Impact Report (SCH# 2001122003) was previously certified for the Fremont Recycling & Transfer Station and no further environmental review is required.

Chairperson Pentaleri stated that he had a speaker card for this item. He asked staff if it would not be voted on tonight.

Planning Manager Wheeler stated that he was correct.

CONTINUED TO A DATE UNCERTAIN.

- Item 2. **SHADOWBROOK GENERAL PLAN CONFORMITY FINDING – 3579 Shadowbrook Terrace – PLN2015-00120** – To consider a Finding of General Plan Conformity for the sale of City-owned property located in the Centerville Community Plan Area, and to consider an exemption from the requirements of the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15378, definition of a project.

FOUND THAT THE GENERAL PLAN CONFORMITY FINDING IS NOT SUBJECT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PER CEQA GUIDELINES SECTION 15378, IN THAT IT IS NOT A PROJECT AS DEFINED BY CEQA;

AND

FOUND THAT PLN2015-00120 FOR THE PROPOSED DISPOSITION OF PROPERTY LOCATED AT 3579 SHADOWBROOK TERRACE AS SHOWN ON EXHIBIT “A” IS IN CONFORMANCE WITH THE GENERAL PLAN AS DESCRIBED IN THE STAFF REPORT.

The motion carried by the following vote:

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

PUBLIC/ORAL COMMUNICATIONS

Craig Adelman, Director for Transit Oriented Development for the Low Income Investment Fund (LIIF), which was one of the largest community development financial institutions and was based in the Bay Area. He encouraged support of development, such as of the Lennar development agreement that was the focus of tonight’s Special Study Session. Affordable housing was not only a local but a global issue and “approval of this development could be no less than saving the world.” Greenhouse gas reduction would not occur without changing land use patterns. It was essential that jobs and housing and affordable housing be centered around transit infrastructure. At 286 units, this project would offer a significant supply of affordable housing. The City had very capable staff and leaders that he was certain would work diligently with the developer to make sure that the best affordable opportunities would be realized.

PUBLIC HEARING ITEMS

Item 3. **DIAS RESIDENTIAL – 42232 Mission Boulevard – PLN2014-00195** - To consider a Rezoning of 10.3 acres from Open Space to Preliminary and Precise Planned District P-2014-195, Vesting Tentative Tract Map No. 8189, a Preliminary Grading Plan and tentative cancellation of a Williamson Act contract to allow development of 20 single-family homes and preservation of an existing historic single-family home located at 42232 Mission Boulevard in the Hill Area (Central) and Mission San Jose Community Plan Area, and to consider a Mitigated Negative Declaration prepared in accordance with the requirements of the California Environmental Quality Act (CEQA).

Commissioner Reed and **Commissioner Salwan** recused themselves due to campaign contributions.

Associate Planner Roth explained that approval of two voter initiatives allowed the development of this project. Measure A placed restrictions on development in the hillside areas east of Mission Boulevard and Measure T, which placed restrictions on development above the Toe of the Hill (TOH). The Toe of the Hill at the base of the hill intersected the project site. All development would occur below the Toe on land designated Low Density Residential, per the General Plan. The site was currently designated Open Space, as it was currently under Agricultural Preserved contract.

Although that Open Space zoning was not in conformance with the General Plan designation of Low Density Residential, the proposed Planned District rezoning would be in conformance. The site was adjacent to the Alameda County Water Treatment Plan and sites that are developed as single-family developments and designated for similar low density residential uses. (sic) The proposed density would be 6.3 units per acre and calculated based only on the acreage designated for Low Density Residential and excluded the new public street right-of-way. The area above the Toe of the Hill would be placed into an Open Space easement and would not be developed.

Care was taken to limit the footprint of the buildings and to orient the majority of the lots in a north-south direction, similar to the natural contours of the hillside. The lots would be longer and narrower than would be typical in a comparable R-16 zoning district, due to the desire to limit grading. The site layout would address adequate separation from the existing Dias house, which was a potential Historic Register Resource. The Diaz house would continue to be used as a single-family residence on its own 11,500 square-foot lot, Lot 21 on the site map.

Twenty protected trees, deemed unsuitable for relocation by the City's landscape architect, would be removed, but mitigated pursuant to the Tree Preservation Ordinance. The mitigation for this project would require the planting of five, 72-inch, multi-trunk Coast Live Oaks and 15, 48-inch box fruitless olive trees. Approximately 35 street trees would also be planted, which would not be credited towards mitigation.

The Gold Sheet revisions included tree mitigation and better described that mitigation.

Sr. Deputy Attorney Rasiah reminded the Commissions that, due to the two recusals, this rezoning would require at least four votes to recommend approval to City Council.

Jake Lavin, Robson Homes, stated that the hillside setting, the historic house on the property and the adjacency to a State highway, Mission Boulevard, had all been taken into consideration when planning this project. The General Plan had designated Mission Boulevard as an Important Landscape Corridor.

A rendering showed the Dias house as it would be preserved in place, the hills would be very much present in the background, along with the Hobbs and Aboumrad residences. Attractive new landscaping, shown in the foreground, would help to screen the new housing and create a wonderful streetscape. Another rendering showed the Dias house as it was today, again with the Hobbs and Aboumrad houses as a point of reference. The overhead rendering showed that the vast majority of the site would be dedicated and preserved as an 5.8 acre, Open Space easement to project the hill framework of the City, as decided by the aforementioned voter initiative. This project would go up to the Toe of the Hill line and, as could be seen in the before and after photos, the hill framework would be protected by the Toe of the Hill line.

The site plan had taken a long time “to get it right.” The Dias house would be preserved on a very spacious lot next to Open Space of one-third acre. The entry would be to the north to facilitate the development of the adjacent property, which would minimize curb cuts and connectivity between projects. The entry location would allow a view corridor over the backyards rather than through or over houses. The street would also be well screened by the entry location. Larger lots towards the top of the hill would spread out, along with different architecture that would add more character to the neighborhood. The same materials and craftsmanship would be the same as they had done in other parts of the City.

Landscape improvements similar to their Mission Estates project, would be installed along Mission Boulevard, as seen in the photo and include natural materials, such as Oak and Olive trees.

This project was 60 percent less dense than was the Bringhurst project across the street, now under construction. It matched the density of the Mission Ciello project across Palm Avenue to the north. It was still quite unique to preserve an historic resource, a value that was emphasized in the General Plan. Any number of impact fees and benefits that came from better utilization of the land would help any affordable housing projects.

Commissioner Bonaccorsi asked if this project came with a commitment to maintain the Open Space easement. If so, what was the financial mechanism for doing it? Why fruitless olive trees rather than fruit bearing olive tree?

Mr. Lavin replied that the homeowners association would be responsible for the maintenance. Typically, the maintenance involved just weeding it twice a year, which was what they had done in Mission Estates.

Associate Planner Roth replied that the trees had been selected by the landscape architect, probably, had to do with the fruit drop.

Chairperson Pentaleri opened the Public Hearing.

Andrew Sass, Fremont resident, had previously distributed his comments to the Commissioners. He commented that developers were motivated to make money, which they should do. To make money, as many houses as possible were put on a property. The motivation for the City’s engineers was to solve problems. He was an engineer. The Commission motivation, or duty, was to do what was best for Fremont. He believed that five of the houses would be located on a 20 degree slope or above. Some mistake was made when the Toe of the Hill line was drawn for the ordinance. It was not what was voted on. The General Plan stated that Open Space should be kept where the Mission Fault ran through it. A geotechnical report said that the Mission Fault ran through part of this property. Perhaps the General Plan should be modified to address the Mission Fault and the Toe of the Hill. This property and the

Hobbs property were zoned as low density, according to the site map, which would not be in conformance with the surrounding neighborhood.

Chairperson Pentaleri, responding to someone in the public, stated that the Commission had received Mr. Sass's correspondence and it would be followed up.

Ajit Patankar stated that people were interested in buying houses in the Mission area, because of the quality of the schools. Several new developments were going on in the Mission area and he wondered where all of these children would be educated. Would they be bused out to a different school district? Would the Mission School District be divided into two areas? The traffic was already backed up on Mission Boulevard, which was not a large through-road like Mowry Avenue or Stevenson Boulevard. At eight o'clock in the morning, the traffic was backed up from I-680 and the traffic would get worse with this development. The beauty of the Mission area was in the hills not in the street. No more development would be needed in the Mission area for the next ten to twenty years. If there must be development, let's focus on high density development near BART stations.

Susan Wirth, resident across the street from this development, stated that she had been a teacher within the Fremont Unified School District. She asked that no decision be made without conferring with the local residents. Her concern was the impact upon the local schools by the children moving into this development. The schools were already impacted. She asked that development up the hill be limited. She could not get out of her neighborhood in the morning, because of traffic on Mission Boulevard from I-680 to Driscoll Road. She worried about the PG&E pipeline recently installed up the hill and that the same accident that happened in San Bruno could happen here.

Alice Cavette, Fremont resident, stated that five detached garages would have upper floor studios and would be allowed to be rented. Three of the garages would have no side setbacks and would be 22 feet high. The garage on Lot 6 would be on the fence line of the proposed Hobbs development next door. Ten feet was available to move the garage away from the back fence and still leave room for auto maneuverability without imposing on the neighboring Lot 5. Plans involved a loft above the detached garages on Lots 10 and 11 up on the hill. She questioned allowing those tall garages being so high up on the hill.

Dr. Mark Kremenetsky stated that when the first development was finished on the eastern side of Mission Boulevard, it was guarded by a 17 foot acoustic fence. Immediately, the level of noise increased tremendously. He wrote an acoustic program that showed the level of reflection and resonance had increased the level of noise almost twice. When he brought it to the attention of the City engineers, they stated that they could do nothing about the noise heard by the people living on the other side of the street. Staff's report had made no mention of noise, because the acoustic fence would be built on only one side of the road. When the noise increased, kids could not do homework when the windows were open, no one could use their

backyard and their real estate values went go down. He requested that the builder construct another acoustic fence at the same height as the other side from Palm Avenue to San Tomas. He expected that the Commission would protect his and his neighbors' interests.

Mr. Lavin closed by stating that the Toe of the Hill line was not calculated upon the slope of one lot or some small cell within the property, but the study involved the graduation of slopes over larger blocks of land. It had been peer reviewed and adopted in 2005 and was the "line in the sand." The Mission Fault had not been referenced in the General Plan and it was not a recognized fault by the state. Their company geotechnical engineer was one of the two geotechnical engineers recognized as qualified by the City. The School District was on top of new developments and had assigned the children from this project to a local school. Many of the speakers lived farther from the project than was typical. Extensive landscaping had already been done on the west side of Mission Boulevard and one could stand on top of the Diaz house and not be able to see into Mr. Sass's backyard, which was the case with a number of the properties. Again, the purpose of the Toe of the Hill line and the voter initiative was to preserve the hill framework, not to preclude development of the field and foreground, as was their Mission Estates project. No one had attended the HARB hearing when this project was heard. This was the best project for this site.

Commissioner Bonaccorsi asked the following:

- Had community outreach meetings had been held and how many had attended?
Mr. Lavin stated that the outreach, per the General Plan, was a 300-foot radius and, they had spoken to 22 of the 24 property owners that were within that radius, which had been accomplished by knocking on doors with their plan sets.
- Would he address the problem of a soundwall creating more sound problems for some of the adjacent neighbors?
The sound engineer had estimated that one decibel of noise would be added to the average noise level of the street. It took a change of about three decibels to be perceivable to the community.
- What was his response to the suggestion that Lot 6 was too close to the Hobbs residence and that it should be moved back?
The garage was already set back six feet from the property line. These rear garages would add to the character of the neighborhood, because there would not be garages "in your face," which were encouraged in the City Guidelines for new residential development. In his experience, a detached garage at the rear added a lot of privacy. No windows would be facing into the Hobbs development.
- Was it true that the detached garages would be 22 feet high and, if so, what would be the impact on the site lines from people across Mission Boulevard?
The garages would have a lower profile than the homes, as could be seen in the renderings showing garages behind the Dias home and they would not diminish anyone's view.

- What about cumulative impact of past, existing and future traffic conditions along Mission Boulevard by this project. He agreed that it was impossible to get out in the mornings. Why would future traffic by itself not considered significant?
Mission Boulevard was a State highway and overriding objectives existed in order to facilitate mass transit on the street, such as, limited street lights and medians to limit left turns. The mid-block location for this project would have a right-in, right-out driveway, which the safest type of driveway and would have the least impact on traffic.

Commissioner Dorsey asked if School Board had already voted to put this new development into a specific attendance area. Where had it been assigned? Had technology for construction of soundwalls been improved over the last seventeen years?

Mr. Lavin replied that the School Board made periodic assignments and this area had been assigned just last night to Chadbourne. Certainly the construction of soundwalls was much more solid than in the '60s and current soundwalls would last a lifetime. The wall, itself, would be set back 25 feet from the curb with street trees, the sidewalk and a 15-foot backup landscaping area. Low rock walls and plantings would break up the massing of the soundwall.

Chairperson Pentaleri asked the following questions, many of which involved correspondence and questions from the public and staff and Commission comments.

- Again, what kind of notice had been made and had some kind of signage been put up? If so, how long had it been in place?
Mr. Lavin replied that signage notification was required for any project. Since last summer.
- The signage was large and intended to give people notice that something was coming and to engage the public beyond the 300-foot radius.
- Regarding the noise, the soundwall was intended to protect the residents behind the wall from the traffic noise. However, the public comments concerned the sound being scattered and that it was going somewhere. Could something be done to soften/absorb the sound that might be reflected to other residences?
Yes. Vines would be planted on the soundwall, which the acoustical engineer could not put a number on.
- Several remarks had been made regarding zero setbacks for garages on Lots 12, 14, 19 and 24. Did a problem exist with a zero setback for a garage?
Associate Planner Roth stated that the R1-6 zoning setbacks mainly concerned the main house rather than the detached garage. Typically, the setback was about five feet. Other cities sometimes had zero setbacks for detached garages. These garages would have second floor studios. One had a bathroom window that could look into the neighboring yard and it was conditioned to be frosted. So there would be no direct view from the second floor unit on Lot 6 onto the Hobbs property.
- Was there a provision for a turn lane into this project?

No modifications or widening of Mission Boulevard would occur as part of this project or plans to change the center line/median that ran in front of the project. As the applicant stated entry into and out of this project would be by a right-in and right-out onto the new public street that would serve this project.

- Tiles from the garage would be used to repair the roof of the main residence, the Dias residence. Could unused materials from the garage be preserved for future maintenance needs by the future homeowners?

Mr. Lavin agreed that it was appropriate for the future buyer of the Dias house to leave a good stash of repair materials in the basement.

Commissioner Bonaccorsi asked if an in-kind or as-kind historical materials requirement had already been made by the Fremont Historic Register.

Associate Planner Roth stated that the applicant wished to make minor modifications to the exterior of the Dias house, which would be under the purview of HARB and was not part of the package being reviewed at this time.

Chairperson Pentaleri closed the Public Hearing.

Commissioner Bonaccorsi asked staff if they could corroborate the sound and traffic engineering issues. Would the soundwall have less than a one decibel effect and how was that peer reviewed? Why this particular project would not have a significant impact on traffic?

Associate Planner Roth stated that according to noise consultant Charles Salter Consultants, noise is not a linear measurement where two similar sounds would be added together and it would be a doubling of those decibels. The most noise that would create would be up to three decibels. However, given the separation of this new wall and those houses across the street, the most would be would be one decibel, and that less than three decibels was not perceptible to human ears, which had been confirmed to staff through an email. Regarding traffic impact, this site had a General Plan designation for low-density residential, which this project would conform to. The General Plan EIR evaluated the cumulative traffic impacts for all of the land uses that were designated in the General Plan. The City had decided that this site below the Toe of the Hill line would have low-density residential uses. The General Plan criteria was that if more than 100 trips would be created by a project, then a separate traffic study would be performed. This 20-unit project would generate 190 net new weekday trips, 15 a.m. peak hour trips and 20 p.m. peak hour trips, which would not create a new traffic impact at this section of Mission Boulevard.

Commissioner Karipineni asked staff to clarify the Commission's role concerning the Toe of the Hill comments made by the public speakers. Was that within the Commission's purview and it would be decided by the Commission or was it a done deal, because it was not within their purview.

Associate Planner Roth replied that the Toe of the Hill, as shown in the City's GIS and this project's site plans, was adopted by ordinance in 2004 as a part of the implementation of Measure T. Any project located on the east side of Mission Boulevard below the Toe of the Hill would use the line as shown in the City's GIS and as was adopted.

Commissioner Leung said that the letters and comments made by the public tonight had touched her. Development was a bit of a trade-off. With or without this project, impact problems already existed with traffic and local schools. She agreed with one of the speakers who said that the Commission's role was to try to bring the best terms for the City. Now the economy had improved and this particular development was 21 lots. It would bring 21 families to this area. If the economy was not that good, developers would not be interested in projects in our City. The trade-off would be a little more traffic and a few more students, but at the same time, this project would allow preservation of the Dias house and would improve the street scene along Mission Boulevard, which would be a plus. It would not last forever. She would approve this project and take advantage of the current situation to improve the street scene and the lifestyle and living standards along Mission Boulevard.

Chairperson Pentaleri shared many of **Commissioner Leung's** sentiments. He also understood the wish to keep adjacent property open and undeveloped to preserve the views that had been available over time. However, it was not reasonable for the City to ask a property owner to not develop their property. There was a balance. The project had been crafted very thoughtfully and a good effort had been made to work with the neighbors. It would be a success for the City and preserve a Primary Historic Resource. He would support the project.

Commissioner Dorsey asked the members of the public who were in attendance to speak against this project to raise their hands. Out of the people in attendance, how many were included in the outreach meetings? Many projects had come before the Commission from this developer and they were always very thoughtful. She would like to see a win-win situation. She suggested that the developer go back to get input from all interested people in attendance and fine tune this project with them.

Commissioner Bonaccorsi made a friendly amendment to recommended that the Applicant strongly consider putting the Dias property on the track for historic preservation and to go through the HARB process, which would avoid looking at the garage for tiles here and there, but provide a systematic way to preserve that asset as a resource, so that it did not deteriorate over time.

Chairperson Pentaleri announced to the public that the motion would carry with **Commissioner Bonaccorsi's** amendment and they would have an opportunity to add input as this item moved on to City Council.

IT WAS MOVED (KARIPINENI/LEUNG) AND CARRIED BY THE FOLLOWING VOTE (4-1-0-0-2) THE PLANNING COMMISSION –

RECOMMENDED THAT THE CITY COUNCIL ADOPT THE DRAFT MITIGATED NEGATIVE DECLARATION AND MITIGATION MONITORING PLAN AS SHOWN IN EXHIBIT "A," AND FIND ON THE BASIS OF THE WHOLE RECORD BEFORE IT (INCLUDING THE INITIAL STUDY AND ANY COMMENTS RECEIVED) THAT THERE IS NO SUBSTANTIAL EVIDENCE THAT THE PROJECT WILL HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT AND THAT THE MITIGATED NEGATIVE DECLARATION REFLECTS THE INDEPENDENT JUDGMENT AND ANALYSIS OF THE CITY OF FREMONT;

AND

RECOMMENDED THAT THE CITY COUNCIL 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, MOBILITY, SAFETY, AND PARKS AND RECREATION ELEMENTS AS ENUMERATED WITHIN THE STAFF REPORT;

AND

RECOMMENDED THAT THE CITY COUNCIL FIND THE PRELIMINARY AND PRECISE PLANS AS DEPICTED IN EXHIBIT "C," (PRECISE SITE PLAN, ARCHITECTURAL ELEVATIONS AND FLOOR PLANS, AND LANDSCAPE PLANS), FULFILLS THE APPLICABLE REQUIREMENTS SET FORTH IN THE FREMONT MUNICIPAL CODE;

AND

RECOMMENDED THAT THE CITY COUNCIL FIND THAT VESTING TENTATIVE TRACT MAP NO. 8189, PUBLIC STREET, AND PRELIMINARY GRADING PLAN, AS SHOWN IN EXHIBIT "D," ARE CONSISTENT WITH THE GOALS, POLICIES AND IMPLEMENTATION ACTIONS OF THE CITY OF FREMONT'S GENERAL PLAN. GOVERNMENT CODE SECTION 66474 AND THE FREMONT MUNICIPAL CODE PROVIDE THAT A TENTATIVE MAP APPLICATION MUST BE DENIED IF CERTAIN SPECIFIED FINDINGS ARE MADE. NONE OF THOSE FINDINGS CAN BE MADE IN THIS INSTANCE AS SET FORTH IN THIS REPORT AND EXHIBIT "E;"

AND

RECOMMENDED THAT THE CITY COUNCIL ADOPT A RESOLUTION CERTIFYING THE CANCELLATION FEE AMOUNT AND APPROVING THE TENTATIVE CANCELLATION OF THE WILLIAMSON ACT CONTRACT, BASED UPON COMMENTS PROVIDED BY THE CALIFORNIA DEPARTMENT OF CONSERVATION AND BASED UPON THE FINDINGS AND SUBJECT TO THE CONDITIONS OF APPROVAL SET FORTH IN EXHIBIT "E;"

AND

RECOMMENDED THAT THE CITY COUNCIL INTRODUCE AN ORDINANCE APPROVING A REZONING OF THE ENTIRE PROJECT SITE FROM OPEN SPACE TO PRELIMINARY AND PRECISE PLANNED DISTRICT P- 2014-195, AS DEPICTED ON ENCLOSURE EXHIBIT "B" (REZONING MAP), APPROVING THE PRELIMINARY AND PRECISE PLANS AS SHOWN ON

ENCLOSURE EXHIBIT "C," (PRECISE SITE PLAN, ARCHITECTURAL ELEVATIONS AND FLOOR PLANS, AND LANDSCAPE PLANS), AND APPROVING THE MODIFICATIONS AND RELATED PROVISIONS SET FORTH IN EXHIBIT "F," BASED UPON THE FINDINGS AND SUBJECT TO THE CONDITIONS OF APPROVAL SET FORTH IN EXHIBIT "E." RECOMMEND THAT THE CITY COUNCIL APPROVE VESTING TENTATIVE TRACT MAP NO. 8189, PUBLIC STREET, AND PRELIMINARY GRADING PLAN, AS SHOWN IN EXHIBIT "D," BASED UPON THE FINDINGS AND SUBJECT TO THE CONDITIONS OF APPROVAL SET FORTH IN EXHIBIT "E;"

AND

RECOMMENDED THAT THE CITY COUNCIL APPROVE THE PROPOSED REMOVAL AND MITIGATION FOR 20 PROTECTED TREES PURSUANT TO THE CITY'S TREE PRESERVATION ORDINANCE, BASED UPON FINDINGS AND CONDITIONS SET FORTH IN EXHIBIT "E;"

AND

RECOMMENDED THAT THE CITY COUNCIL DIRECT STAFF TO PUBLISH NOTICE OF THE TENTATIVE CANCELLATION OF THE WILLIAMSON ACT CONTRACT WITHIN THIRTY DAYS AS PROVIDED BY STATE LAW

AND

RECOMMENDED THAT THE CITY COUNCIL DIRECT STAFF TO PREPARE AND THE CITY CLERK TO RECORD WITH THE COUNTY RECORDER A CERTIFICATE OF TENTATIVE CANCELLATION OF THE WILLIAMSON ACT CONTRACT AS PROVIDED BY STATE LAW;

AND

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

The motion carried by the following vote:

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

Chairperson Pentaleri called a recess at 8:15 p.m.

Chairperson Pentaleri called the meeting back to order at 8:20 p.m.

- Item 4. **NILES MIXED-USE DEVELOPMENT - 37899 Niles Boulevard - PLN2014-00338** - To consider a General Plan Amendment to change the land use designation of a 6.07-acre site from Service Industrial (Special Study Area) to Town Center Commercial and Medium Density Residential, a Rezoning from Light Industrial with Historical Overlay District (IL)(HOD) to Preliminary and Precise Planned District with Historical Overlay District P-2014-338 (HOD), Vesting Tentative Tract Map No. 8205, a Private Street, a General Plan Conformity Finding for a General Street Vacation (to convert a portion of the Niles Boulevard right-of-way fronting the site

into a linear park), and a Preliminary Grading Plan to facilitate development of 98 residential units and 3,620 square feet of retail and community space in the Niles Community Plan Area, and to consider a Mitigated Negative Declaration that has been prepared and circulated pursuant to the requirements of the California Environmental Quality Act (CEQA).

Commissioner Salwan recused himself due to campaign contributions.

Senior Planner Nguyen stated that, as could be seen by the attendance, this project had created much interest. All comments received by the City had been forwarded to the Commissioners. The noticing for the HARB meeting and this meeting had been extended to 1,000 feet from the property, along to interested parties who had signed up for noticing at the February HARB meeting. The applicant had also held two community meetings, as well as smaller meetings with individuals.

This site was known as the Henkel site at the southeast terminus of Niles Boulevard. Single-family residences were to the west and south-west, an apartment building and commercial uses along Niles Boulevard and the historic core area was immediately to the north-west. The Alameda Creek Trail was to the south. Second Street and Chase terminate at the project site. The site's long history included many industrial uses, which included a fruit cannery, the office building designed by a well-respected architectural firm, and chemical manufacturing by Henkel. In 2002, Henkel closed because the buildings were determined to be seismically unsafe and too costly to retrofit, they were demolished between 2006 and 2008. During that time, a fire had significantly destroyed the office building. In 2011, when the General Plan was updated, this site was designated as a Study Area, which supported reuse of the site for residential, commercial or mixed-use. HARB met on January 15th where the neighbors stated that the design of this project did not fit with the character of Niles. Traffic and parking impacts were noted, along with concerns about access to Chase Court and the ongoing environmental remediation. HARB's review was limited to compatibility with the Niles Historical Overlay District (HOD) in terms of siting, massing, scale, materials and color. HARB voted 4 to 1 to recommend denial of the project, noting its excessive density, massing, three-story height, and lack of features from existing Niles' buildings, such as brick used on the bank and the decorative Kraffiles

Before the Planning Commission are the five major elements noted above. The land use would be changed from light industrial (HOD) to medium density residential (HOD), 14.4 units to the acre to 29.9 units to the acre. A Planned District was required for a 2.2-acre site when a mixed use was proposed. A Vesting Tentative Tract Map would allow for a condominium-form of ownership. Other entitlements would include a private street and preliminary grading plans. The street vacation would allow conversion of a portion of the Niles Street frontage, as the first step in the process for Council's consideration, to a linear park.

Staff's opinion was that this project would be compatible with the Nile's district, and its design had drawn inspiration from its small-scale industrial past use. Buildings, at the rear, would be set back at least 50 from the adjacent single-family residences. A ten-foot landscape buffer would also be planted along that sensitive edge. The Craft Building would be appropriately placed along Niles Boulevard to activate the street and to provide pedestrian access, which would be a wider sidewalk that would connect to the linear park and then to the Alameda Creek Trail. Open space areas were proposed at the gateway plaza and the location and orientation of the buildings would help to maximize the views. The two- and three-story Craft buildings would be stepped down at the ends and drew their inspiration from the Wurster and Bernardi office building design. It would have a gable roof form with strong rhythm and street presence with seven flexible live-work spaces along Niles Boulevard. Anchoring this building at the corner would be a 2,400 sf retail or restaurant pad. Live-work unit materials would include stucco, wood, metal siding, storefront glazing with rollup doors.

The townhomes would comprise two districts; one the Cannery and the other the Foundry. The buildings would have two and three-story massing with maximum building height of 35 feet to the roof ridge. The roof profiles would be low-pitched, gabled and shed roofs. Exteriors would include wood siding, plaster and limited metal siding with tones of beige, olive green, light grey and brown.

Commissioner Bonaccorsi understood that the applicant had received a No Further Action letter from the Regional Water Quality Control Board for remediation on the site, but is "voluntarily" going beyond that in order to make the area safe for residential and other uses. He asked the following:

- He had asked staff if there was a condition in the mitigation measures that required the applicant to complete that successfully before pulling permits. He was told, "Yes" but the mitigation measure had not been provided to him and he asked if it was MM-1?
- *Senior Planner Nguyen stated that he was correct. It had not been included as a Condition of Approval because the mitigation measure required the developer to provide evidence that the clean-up work had been completed pursuant to the requirements of the approved mediation work plan that had been issued by the Regional Water Quality Control Board, which is the lead agency for the remediation. If the City had no evidence of that, the building permits would not be issued.*
- Did the City want some written verification or evidence that the remediation had been successfully completed?
He was correct.
- Did he know for a fact that the Regional Water Quality Control Board would be giving that kind of documentation? Had he talked to the Agency?
He had contacted the Project Manager at the Regional Water Quality Control Board and staff had drafted the mitigation measure to make sure that the agency was satisfied with the way that the mitigation had been written.

- Did he expect to get some written documentation where the Agency stood behind it?
- Did he expect to get some written documentation where the Agency stood behind it?
“Yes,” and this voluntary clean-up by the applicant would go above and beyond. The Henkel Corporation, the previous owners, had received notice of No Further Action was needed for remediation. Because this project involved residences, this developer planned to perform some grading of the site to be certain that all contamination was removed. Once accepted by was the Regional Water Quality Control Board, the Risk Management plan would be removed.
- He clarified that by making it Mitigation Measure No. 1, it was no longer voluntary and now it was, basically, a requirement if the applicant wished to proceed.
Senior Planner Nguyen agreed, based upon the mixed-use.
- Explain that the applicant cannot pull a grading permit until they receive the clean-up letter from the Agency when the very act of remediating the site would require grading. Would it be in violation of this Condition?
Two agencies were involved. The lead agency would be the Regional Water Quality Control Board, but the City’s ordinances could not be ignored. Because of large amount of grading that was being proposed, the applicant had to submit an application to the City for a Ministerial Grading Permit to allow them to start the work under the approved work plan that had been issued by the Regional Water Quality Control Board. It would not be in violation of the Condition.

Douglas Rich, applicant, stated that he had submitted a letter to the Commission regarding the evolution of this site and the main site points. Instead the inspiration of the architecture would be discussed by the project architect, Chek Tang.

Architect Tang thanked staff for their help, as he believed the project had improved a great deal. The site was a road to nowhere, because the bridge was no longer there. Many of the former policies and plans had laid out exactly what they had intended for this project. This “place” would anchor the downtown Niles business district and be a gateway or pivot point into the Niles District, as well as, being an extension to the Alameda Creek Trail. The Craft Building would be the anchor at the gateway open space area at one end of the site. The urban plaza at the downtown end of the Craft Building, along with the angled parking, would extend the downtown to this site. The central green would be the terminus plaza for people driving down to the Niles District. Within the residential development would be the Cannery and Foundry Districts that would be tied by the linear park that would take the place of the vacated street. False historicism was the worst way to honor the past, such as putting Victorian elements on the buildings. Paying homage to the former building types was a better way to do it, not copying every detail, and adopting the design to today’s use. The bank building had beautiful bricks. They took to heart the suggestion by HARB that the brick on the Craft Building should be closer to the color on the bank building. The higher eaves fronting on the linear park were modified after hearing criticism of the roofs.

Commissioner Bonaccorsi asked if he was talking about the rear elevation of the eaves.

Architect Tang replied that these eaves were facing the public edge. Another criticism was the metal material on the residential building. They had agreed to remove the metal siding and apply a more residential scale element with a vertical type of Hardiboard siding.

Mr. Rich believed that this was the right site for some density as opposed to high density. At 19.6 units per acre this was not high density. This was a conservative number, because it excluded the linear park acreage. If the linear park were included, the density would be closer to 16 units per acre, which was not a high density designation. The prior applicant had planned 136 units, so be sensitive to the community they planned 98 units, which was actually 85 units plus the 13 live-work units that would be park of the commercial building.

This project was not an infill development in the middle of a single-family, detached community. Yes, the single-family, detached homes along the western edge needed to be treated with sensitivity. This site was at the terminus of a main, commercial thoroughfare and against a rail line. This former industrial site had shear, block wall, three-story buildings on it for 100 years, but with the building demolitions a few years ago, the community had forgotten how much of an industrial site this had been, in terms of activity and in terms of structures. Niles would benefit from providing a variety of housing opportunities, even though its residences were mainly single-family and detached.

Dramatic economic benefits would be seen from buyers who will want to provide the foot traffic and all of the advantages for a vibrant and commercial core. Other local cities, such as Los Altos and Danville, have embraced the benefits of putting residential homes in their commercial centers, because of the synergies that come from this type of housing and a strong, commercial center. The Housing Element of the General Plan called for a minimum of 75 housing units.

He started outreach early, because he understood how this intensification of the site would concern the Nile residents. He started outreach 14 months ago before pen was every put to paper, which included two, broad neighborhood meetings. He asked for questions.

Commissioner Reed stated that he had attended the HARB meeting as he wanted to see how the community felt. He had heard over and over why the need for three stories, which he agreed with. Would this project work without any of the three-story building? Could this development happen with only two-story buildings?

Mr. Rich that the previous buildings were two and three stories, so that structures' size were part of the history of the site. Limiting the buildings to two stories, the

livability of those homes would be limited. He understood the sensitivity towards three stories, so two-story homes would be constructed at key focal points to allow the roof heights to taper down at those key focal points. He would have preferred two-story buildings if it had worked. The three-story buildings were introduced because three stories and type of housing made the unit livable and made it work. No, it could not happen with two-story units.

Commissioner Dorsey asked the applicant to finish describing the community outreach he had done. After those meetings, were any changes made to the plan?

Mr. Rich stated that the broad, neighborhood meetings occurred in January and May, 2014, which were extremely well attended. In addition, he had several meetings with the adjacent neighbors and he held over 30 one-on-one meetings with people who had reached out to him. Some changes could not be done, which was just the reality of a site with give and take. However, many great suggestions were incorporated into the site, such as, the site planning, itself, and the possible creation of the linear space, which would allow rerouting the streets so that no private open space would be up against the adjacent residences. The landscape buffer along that edge was increased; some of the two-story homes were introduced; flex space would be added in the residential homes, because of an interest expressed in a flexible ground floor; guest parking was increased to exceed what was mandated in the municipal code. Staff could be asked about the third party consultant that had been engaged to perform a guest parking study. It decided that 83 guest parking spaces would be needed and they would provide 85. The 83 spaces had not taken into account the time of day and when time of day was considered, the maximum amount of spaces needed were 76 or 78, depending upon the time of day. Aesthetic items included eliminating the water tower; adding the community center that would be available to everyone in Niles; and increasing the size of the endcap restaurant with the outdoor plaza.

Commissioner Karipineni stated that some of the comments received from the community involved traffic circulation through the site. What constraints dictated this pattern and why that was superior relative to other considerations that may have been looked at?

Mr. Rich replied that one of the initial suggestions was to continue Niles Boulevard around along the creek and connect it to Chase Court. That could be a quick, readily acceptable cut-through to an existing neighborhood, which would probably need to be mitigated in some way. A hard 90-degree turn into the site would have introduced difficult cross traffic and would not have allowed a signal to be installed. The alternative was that the cut-through would be pretty circuitous and would be easier to discourage people from using it, which allowed no private ownership up against it. The street would be designed with bulb-outs, parallel parking and landscaping that would provide traffic calming.

Chairperson Pentaleri called a recess at 8:55 p.m.

Chairperson Pentaleri reconvened the meeting at 9:05 p.m.

Chairperson Pentaleri opened the Public Hearing.

Paul Welschmeyer stated that he wished to speak about three key points: (spoke away from the mic while pointing out areas on the site map) – when coming into Niles – storefronts, headlights, so tenants will cover all this with cheap advertisements, so they would never look like this rendering – facing the wrong direction – why the City - give away all the street parking when parking on the site was a critical problem to begin with and provide in kind on the site. – this is where the employees parked. This should have some parking so we can access friends who move in here – no access – this section right here needs to be resolved. Every day there was people, not knowing where they're going, turning this portion of the road and coming back. Need a roundabout -

Robert DMateo stated that he lived in the very last house on corner of Chase Court and Third Street, so their property butted up against the site. His wife also owned Joe's Corner and she was interested in getting more homes into the area. During the outreach meetings, a soundwall was guaranteed and the houses abutting Third Street would only be two stories, which he did not see on the plan and was not sure about. He asked if things had been changed. Getting in and out of the site at 8:30 a.m. would be extremely difficult for 100 people. He had experienced a large backup on the road that entered onto Niles Boulevard. He understood that Chase Court would be for emergency access only so that vehicles would not be traveling through the back streets. The current residents feared that unwanted parking would occur in front of their houses. He questioned that any three-story buildings were currently in Niles.

Carrie Pitta, Third Street resident, stated that her property backed up to this project's property and that she, also, was a business owner in downtown Niles. She agreed with the previous speaker. It was true that the plant had been two- and three-story buildings. However, on six acres there was no "sea of buildings – solid - across that acreage." She actually had the original water tank directly behind her backyard and she had a view of the hills. She was asking for some consideration for those who had lived in the area for 20 plus years. She had spent three years finding something in the community. As a business owner, she wanted more people in town, which would help the town to thrive. Opening Third Street would be a mistake. It was a roller coaster ride and the dip at Chase Court corner was dangerous. The soundwall was important, because families of mice and rats move into nearby homes when the dirt was moved.

Commissioner Bonaccorsi asked if she understood the two-story houses that would be focal points that the applicant mentioned during his presentation.

Ms. Pitta stated that she was not sure that there would be enough of them to make a difference, because of where they might be placed against their backyards and how many there might be.

Commissioner Reed asked if she would approve this project if there were no three-story buildings.

Ms. Pitta answered, “Yes.”

Michael McNevin stated that he had missed the applicant’s presentation, but he was happy to see that the residents were willing to work with the applicant. When Doug, the applicant, came to town in January 2014, he immediately asked for feedback from the community. The applicants were giving the town a lot of assets, such as, the community center, the restaurant, the 55-foot buffer with the road in the back. The trailhead would be beautiful when it was finished. He emphasized with the neighbors about what they do not like about this project, such as parking issues that might still have to be resolved and the building heights if their views were blocked. He was not as worried about the traffic as he was about “getting rid of that eyesore that had been there for 10 years.” Pulte Homes tried to build there and received the same kind of resistance. He understood that people did not want to live next to a project that might cause strife. At the same time, it had been like this for ten years; it was blight; and it made Niles look like a slum to people coming in. He was excited about the positive assets that this project would bring to the town. He hoped that happy faces would be seen at the end of the project.

Matthew Rodriquez stated that he was a business owner in Niles, but he did not live in Niles. He approved of this project, as long as all of the issues were correctly dealt with.

Nancy Coumou liked the project and understood the impacts to anyone who lived at the end of Third Street. People have complained that this project did not fit Niles. Well, this junky, vacant lot did not fit, either. In order for something to happen, it would take tremendous resources. She appreciated this developer coming in and doing a thoughtful plan and engaging with the community. She liked the architecture very much and she regretted not speaking at the HARB meeting. Not a single project in all of Fremont had left any impression, at all. She liked the modern aesthetic. It was suitable for a former industrial site. Bikers would find that “it is a sweet, 20-minute ride to that ACE station.” She expected to use the linear park all the time. She asked if the CC&Rs could compel people to park in their garages and would that be part of the CC&Rs for this site? Will people be parking in the neighborhood?

Bobby Cruz stated that he was a business owner and he and his family lived on L Street very close to where the project would end. His business was a tattoo studio and he had met the same sort of resistance when he came before the Planning Commission for approval of his business. It had not been very popular, at first, but he was now part of the community with no problems, such as parking. His daughter had attended the local elementary and junior high and was now attending the high school. Everything had worked out perfect and he thanked everyone for that. He lived on that side of town and he was for the project. He understood that change was hard and “it

took a minute to get used to.” There were always parking issues. He did not going around that corner and going through the dip, then seeing “that nasty, torn down broken fence and bricks and all the other stuff.” This plan looked nice and it could become a part of Niles, too.

Commissioner Reed gave kudos to the speaker’s business. It was a really beautiful spot and it was a really classy place, although he had not been in.

Mr. Cruz said that it was nice to have many of the people who had resisted his business now stopped by and tell their out-of-town visitors, “You gotta see this place.”

Scott Rogers, I Street residents since 1999, stated that everyone wanted something to be done with this site. However, this is not the project. The outreach was not sufficient. The first meeting that he had been aware was at Joe’s Corner and the project was already set. No changes had been made to density. It was hard to believe that adding 98 units would have little or no effect on the community. New studies should be done by a company chosen by the affected residents. The traffic through Third Street, which would be at the end of his street, would be a major issue. What about the people heading towards I-880? No one would go up to J Street. Third Street would become another Niles Boulevard, which could become a safety issue. His home was originally a part of about 40 units. The local residents stood up and made their voices heard, which made a difference, because now there were just 12 homes. He hoped the same would happen with this project. The view did matter in Niles and was something that should be addressed, although it seemed that nobody cared enough about it. This project did not look like Niles and it did not feel like Niles. He suggested that the Commissioners walk through Niles to see if this project fit. They should look at new plans and new ideas.

Krysten Laine stated that the original design choice of the three-story buildings included a cross ventilation at street level, which was typical of alternatives to full-site remediation. She challenged the developer to redesign the entire site to accommodate the full-site remediation and not just spread a few two-story structures here and there, but actually have two-story structures. The original site did not have three-story structures and an historian was in the audience who could speak to that. She would like to see this project at the 74-unit minimum, along with more open space, such as Niles already had scattered throughout its district. In addition, proactive incorporation to the creek had not been commented upon by the Alameda Creek Alliance or from East Bay Parks, and so forth. The history of the park, as presented by staff, had been inaccurate, because the chemicals that were created on this property from 1952 to 1980 were not discussed. 2-4-D dichlorophenoxyacetic that was used at one time as a herbicide and pesticide, which caused extreme physiological and anatomical damage to people. This site needed to be cleaned up appropriately if human interaction was to happen at this site. This voluntary remediation was an excellent step. However, it was probably to being done to fend off CEQA problems and future law suits. She had not seen consideration of the

Alquist-Priolo Act, which allowed no development for human capacity within 50 feet of a rupture fault. Because of funding cuts, the Regional Water Quality Board had designated many sites as No Further Action and leaving those sites to the community water districts to take action and implement their own standards, themselves.

Commissioner Bonaccorsi asked if her background gave the speaker some expertise in this area. Did his exchange with **Senior Planner Nguyen** allay some of her concerns? If not, why?

Ms. Laine replied that she had a Master in Environmental Sciences. She currently worked for San Francisco Water and had worked for East Bay Municipal Utility District doing permitting and regulatory compliance. She still had her concerns, because the explanation was not deep enough of what was and what was not there. She believed that the original design with the lower floor providing cross ventilation would not be necessary, since they are doing a complete remediation, and a redesign for two-story buildings would be safe on this site. It would also be safe for flexible open space and safe for flexible use of land around the houses.

Commissioner Bonaccorsi asked if the lead agency would require a different site layout if there was really no way to remediate it, otherwise. Or were those two independent steps? If so, why?

Ms. Laine stated that they were two independent steps, because they took the remediation action on a voluntary basis, but it was not something they had to do. Alameda County Water District was satisfied with the original three-levels of the housing community, because the bottom, no-occupancy space would allow for cross-ventilation of the environmental site, which would give adequate space between people who lived in the houses and the possible contaminants. It was two entirely different concepts.

Ken Morjig stated that he lived immediately adjacent to the proposed development. The majority of the parking on-site was in the form of two-car garages. He believed that the CC&Rs could not actually be enforced and it would be difficult to ensure that both of the spaces were used for parking. It was safe to assume that those living in this new development would behave similarly to those in the general public. In his experience, hardly anyone parked two vehicles in their two-car garages. On average, one or two vehicles were parked outside the garage, usually on the driveway. This development did not allow for driveway parking. Assuming each resident parked only one car outside the garage, there would not be enough onsite parking for all the residents, much less for guests and visitors to the onsite businesses. The excel parking would overflow somewhere. People will flow along the path of least resistance and park closer than a parking lot three blocks away – such as, in front of the houses on Third Street. If the Traffic Study had not been conducted in August when school was not in session and many residents were on vacation, it would have seen the traffic backup at the intersection of Mission and Niles Boulevards in the mornings and evenings.

Julie Cain, L Street resident, stated that her comments were based upon looking at the plans, the CEQA documentation, the Niles Historic Guidelines and attending the HARB meeting. Density and the third story were the biggest issues. If this plan had 50 units and the buildings were two stories, there would be a lot less resistance to it. She was a big Wurster fan, so she liked the design of the buildings. However, Wurster would never have developed a plan like this with no open space. Although this project was supposed to be for families, there was no interior play space. The so-called linear park would be right up to the railroad track. All of the Niles population had access to the creek trail at the ends of their streets, so she was not convinced that the people who lived in the interior of Niles would use the linear park. Do not turn this into Mill Valley, which had suffered from overdevelopment with tons of traffic problems. The commute at 8:00 a.m. was at the E level and she believed more trips would bring the traffic to the F Level, which was the designation for the heaviest traffic.

Theresa Deanda stated that she was a resident and a former restaurant owner in Niles, along with working with Niles Main Street and other activities. She was also a realtor and it took her 25 minutes to get home from her office on Stevenson and Mission Boulevards. She agreed with the first speaker's points and she walked over to the site plan and continued with her comments, off mic. She suggested using the linear park area for more parking – something about K Street and traffic – take out the community center, because it was not needed - put in a roundabout for free-flowing traffic – It would take her an hour or longer to get home from Stevenson. The Dias development and another one was coming in at the end of Stevenson and Mission Boulevards, as well as, the 450 unit development of the Masonic Home, which had recently been voted down. Two thousand more vehicles would be traversing Mission Boulevard. At this time, it took 45 minutes to get to I-880 along Stevenson and Mowry.

Michelle Powell stated that she lived at the other end of town on Niles Boulevard and she struggled to exit her driveway every morning at 7:10 a.m. and she struggled to get back every night. She understood that every developer paid traffic impact fees and she wondered how that worked. Was the City bound to mitigate any traffic problems caused by that developer in a particular neighborhood or could that money be fanned throughout the City. If that fee was site specific, was there any recourse for the Niles residents against the City when they were “stuck in F Level traffic?” She did not believe that an additional 45 car trips would be generated every morning. She believed that it would be an additional 200 car trips, which would be split with half going to Mission Boulevard and half would be going by her house. How can the public be assured that the retail/restaurant would be filled or would that be an empty space. Did the developer have an agreement to economically develop that area?

Alice Cavette asked that if this project were recommended, a Condition of Approval be added to change the exterior architecture subject to HARB's approval. Many people, even proponents, had stated that the look of this gateway project did not fit

the historic district. No out of town visitor would think foundry or cannery when viewing this gateway. She asked that all of the grounds for HARB's recommending denial be respected, not just the three that the applicant mentioned. Also mentioned by HARB was the density that made the massing too great; the amount of green space was too small; the architecture of the roof lines that accentuated the three-story height' less use of metal elements; more use of materials from past Niles buildings and not just brick' and more use of historical elements. She believed that the layout accentuated the massing; the 16 buildings were in long straight lines and set at right angles; nine buildings were six-plexes; one street had 36 garage doors in a row; ten units would tower over the adjacent Alameda Creek Trail; no plans for a tot lot; the three-color paint scheme looked cheap; the developer had touted their community outreach, yet the designs were the same as those submitted to the City for a Preliminary Review Procedure in June. Every development that had gone through this application process had changed from its PRP draft plans, all had evolved, except this one.

Chris Cavette stated that he did not live in Niles, but he respected the unique character of the area. His primary concern about this development was that it did not fit the character of Niles. A vacant lot did not fit, either, but if a development was going to be constructed there, it should be something that fits. The industrial style architecture did not fit; the massed, closely-spaced, three-story buildings did not fit; and the lack of mid-range, affordable housing did not fit. Specifically, this development needed to be more compatible with the historic downtown area by changing the high-tech architecture to a more traditional style and less angular. He also agreed with all of the HARB suggestions. Breaking up the long rows of three-story townhomes with a lot more two-story town homes would also reduce the perception of height. The southern row of townhouses should be moved further back from the scenic Alameda Creek Trail and the total dwellings should be reduced from 98 to the minimum of 75, as specified by the City. Badly needed mid-range affordable housing should be provided throughout the project by making some of the units into smaller two-story townhomes or stacked one-story flats. If the Commission chose to recommend approval, he asked that specific Conditions of Approval be made before passing this project onto Council.

Deni Caster, resident on the corner of Third and J Streets, stated that she lived in a 1924 Craftsman home. Before being moved to its present location in 1997, this home on Driscoll Road had been the home of Myron Hyman, the founder of Fremont Bank. The applicant had stated that the new A Street would be set aside, so that people would not use it as a thoroughfare. However, CEQA traffic study stated that most of the residents at that end of Third Street would actually use it and it would reduce the traffic at her intersection. The grade separation was one of the problems with extending Second Street and that separation was next to her house. Less than one-quarter-mile away, this development's design elements related only to Niles from an abstract perspective. A student ratio of .5 per unit was expected from 85 townhomes with a minimum of 1,800 sf. No traffic impact was expected from 97 homeowners who would leave for work at 8:00 a.m., along with everyone else. She happily

endured an antique weekend when 50,000 people swarmed her corner, along with other yearly weekend events throughout the year. The community wanted this space to be developed and understood that a minimum ratio of housing must be met.

Lorna Jaynes stated that her residence was “kind of” surrounded by this project. She also had a business down the street. She did not mind the design; it was their thing and they could do what they wanted. She had written letters about how the density was way over the top. She feared that the proposed strip mall would be deemed a non-started, not viable. If that happened in the middle of the project, it could become a mess. Any approval needed to acknowledge and plan for a Plan B, if the strip mall was deemed not viable. Before approval, the alternative should be known. If the Dias project of 20 houses would create 180 car trips, then this plan for 100 houses would create 900 car trips rather than the 200. Although she lived next door “to that desolate lot,” she liked it.

Commissioner Bonaccorsi remembered reading her letters. He asked if she had a suggestion about how to get from 90 units down to the minimum density for that designation.

Ms. Jaynes suggested 50.

Bruce Cates quoted from Joanie Mitchell’s song, the line, “Pave paradise, put up a parking lot.” He suggested that no vehicles should be allowed in this project. Use bicycles and horses. He believed that this project would move forward, and the density, the traffic and all that would be sorted out. There would be too much concrete. The landscaping should be native, any asphalt should be permeable and space for a community garden should be available.

Mike Timmons, 20-year Riverside Avenue resident, stated that anyone who lived in Niles knew that when school was not in session, it was easy to drive through that area. A study done in August was completely invalid and it should be redone. The bottleneck in and out of Niles was caused by the underpass, which he doubted would be widened. It would never clear up. Riverside went right into Third Street and he believed that 98 units equated to 200 vehicles, not 100. Two vehicles per unit would be expected, because two people would be working to afford these townhomes. They were not going to be giving them away. What about the schools. Will the Niles school be able to handling the extra children?

Alta Jo Adamson, 22-year Niles resident, stated that the old Henkel factory burned down several years ago and that building had protected the site, somewhat. A 1918 canning factory with lead solder had operated on this site, along with the pesticide factory in later years. In the last five years, wind and rain had contributed to the deterioration and something needed to be done now. She understood why little green space had been a part of this plan and she suggested that, perhaps, it was not a good idea. Because remediation would be costly, the development had to be more dense. She did not object to three-story buildings. It was nowhere else in Niles, but why not

have it there. It would be interesting. The road along the railroad tracks on the east side was currently used for dumping mattresses, dirt that could not go to a landfill and various other things. The strip park would do a great job of changing that area. It also would open up the roadway to the new Niles Canyon Bike Trail that was at the talking stage. It also would funnel people downtown. Please don't take this out of the plan. It was very important. At least 90 residents on L Street, deSalle Terrace, Riverside, Chase Court and Third Street have only Third Street to get out of Niles. If Third Street were blocked and this wonderful road would help that. She did not believe that residents would be willing to go around a long corner and over ten blocks to get back to Niles Boulevard.

Judy Zlatnik, 39-year Niles resident, stated that she had spent ten years on City Council while fighting for the Niles redevelopment, spent many years on the Niles Main Street and was Chairperson for the Antique Fair for four years. They were able to get the redevelopment done before the State took away the money. People who lived near new development were usually not happy that it was coming. She recalled that Mark Robson's and Abode's projects coming in on the Consent List, but not many of the residents came to the meetings to talk about them. In her experience, people's worst fears were almost never realized. Niles needed a gateway that the residents could be proud of. She begged the younger, energetic people to come to these hearings, so that she could "quit coming to public hearings."

Jennifer Spriggs stated that she owned a Farmer's Insurance office on Niles Boulevard. She thanked the applicant for taking the time to meet with the interested parties and answer their questions. She supported this development and had walked the streets talking with other business people about this project. A few Niles residents had stopped by her office before she came to this meeting to shake her hand and thank her for working to get this project passed. She was even receiving texts at this time in support of this project. Many people were afraid to come forward and talk. This development's growth and vitality would bring more people, more money and more housing opportunities for people like her, a single mom who had rented in the City of Fremont for seven years. This development would provide the opportunity for her to own a home in Fremont. She loved Niles and wanted her boys to grow here to be 100 years old and be like the last speaker. She believed this could be brought into the next future. She and her family were the people who would move into this development. They were not "the other kind of people."

Zach Spriggs stated that he drove from Niles to Warm Springs and back at 8:30 a.m. and 5:00 p.m., during rush hours. The max that it had ever taken him to get to Warm Springs was 25 minutes. It was the truth. He supported this development.

Alfredo Madrigal, Niles resident since 1969, stated that Niles was the pride of Fremont. It seemed that there was in a hurry to build high density housing projects. Why? He lived right next to this project and it would bring a big change to everyone in the neighborhood with the first three-story housing. His wife would miss the view of the hills. Traffic would be a great concern for everybody.

Matthew Honkisz stated that he was proud to have made Eagle Scout and when he saw problems, he related them to what he had learned in Boy Scouts about problem solving. He also had learned about being a leader and knowing when to follow. A lot of people were hesitant to speak up. He was excited for what this project would bring to the Niles community. He would love to participate in the LEAF program. He had never had an issue with getting in and out of Niles and many different times of the day. He had faith in the Commission because they knew what they were doing.

Renee Guild stated that she had detailed her concerns in two letters. The density, as proposed, would not be in keeping with the existing density of the Niles Historic District. At six per acre, it would be tripled. HUH?? – The architecture was not consistent as Niles was today as opposed to an industrial use of a foregone day. She agreed with requests made by other speakers for another traffic study. Greenhouse gas emissions that would occur at that site had not adequately been addressed. Parking was already an issue at that part of town, because of the church activities, which was fine. The notion that this project would provide a great gateway for Niles was a little fallacious, because the gateway should reflect the way Niles currently looked. This project looked like a cannery or a foundry, industrial. Niles is the jewel in Fremont. She had not been here very long and she hoped “that you don’t muck it up.”

Mr. Rich’s rebuttal comments were as follows:

- **Judy Zlatnik** would do a better job with comments on the speakers than he could.
- The normal course of action was to submit a plan, go through PRP, then start outreach. With this project, he started outreach before the plan was ever started and before anything was submitted. There were many changes, but they had already been reflected in the plans by the time of submittal.
- The traffic study had been performed when school was in session.
Chairperson Pentaleri asked if it had been done in August, but during school hours.
Senior Planner Nguyen clarified that the date on the report was August, but the counts were taken in May when school was in session.
- CC&Rs would restrict garages to parking and not for other uses.
- Open Space had been aggregated in the Central Gateway Green and Open Space would total 2.5 times what was required in a central location. That would exclude the linear park, which would make the open space 8 times what was required.
- The site was designed to bring the commercial gateway down to this site as people make that turn. The commercial center would tie to the Niles Town Plaza and encourage people to walk down to the Plaza from this new commercial edge.

Regarding the adjacent neighbors’ concerns, as stated in their recent letter:

- **Soundwall** – It would be erected at the beginning of construction.

- **Height limit – First two rows nearest to neighbors’ fence line be reduced to two stories** – This reasonable request would be analyzed with staff.
- **Backyard privacy – Row of houses not face backyards** – This went along with reducing heights to two stories. The design of those houses would have no windows on that side to protect adjacent residents’ privacy.
- **No through traffic on Third Street** – He would support an EVA if that was the City’s decision.
- **Contamination clean-up - Precautions taken so that residents were not exposed to flying soil** – Protocols were in place to suppress dust and other protocols for environmental remediation.

Commissioner Bonaccorsi asked the following:

- A speaker began Public Speaking by pointing out the commercial frontage was seen as a detriment and not an asset, because it would be blighted and attract graffiti. How could he guarantee that this would be a viable, active commercial site?
- *Mr. Rich* replied that they were already engaging in outreach to potential suitors for those sites. There was strong demand and he was confident that those spaces would be filled with uses that would be a great addition to the Niles Town Center.
- One use could be a coffee shop. Was he sensitive to the fact that most of the residents would be resistant to a Starbucks in there?
He totally agreed. They understood the local focus. The intent was to accommodate local, established businesses.
- How would the linear public park improve that area?
The General Plan called for improved access to Alameda Creek, which was similar to the Iron Horse Creek Trail that wove its way near town centers, like Alameda Creek. People used the commercial area to socialize and as launching point to the Iron Horse Creek Trail. The linear park would pull the access to the Alameda Creek Trail, which was currently buried at the end, into the new commercial center and the two outdoor plazas.
- How would he address the “hot” railroad track that would cut through the linear park?
Landscaping would be used as a buffer for protection and an aesthetic edge. Right now it was open. A safety edge would be created.
- One speaker had suggested that environmental remediation should compel a different site layout. As mentioned in the report, not only would remediation be voluntary but he was candid about certain uses that could not occur unless that extra step to do the additional remediation was taken. Why was the site layout, as it existed, not incompatible with the remediation efforts that he was trying to achieve?
This site had a No Further Action letter for it, which was for unrestricted use, including residential. No restriction or condition on the property would preclude their design. However, they saw data gaps, “things that hadn’t been tested for, directly,” because the testing had been done empirically through a scientific method. They were not comfortable with some of the chemicals referenced and

decided to test it directly by taking over 200 soil samples and testing for the referenced chemicals, along with 19 soil samples. Areas that needed to be remediated had been identified and a grading permit had been submitted to the City to allow the removal of the contaminated items.

- Was this Alternative No. 2?
Correct.
- What kind of written documentation did he expect to receive so that everyone knew, as a matter of public record, that the remediation had been performed?
After submitting the test results, they submitted a Removal Action Work Plan. Once the work was done, additional testing was performed to be certain that everything had been removed and a Removal Action Report would be submitted to Regional Water, who issued a letter of completion.
- For the benefit of the public, would something called Geotracker and Water Board be published documents that anyone could access and download to verify?
Correct. He had already provided links to Geotracker to a list of people who had expressed such interest during the neighborhood meetings.
- Many criticisms had been made about the architecture. Did he want to defend it?
The Department of the Interior recommended that the past should not be mimicked, but certain elements should be pulled into the design, which they had tried to do. When digging deeper into Niles historic architecture, there was more than Victorian and Craftsman styles and that was the eclecticism of the site. Niles was different and its strong draws to its historical past would be the iconic gateway that Niles deserved.
- What was the inspiration for the pull-down doors in the commercial area?
The main purpose was to activate the street. The types of uses, such as artists and florists, naturally spill out onto the sidewalk.
- He would have preferred seeing more commercial uses on Niles Boulevard with residential located in the back. Had he explored other alternatives that would actually have more commercial uses?
Yes. Every inch of frontage along Niles Boulevard would be occupied by commercial uses. The types of uses that were suggested by their outreach needed 10,000 or 15,000 sf.
- He envisioned three or four restaurant pads rather than one with a walkable environment with outdoor dining. Had that option been considered?
Yes. With other restaurant spaces in Niles at this time, they felt it was the right amount for the current demand.

Commissioner Leung stated that **Commissioner Bonaccorsi's** questions and comments had covered most of her concerns. Her questions were as follows:

- A lot was going on with this small six-acre site. Almost 100 condominiums, live-work space, community center and a linear park, which was one reason for the many comments.
- Would he address the density and circulation, such as the creation of a roundabout? He had been adamant about the three-story units.

He understood how two stories would address the neighbors' concerns, as was mentioned in the neighborhood letter. That would be looked at, again.

- She understood that with the various aspects of the site, the planned number of units would be necessary to make sense of the project.

He tried not focus on the economic side of any project. The reality was dictated by this site's historical nature and the commitment needed for its clean-up and development. He understood people hating that answer, but that was the economic reality for this proposal, including the third story.

- From a developer's point of view, was it viable to create circulation into the site by using either Second or Third Streets from the back off of First Street?

He was open to what the City decided. He would support closing that off, if that was the direction the City wanted to do.

Commissioner Leung stated that she had never commented on a project's design during her two years on the Planning Commission. However, she had comments on this design. The Henkel building had caught fire while she was a resident in Niles and it became an eyesore. This could become the innovation area of Niles. She agreed with the idea of making a statement. However, the design had a lot of strong lines and too much metal, which was why the design was shot down by HARB. The design was too far away from what was the modern Niles.

Mr. Rich replied if that was the direction staff and the public wanted, they would be willing to work with staff to fix it.

Commissioner Dorsey stated that the location of guest parking would be very inconvenient. Would he address the lack of parking inside the development.

Mr. Rich said that, initially, they had designed the number of guest stalls to what was required by the municipal code. After feedback, they increased the parking that now exceeded the code by almost 20 percent, which was 85 guest stalls.

Commissioner Dorsey asked about parking inside the development rather than parking on the street.

Mr. Rich stated that there would be angled parking on Niles Boulevard along the front, the street parking that would run and parking internally by the open plaza at the bend.

Commissioner Dorsey stated that right now she was looking at the internal residential loop, she saw four spaces.

Mr. Rich admitted that four guest spaces would be available inside the internal loop.

Commissioner Dorsey stated that four were not enough with children and groceries and many other situations. When one had a young family, guests were part of it and they needed somewhere to park.

Mr. Rich stated that he was willing to look at that parking, again.

Commissioner Karipineni understood that the site layout before the Commission had been actually developed on the basis of the expectation that the voluntary remediation would be completed in full after receiving the No Further Action letter.

Mr. Rich stated that they would not have developed the site, at all, if the remediation had not been performed.

Commissioner Karipineni clarified that some of the comments had suggested the site plan had been dictated by a partial remediation. Was that true?

Mr. Rich said that they were not relying on the site plan as a remediation mitigation factor.

Commissioner Karipineni noted that almost everyone wanted to see something good there rather than what was there, currently. The remediation that was planned was costly. The General Plan gave 75 as the minimum number of living units for this site. However, 50 units was also thrown around. What number of units, in his view, would make this a viable project? Would 50 be a viable number?

Mr. Rich answered that the realities of redeveloping that site drove the density, which was what was being proposed.

Commissioner Karipineni asked if it was fair to say that this project would not be feasible at any lower density and the alternative would be to not develop this site.

Mr. Rich admitted that dropping one unit would not affect feasibility. But ten or twenty would absolutely not be feasible. Even if one unit were dropped because of density, how would that be recouped? Would he make another one larger? There were always trade-offs. This was the most sensitive approach.

Commissioner Bonaccorsi stated that the Hackamore three-story project had evolved to part of the building being below grade, so that the height was the same 30 feet, but was actually at 24 feet from grade. Was that a feasible alternative?

Mr. Rich was familiar with the Hackamore project. However, on the northern portion of the site, where the bend would be if continued west, the homes on Second Street were materially higher than the site. They ranged from six to eight feet higher and higher as one moved north. The good news was that a whole story had been visually lopped off from the grade changes. Further back, it flattened out closer to the creek and going subterranean would introduce a whole host of problems that would include access down. He had come to believe that some lowering of the heights at grade level would make sense to be sensitive.

Commissioner Bonaccorsi asked where in the project might that happen.

Mr. Rich said that it would be along the whole edge of the adjacent properties along Third Street.

Commissioner Bonaccorsi added that the heights along Niles did not concern him, as it was the first entre into Niles. The “sea of 30-foot houses” would be different from the original Henkel building.

Chairperson Pentaleri commented that the luxury of having a street between an old and new project was not often seen. He appreciated the applicant’s responses to some of the concerns that had been brought forward. He asked the following:

- Would he speak to the issue raised by the first speaker that concerned headlights flashing on the live-work units and how posters and graffiti might be used to mitigate that.

Architect Tang believed that the headlights would be a very good thing for creating vibrant retail with good exposure and the product that would be out front. Blinds pulled down on retail frontage was not a good thing. He added that the upstairs live-work units would actually face the courtyard side and they would not be impacted by the headlights. As the vehicles came through the underpass and turned right, the headlights would hit the open space, as well as the community on the corner.

- Ordinarily, the Commission heard a developer giving reasons for not meeting the parking standards and here this project would go above them and he appreciated that and his willingness to take another look at increasing the utility of the parking in the interior of the project.
- Some of the correspondence brought up the diagonal parking on the front on the right-hand side. If it was full, one would naturally want to circle back to look for parking, again. He wondered if some kind of a turnaround opportunity could be added at some of the street vacation.

Mr. Rich did not wish to make a comment until he had looked at it, again.

- Would no pedestrian crossing or parking be available opposite the Craft building from the railroad side of Niles Boulevard?

That’s correct.

- He was serving on HARB when the demolition was approved. He recalled that when this site was developed, some signage would be installed that would speak to the history of the site and he did not see that.

He promised to look at it, again.

Senior Planner Nguyen remembered that the EIR suggested such a sign, but it was written to be a temporary sign that was available during the demolition of the buildings. The former owners were also required to provide documentation and oral history that would be forwarded to the Planning Commission. When the buildings were gone and the site was vacant, a sign could not be secured, so that was dropped.

Commissioner Reed interrupted, because he had noticed that the stenographer's translation for deaf viewers was no longer appearing on the screen.

At this point, **Sr. Deputy Attorney Rasiah** reminded the Commission of the "11 O'clock Rule" where no new agenda items would be introduced after 11:00 p.m. and it would automatically be continued to the next meeting. He suggested that the Commission pass a motion to suspend that rule, because two more items, Item 5 and 6 had not been heard yet.

IT WAS MOVED (BONACCORSI/REED) AND UNANIMOUSLY CARRIED BY ALL PRESENT TO SUSPEND THE 11 O'CLOCK RULE.

Chairperson Pentaleri closed the Public Hearing.

Commissioner Bonaccorsi suggested the following additional conditions:

- Reduce height of buildings along Third Avenue to 24 feet.
- More buffering from the railroad in the linear park through landscaping or other means to make it safer.
- Reduce metallic element.
- Explore closing off Third Avenue and restricting it to emergency vehicles access easement.
- Some sort of historical signage to reflect the history of the site.
- **Commissioner Reed** added that CC&Rs would require the use of garages only for parking.
- **Chairperson Pentaleri** added that the soundwall to be installed at the start of construction.
- No windows would look into adjacent properties.
- First two rows of buildings adjacent to neighboring properties would be restricted to two stories.
- Revisit configuration of guest parking inside the residential loop with staff.
- Work with staff to explore improving traffic circulation at the end of Niles Boulevard.

Senior Planner Nguyen read back the above suggestions:

- Reduce height of the first two rows of homes to approximately 24 feet along the rear for homes closest to Third Street.
- Increase the buffer area safety adjacent to railroad tracks.
- Reduce use of metal paneling.
- Explore possibility of closing off Third Street to restrict it to EVA.
- Install plaque at site to describe its history.
- Install soundwall at beginning of development.
- Prohibit windows facing adjacent homes on south side.
- Work with staff regarding increasing guest parking along internal loop street.

- Work with staff to improve circulation and possibility of turnaround along Niles Boulevard.

Per Chairperson Pentaleri re guest parking: Ensuring that parking was optimized so it was more useable more uniformly throughout the project.

Commissioner Bonaccorsi thanked all Niles attendees for the tremendous amount of correspondence and input. This was one of the City's five original towns. He loved the passion, sense of community and sense of investment in Niles. A real sense of commitment had been demonstrated, no matter the side of the issue. Even if the result was disagreed with, the Commission had been responsive to the public's concerns and this had been a wonderful Public Hearing process. The applicant should be credited for his listening throughout the process that the prior applicant Pulte had not. After the cannery went away between 1952 and 1961, Niles lost 350 jobs and that was 350 people coming in every day. The oral histories showed that was devastating, because grocery stores and businesses were lost and people had to work in San Leandro and Hayward. This project would bring in a different demographic mix with these wonderful live-work units, an activated commercial center, which would bring in new families, new energy, new artistic endeavors into the community. He hoped that in five, ten, 15 years everyone would glad that this project had been brought to Niles. Currently, the arrow to Niles pointed to the right and now Niles will be straight ahead and to the right.

Commissioner Reed thanked everyone who was in attendance at this 11 o'clock hour. Ten concessions had occurred, because of the people who stood up and took a stand.

Commissioner Dorsey thanked all of the public for their attendance. She had never experienced a developer who was so willing to make changes at the podium.

IT WAS MOVED (BONACCORSI/REED) AND CARRIED BY THE FOLLOWING VOTE (6-0-0-1) THE PLANNING COMMISSION –

FOUND THAT THE PROPOSED PROJECT IS IN CONFORMANCE WITH THE GENERAL PLAN PURSUANT TO GOVERNMENT CODE 65402 FOR A GENERAL STREET VACATION AND DISPOSITION BY THE CITY OF FREMONT OF APPROXIMATELY 0.73 ACRES OF NILES BOULEVARD RIGHT-OF-WAY TO THE APPLICANT FOR CONVERSION INTO A LINEAR PARK;

AND

FOUND AND RECOMMEND THAT THE CITY COUNCIL FIND THAT THE PROPOSED GENERAL PLAN AMENDMENT IS CONSISTENT WITH THE GENERAL PLAN AND FURTHERS THE PUBLIC INTEREST, CONVENIENCE, AND GENERAL WELFARE OF THE CITY;

RECOMMEND THAT THE CITY COUNCIL:

ADOPT THE DRAFT MITIGATED NEGATIVE DECLARATION AND MITIGATION MONITORING PLAN AND FIND ON THE BASIS OF THE WHOLE RECORD BEFORE IT (INCLUDING THE INITIAL STUDY AND ANY COMMENTS RECEIVED) THAT THERE IS NO SUBSTANTIAL EVIDENCE THAT THE PROJECT WILL HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT AND THAT THIS ACTION REFLECTS THE INDEPENDENT JUDGMENT OF THE CITY OF FREMONT;

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, MOBILITY, AND COMMUNITY PLANS CHAPTERS AND 2015-2013 HOUSING ELEMENT OF THE GENERAL PLAN, AS ENUMERATED WITHIN THE STAFF REPORT;

AND

FIND THE PRELIMINARY AND PRECISE PLANS AS DEPICTED IN EXHIBIT "D" (PLANNED DISTRICT PLANS), FULFILL THE APPLICABLE REQUIREMENTS SET FORTH IN THE FREMONT MUNICIPAL CODE;

AND

ADOPT A RESOLUTION APPROVING A GENERAL PLAN AMENDMENT TO CHANGE THE LAND USE DESIGNATION FROM SERVICE INDUSTRIAL (SPECIAL STUDY AREA) TO TOWN CENTER COMMERCIAL AND MEDIUM DENSITY RESIDENTIAL (14.6-29.9 UNITS PER ACRE) AS DEPICTED IN EXHIBIT "B" (GENERAL PLAN AMENDMENT EXHIBIT);

AND

INTRODUC AN ORDINANCE APPROVING REZONING OF THE ENTIRE SITE FROM LIGHT INDUSTRIAL WITH HISTORICAL OVERLAY DISTRICT (IL)(HOD) TO PRELIMINARY AND PRECISE PLANNED DISTRICT WITH HISTORICAL OVERLAY DISTRICT P-2014-338(HOD), AS DEPICTED ON EXHIBIT "C" (REZONING MAP), APPROVING THE PRELIMINARY AND PRECISE PLANS AS SHOWN ON EXHIBIT "D" (PLANNED DISTRICT PLANS), AND APPROVING THE MODIFICATIONS AND RELATED PROVISIONS SET FORTH IN EXHIBIT "F" (USE AND DEVELOPMENT PROVISIONS), BASED UPON THE FINDINGS AND CONDITIONS OF APPROVAL SET FORTH IN EXHIBIT "G;"

AND

FIND THAT THE PROPOSED SUBDIVISION AND PRIVATE STREETS OF VESTING TENTATIVE TRACT MAP NO. 8205 AS SHOWN IN EXHIBIT "E" ARE CONSISTENT WITH THE GOALS, POLICIES AND IMPLEMENTATION ACTIONS OF THE CITY OF FREMONT'S GENERAL PLAN. GOVERNMENT CODE SECTION 66474 AND FMC SECTION 17.20.200 PROVIDE THAT A TENTATIVE MAP APPLICATION MUST BE DENIED IF CERTAIN SPECIFIED FINDINGS ARE MADE. NONE OF THOSE FINDINGS CAN BE MADE IN THIS INSTANCE AS SET FORTH IN THIS REPORT AND EXHIBIT "F;"

AND

FIND THAT THE PROPOSED PRELIMINARY GRADING PLAN AS SHOWN IN EXHIBIT “E” (PRELIMINARY GRADING PLAN) IS CONSISTENT WITH THE GOALS, POLICIES AND IMPLEMENTATION ACTIONS OF THE GENERAL PLAN;

AND

APPROVE VESTING TENTATIVE TRACT MAP NO. 8205 AND ACCOMPANYING PRIVATE STREET AND PRELIMINARY GRADING PLAN AS SHOWN ON EXHIBIT “E” (VTTM NO. 8205, PRIVATE STREET, PRELIMINARY GRADING PLAN, TREE REMOVAL PLANS) BASED UPON FINDINGS AND CONDITIONS OF APPROVAL SET FORTH IN EXHIBIT “F;”

AND

APPROVE THE PROPOSED REMOVAL AND MITIGATION FOR 52 ON-SITE TREES PURSUANT TO THE CITY’S TREE PRESERVATION ORDINANCE;

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

Chairperson Pentaleri called a recess at 11:05 p.m.

Chairperson Pentaleri reconvened the meeting at 11:15 p.m.

Item 5. **ISLAMIC CENTER OF FREMONT - 42310-42340 Albrae Street - PLN2015-00001** - To consider a Conditional Use Permit to allow the establishment of a 42,719 square-foot religious facility with up to 483 persons in the prayer hall and a Zoning Administrator Permit to allow an elementary/secondary school for up to 250 students, and to consider an exemption from the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15301, Existing Facilities.

Commissioner Bonaccorsi recused himself, because of a campaign contribution of more than \$250 from someone who was opposed to this project.

Senior Planner Pullen was presenting on behalf of project planner David Wage. He stated that this project would be located in the Fountains Business Park north of Auto Mall Parkway and west of I-880. The 2008 Planned District of which the Fountains Business Park was a part, stretched most of the length of Auto Mall Parkway. The area had been previously zoned Industrial, but now allowed a range of assembly uses in addition to typical industrial uses. Four religious facilities were located here. This

string of business parks had been a popular location for the location of religious facilities since the Planned District had occurred.

The main hall would be limited to 483 people and 250 students would be permitted at the K-8 school. A play area would be constructed within a portion of the parking lot, which would require the removal of 19 parking spaces. Minarets would be added to the building.

Prayers occurred at various times of the day at the religious facility and the main religious service would occur on Friday with the maximum-permitted number of people in attendance. The K-8 school would have a shorter day on Friday and have up to 15 employees and 250 students. Certain events, such as banquets, etc., would be limited to 12 times per year on the weekends.

An earlier version of the physical site had shown a certain number of parking spaces. Through ongoing discussion with the other property owners and the CC&R data, it was determined that, instead of the spaces present on the site that the applicant had purchased in fee title, the spaces attributable to this building were actually a lower number than previously believed. Therefore, staff had worked with the applicant to reduce the total eligible capacity for the building. Some flexibility about the playground location and a recommended Condition of Approval would allow that playground to be fleshed out with the maximum number of parking spaces tied to the final number of parking spaces taken up by that playground combined with the one per three parking spaces required for the number of attendees who would use the building. Adequate parking spaces were available to accommodate the various uses within this building and also within the Fountains Business Park at large.

Circulation had been considered, along with the parking and traffic. Hexagon Consultants had performed a traffic analysis, and they found no significant impacts at the adjacent intersections. A key recommendation made by the consultants related to the intersection at Christy and Albrae Streets. The relatively lesser-used left-turn pocket, when proceeding north-west on Christy Street, was recommended to be turned into a straight and left-turn with the right lane dedicated to the right. This would eliminate a potential bottleneck for school functions. A pick-up and drop-off plan would be required for the school.

Nasir Erfan, Fremont resident, stated that he had moved to the City six years ago, had three children and was a member of the ICF. A 2013 religious study had showed about 265,000 Muslims living in the Bay Area with about 98,000 (37%) living in Alameda County. The current location of ICF was at the corner of Fremont and Irvington and had been purchased in 1996. It was about 5,000 square feet (sf), a small building. It no longer could fulfill the spiritual, physical and social needs of the community. This community cultural center was for the next generation.

This building would be state of the art with audio/visual available in all of the classrooms. It would provide an indoor basketball court that would attract the youths,

a library, afterschool programs and the prayer hall. Many of their programs were held outside of the current facility, because it was too small. They included the weekend schools currently held at Kennedy High, youth programs (Boy and Girl Scouts), the ICF tech institute for programming (a student had reached the national level in robotics), linguistic program that taught Arabic, a twice-a-year community health fair for seniors and the Feed the Needy program held once-a-month at the Abode Sunrise Village. Also included were spiritual programs, the five daily prayers and the Friday congregation.

One of their important events was the Eid event, which had occurred last year on Sunday, the same timing as the churches held their own activities and the ICF had changed their schedule, which avoided any conflicts. They also had had security volunteers onsite to help with the traffic flow. As their members were exiting from their event, the church attendees were arriving, which created a small traffic problem at the entrance.

Subsequently, he had met with each church pastor to make certain that everyone would be aware of each other's activities. He had also met with Mr. Dalbir Atwal with Crossfit Jig Saw, a business center in the back and he had recently met with new occupant Dina Modi at Better Every Day. The school would benefit her business. Every month, he met with the other occupants of the Fountain Business Park to coordinate events and address any parking issues. Their current facility had "maxed out" over the past 17 years and this larger facility would allow them to consolidate all of their programs from the various locations where they were now held. The schedules of the other local religious facilities had a very minimum schedule overlap. Since they would not be at the new facility on Sundays, they would be able to accommodate the churches' parking needs.

Commissioner Leung asked the following:

- How would the decrease from 600 to 483 parking spaces impact the congregation?
Ashfaq Rasheed stated that he was responsible for getting this project approved by the City. The 600 number was too far away to address at this time. This building and the parking would fulfill all of their current needs for quite some time. If their community grew past these parameters, they could "look for another place."
- Was this school a for-profit school or nonprofit?
The school was non-profit as part of the wider non-profit organization.
- The school was made up of nine grades from kindergarten to junior high school, but the total number of students was less than 250. Was that less than 30 students per grade?
She was correct.
- Did the daily circulation for the school include both the children and staff?
Yes. The beauty of this location was that a rear entry provided a very natural pick-up and drop-off corridor, which would have a minimal impact on traffic.

- Was a permit required to run a private school in Fremont?
Mabu Hari Principal of the academy, stated that the school was registered with the California Board of Education.
- Did she anticipate more than the current 250 students to be enrolled over time?
They believed in maintaining a very low teacher/student ratio. Ideally, they would have no more than 23 students in each class. Right the school had 90 students through six grade and she was not sure when or if they would reach 250 students through eighth grade. Departure and arrival of the students currently took about 15 minutes.

Commissioner Reed stated that he appreciated **Mr. Nasir** going out into the community and working with the pastors. It was very important that all eyes were on the same schedule and it also helped the Planning Commission. As a devoted Catholic, he understood the need for having one's own area to practice one's religion. He would support this application.

Chairperson Pentaleri opened the Public Hearing.

Aiman Arif, 13-year resident, stated that she was 23 years old. The ICF community had been vital in shaping who she was today. It had also provided a safe space in a global climate that was polluted with Islamophobia. The current space in Irvington did not allow them to hold many programs and events. She hoped this application was approved so that their community could expand and grow.

Ahsan Baig, 15-year Fremont resident, stated that he had raised his family here and his sons had graduated from the Fremont Police Explorer program. This larger building would permit them to open their doors to the other communities to come and learn about Islam and Muslims. Having four other religious facilities right next door would be a positive environment for everyone.

Nabeel Khan stated that he had lived in Fremont most of his life, attending Hirsch Elementary School, taking hikes and watching midnight release movies at the Pacific Common Theater. He was also a youth coordinator for ICF for youths 14 years and above. They direly needed a new space. There was a difference between want and need. When one of his student at Irvington High School had committed suicide because of bullying, he was the who had to deal with that. They needed a space, a refuge, to talk. One of the peace prayers that were spoken at the end of Ramadan, literally said, "Oh, God, grant peace and tranquility to our city." Sometimes while that was going on, fire trucks and police came in and it was like in an action movie with Denzel Washington.

Tim Young, Property Manager, stated that parking would be difficult. The complex was surrounded by the freeway on one side of this site, another nearby business park that did not allow parking by people located in this business park and Albrae Street. The CC&Rs dictated that people in this complex were not allowed to park on the street. One primary exit was used by 90% of the people. Another exit was at the top

of the complex and one was used by heavy trucks. There was nowhere to park outside of the complex, everyone must park inside and, as precious as parking was, approximately 20 spaces would be removed to provide space for the children's playground. It would not be a safe environment for children, because large trucks came in every day, zooming around this parking lot. He had children and understood the need. He did not agree with the traffic count and neither did his business owner. Anyone who has been near an elementary school at the beginning or end of day knows that "it's a total zoo." Cars would be blocked all the way down the street when the number of students reached 250. His clients had invested in the two buildings that he pointed out on the site map. This was a business and industrial park.

Commissioner Leung asked if the speaker represented the owner of this property.

Mr. Young stated that he did, as well as, the tenants of the two properties shown on the map.

Commissioner Leung stated that this particular parcel seemed almost like a religious hub with the four other churches that were also located here. The same owner did not own those parcels? He only represented the others?

Mr. Young agreed that he represented the two other parcel owners. Interestingly, seven months ago, the Planning Division turned away another church group who needed 14,000 sf for a church and school that was almost identical to this, because there was not enough parking. This customer would be three times as large with three times the impact.

Walter Young believed that the school would be a wonderful facility and would benefit everyone involved. Unfortunately, this industrial business park was the wrong location. The benefit to the youth had been mentioned many times. He stated, "I cannot reconcile kids and an industrial park." As a teacher, **Commissioner Dorsey** knew that a free-for-all existed at the beginning and end of the day with children and parents trying to connect with each other. Imagine 250 children running through a business park, darting through parked cars and the thoroughfares and the chaos and the potential hazardous outcomes. His fiancé was Muslim, which he mentioned only because he wanted people to know that prejudice was not their intention. He was looking out for the business people who were already there and the children who would be attending the school. This would be a lose-lose.

Commissioner Salwan asked what his role was with the park.

Mr. Young stated that he was the Assistant Property Manager. They had received correspondence from some of their tenants who wanted to get out of their leases, as a result of the amount of people who would be attending the Center's big event and the lack of parking. This would not be one event, but six events every day.

Jackie Tiefert stated that she was in her second year of teaching fifth and sixth grade at the ILM Academy. The children did not run around. They always waited inside for their name(s) to be called when their parents or the carpool arrived to pick them up. No pick-up or drop-off had lasted longer than 20 minutes. Presently, the PE area had a nine-foot tall fence, which would be the same at the new location. Currently, they were located inside of a church and everything was coordinated with the pastor. He also spoke to her classes and discussed her classes with her. She had not, ever, seen any interfaith issues. She also taught her sixth grade students Singapore math, which was beginning to be noticed in California, because it was based upon the administrative education developed by Singapore and it was No 1 in the world for math education. They just needed a little more space.

Ashfaq Rasheed stated that the pick-up and drop-off would not be centered in the main parking area, but it would occur at the north side of the park where the school would be located as shown on the site plan. They had been looking for more space for the past six years. With all of the religious facilities in this park, the main use had changed and perhaps it should be called something different. This was an ideal location for them. There were 960 parking spaces in the whole neighborhood and there would not be an overlap with their neighbors, given their monthly coordination meetings. It would be a great place to locate.

Commissioner Dorsey asked if the applicant owned the building and if both Mr. Youngs were the property managers for the entire Fountain Business Park or just . . .? She asked what sections of the park did the Youngs represent. Were the other buildings occupied by their owners?

Mr. Rasheed stated that they had bought the building. He did not know what the Youngs' job was, but they did not represent his facility. He did not believe that they represented any of the other religious facilities. Using the site plan, he pointed out the two buildings that he believed they represented, along with locations of the churches.

Commissioner Leung asked why a school and playground would be allowed on this site, when they had not been allowed before on this site.

Community Development Director Schwob answered that this had been a long-standing challenge for the City of Fremont, "Where can religious facilities locate?" Religious facilities have moved out of residential and commercial neighborhoods to find space, some had moved to industrial areas. What had been called Light Industrial was now called Service Industrial in the new General Plan. Heavy industrial users were very limited with the hazardous materials that could be present on these properties. Areas had been opened up for religious facilities, along with other assembly-related uses, such as commercial, recreation, gymnastics, swim clubs. It had occurred on Auto Mall Parkway in the two business parks, the Fountains and Lincoln Business Parks. A migration had occurred to this particular business park where they could acquire land and where they could meet the parking requirements,

which were very challenging in the commercial and residential areas. What was being heard tonight was that a change had occurred. Based upon this particular religious facility's program, a synergy existed with the other facilities to make the parking work.

Commissioner Leung noted that two other religious facilities had been turned down regarding the operation of a school and playground. Why had it not been allowed before and now it was considered appropriate?

Senior Planner Pullen stated that he had seen the letter. He had not been a part of that conversation and he did not know how it had happened. He speculated that there might have been a discussion about the service times within the nearby facilities that had a bearing on parking availability.

Commissioner Leung stated that it seemed that huge parking issues could be present with the four existing churches and one more religious group. Eventually, a large group of people will assemble at this facility. It seemed that allowing one more religious facility on this site that already had parking issues would make it a little more challenging.

Senior Planner Pullen stated that analysis had shown that there was enough parking capacity for this religious facility.

Chairperson Pentaleri stated that this was a particularly difficult issue, because of the opposing opinions being expressed. This community needed this larger space, yet people's livelihoods were at risk of being seriously impacted. He could see similarities between this project and Gurdwara project that had come before the Commission two years ago and a school application that was to be located on Osgood. In those instances, the Commission had seen detailed drop-off and pick-up plans. Comments had been made before this meeting about special events that had brought many people into the project and had impacted circulation and parking. Outreach had been made to the adjacent businesses (sic), but he asked what the mechanism would be, if the good intentions were not sufficient to accommodate all of the uses.

Senior Planner Pullen stated that Condition 7 required that the pick-up and drop-off plan be submitted to the Planning Manager, which would be coordinated with other City traditions. It could be changed with a change in the use and it had to be flexible over time.

Chairperson Pentaleri asked if that could be coordinated with activities scheduled at adjacent sites. Would special event permits be required for some of the events? Some of the events in September/October had been described as going beyond the allocated 200 parking spaces. Would that type of event require a special use permit? If so, would adequate offsite parking need to ensure . . .

Senior Planner Pullen replied that it could be with the reality of the circulation patterns. In general, Condition 5 spoke to the various ways that the CUP could be modified. If the Conditions were not being followed or if a nuisance was created by the use, staff could identify what those were, as could be done in this or any other assembly facility. For the events specifically listed in the CUP as authorized, they would not need special event permits. Other events could be handled on a case-by-case basis. This industrial neighborhood had different issues than a residential neighborhood, but the concerns would have to be looked into to make sure that they did not cause conflict.

Commissioner Salwan agreed that the land use here was appropriate, because he had seen many different religious institutions when he visited the site. Preserving industrial uses had not been a problem in the City as it had been in other cities, such as Milpitas. In his experience, he preferred to drop off his children directly into the care of the teacher, rather than parking and walking them into the building. The City needed to welcome people of all faiths and all ethnic backgrounds. This was the right place and the right use for this particular project. He was proud to support this project.

Commissioner Karipineni largely agreed with **Commissioner Salwan's** comments. She respected the comments made about parking and the concerns about neighboring uses and the people trying to get out of their leases. When the traffic study was done at the Friday peak time of noon, a maximum of 83 vehicles were occupying the parking lot. She believed that was the normal situation. Other events could cause significant parking to be used, but, overall, that instance would be felt a minimal number times of year. She would support this project.

Sr. Deputy Attorney Rasiah announced that this decision could be appealed to City Council within ten days.

IT WAS MOVED (SALWAN/REED) AND CARRIED BY THE FOLLOWING VOTE (5-1-0-0-1) THE PLANNING COMMISSION –

FOUND THAT THE PROJECT IS EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PER CEQA GUIDELINES SECTION 15301, EXISTING FACILITIES;

AND

FOUND PLN2015-00001 IS IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S EXISTING GENERAL PLAN;

AND

APPROVED CONDITIONAL USE PERMIT AND ZONING ADMINISTRATOR PERMIT PLN2015-00001 AS SHOWN ON EXHIBIT "A" SUBJECT TO FINDINGS AND CONDITIONS IN EXHIBIT "B."

The motion carried by the following vote:

AYES: 5 – Bonaccorsi, Dorsey, Jones, Karipineni, Pentaleri, Reed

NOES: 1 – Leung

ABSTAIN: 0
ABSENT: 0
RECUSE: 1 – Bonaccorsi

Item 6. **AFFORDABLE HOUSING ORDINANCE UPDATE - Citywide - PLN2015-00145** - To consider a Zoning Text Amendment to update the Affordable Housing Ordinance (Fremont Municipal Code Chapter 18.155) for conformity with the General Plan (PLN2015-00145). The proposed project is an implementation measure of the adopted General Plan for which a Final Environmental Impact Report (EIR) (SCH#2010082060) was previously certified and, therefore, no further environmental review is required.

Planning Manager Wheeler introduced Deputy Community Development Director Dan Schoenholz and Housing Manager May Lee.

Deputy Director Schoenholz introduced consultant David Doezema, Keyser Marston Associates, who had prepared the residential Nexus Study on which some of the Affordable Housing Ordinance was based.

In 2002 the City had adopted a very straight forward ordinance with a 15% affordability set aside, which had resulted in several hundred Moderate Income For Sale units being produced throughout the community. It had also resulted in about 45 affordable rental units. In 2008-2009 staff began to consider changes to the ordinance, due to the Palmer Decision that prohibited inclusionary requirements in rental projects. The City Council also wished to generate funding for affordable rental projects and supportive services, along with interest from developers to have more flexibility and more options in ways to comply with the ordinance. As a result, the ordinance was revised with the 15% being retained for For-Sale construction and flexibility was added by providing an In Lieu fee option, plus several other alternatives. The inclusionary requirement for rental projects was eliminated to comply with the Palmer Decision and was replaced with a mandatory Nexus-based impact fee. In Lieu fees were initially set well below the maximum amount supported by the Nexus Study with amounts increased annually in three steps to reach the maximum amount. The ordinance also included a provision that would increase the inclusionary requirement to 20% beginning in January 2015, if Council made findings, based on the Nexus Study, that an increase was justifiable.

Since 2010 the revised ordinance had shifted the incentives for developers. Whereas, the 2002 ordinance had produced mostly onsite moderate income ownership units, that stopped with the new ordinance as developers found it to be more cost effective to pay the In Lieu fee or, in a few cases, to propose offsite alternatives.

Some of the funds had been used to support the Laguna Commons project, which would ultimately provide 64 units of extremely low and very low income rental housing. Remaining funds were part of a pool of funding being offered to affordable

housing developers through a Notice of Funding Availability that had been recently issued.

In meetings with many interested parties, a number of interests had emerged:

- Restoring some level of moderate income housing production.
- Affordability by design by incentivizing particularly smaller rental units that tended to be more affordable by virtue of their size.
- Generating more money for affordable housing, if that was supported by the Nexus Study.
- Insuring that affordable units would be produced in the Warm Springs/South Fremont transit oriented development area.
- The development community had a strong interest in having a phase-in of any increases to allow the market to adjust.

While all of the above was going on, the Nexus Study was being conducted and finalized. The results were:

- An increase in the percentage of inclusionary units was justified for all product types.
- For attached products, condominiums and townhomes, it would be in the 17% to 18% range.
- For detached, single-family homes, greater than 20% would be justified.
- Justifiable fee amounts varied from \$26.40 psf to \$32.70 psf.

The proposed changes in the Ordinance are:

- The largest change would be the way staff looked at the basic requirement. A mandatory fee would be required for very low income and low income units. For moderate income units, a percentage requirement would be retained to allow developers to construct an inclusionary percentage of the units onsite. However, they would still have the option of an In Lieu Fee.
- Lower fees for rental units from \$19.50 psf to \$17.50 psf, because the market had not produced many rental units in Fremont during the last 10 to 15 years.
- A much larger reduction would be proposed for units less than 700 sf, because they tended to be the most affordable by design, and the City wanted to encourage a larger supply of smaller units.

For detached construction, the onsite moderate percentage would be set at 4.5%, based upon the Nexus Study. The fee for units produced onsite would be \$17.50 psf. Should the developer choose to pay only a fee and not build onsite units, the fee would be \$26.00 psf. For attached housing, the fee would be \$18.50 psf and if the fee was simply paid and no onsite units were produced, the fee would be \$27.00 psf., based upon the Nexus Study.

For rental projects, the Palmer Decision limited the ability to require inclusionary units onsite; however, in certain circumstances developers could volunteer to provide those units and enter into an agreement with the city to do so. In those cases, the justifiable percentages shown here were 12.9%. This number had come from analysis performed as part of the Nexus Study.

Chairperson Pentaleri asked for clarification of the slide showing how the ordinance would treat mapped and unmapped condo projects differently.

Deputy Director Schoenholz said that when a project had an underlying subdivision map, it could be converted to ownership units at any time without any additional City approvals. If a project was built as an apartment building and a conversion process would have to be gone through by the owner if they wished to sell the units, the lower fee structure would apply.

Commissioner Bonaccorsi asked for further clarification. Would he go over with and without MAP, again?

Deputy Director Schoenholz stated that the requirement would be that 6.6% of those would have to be Affordable to Very Low Income, 3.2 % to Low Income and 3.1% to Moderate Income. If a project had an underlying subdivision map, the fee on the right would be \$27.00.

Commissioner Bonaccorsi asked why not show it as “\$27.00 (with MAP)”?

Deputy Director Schoenholz agreed that would be a better way to present it.

Commissioner Bonaccorsi continued with suggesting \$17.50, \$8.75 (without MAP), which would be clearer.

Deputy Director Schoenholz explained that the new fee structure was not proposed to go into effect on day one, but there would be a phasing period based upon interests expressed during policy discussions that were held. All phasing would be complete by July 1, 2017. One of the recommendations by the Human Relations Commission was that the ordinance be fully in place by January 1, 2017,

Commissioner Bonaccorsi asked what the trigger point was. What project would be subject to the new fee at that point?

Deputy Director Schoenholz replied that any project deemed complete before the ordinance went into effect, would be subject to the old ordinance. Any project deemed complete after the effective date of the new ordinance would be subject to the new ordinance, but the fees would be phased in.

Commissioner Bonaccorsi asked, “What is deemed complete?” How much of a project would a developer have to have completed by June 2017 in order to be under

the phase-in as opposed to July 2017 to be subject to the fully enforceable escalated rates?

Deputy Director Schoenholz stated that if a project was deemed complete after the new ordinance was in effect, the developer would pay the fee that was applicable when the building permit was pulled.

Chairperson Pentaleri asked what he meant by “deemed complete?”

Planning Manager Wheeler answered that when a developer submitted an application to the City, certain submittal requirements had to be met and the City had 30 days to review the application and to determine if all of those requirements had been met. “It’s very uncommon if within those first 30 days, the City would say you have met all of our requirements and we’ve deemed your application complete.” Usually a letter goes out stating that the developer needed to submit X, Y and Z with another 30 days for resubmission. When City staff determines that it has the information to process the application, the term used is “deeming the application complete.”

Chairperson Pentaleri called for a break at 12:37 a.m.

Chairperson Pentaleri reconvened the meeting at 12:50 a.m.

Commissioner Salwan understood that there was a lot of angst about the 12.9%. He asked Keyser Marston to explain why the figure was 12.9% rather than 14.8%.

David Doezema, Keyser Marston Associates, stated that the Nexus conclusions supported 14.8% affordable units per 100 market rate units. The 100 market rate units plus 14.8 totaled 114.8. The math was 14.8 divided by 114.8, which totaled the 12.9%.

Commissioner Salwan asked if he could justify a higher rate.

Mr. Doezema stated that for a rental the maximum number of affordable units relative to market rate units was the 14.8 or 12.9 on a percentage basis. So, the answer was, “No.”

Commissioner Bonaccorsi clarified that when Mr. Doezema said 100 market rate units, he meant a 100 market rate rental units.

Mr. Doezema stated that he was correct. His remarks did not apply to ownership.

Deputy Director Schoenholz continued by stating that one of the major points of discussion about the proposed ordinance changes had been about phasing. The Human Relations Commission had recommended that the increases be fully phased in by January 1, 2017. Developers had asked that the phase-in period be long enough

that the market could adjust to any changes. A communication from East Bay Housing Organizations (EBHO) and affordable housing advocacy groups asked that the phasing be short. They were proposing a two-year phase-in period. From the effective date of the ordinance through the end of June 2016, that fee would be set at \$11.00 psf, which would include a very low income and low income obligation related to attached units. The fee for moderate units associated with attached developments would be set at \$8.50 psf. Adding those two came to a total of \$19.50 psf, the same as the current fee.

A developer of attached units could just pay the fee through June 2016, as it was now. When the ordinance became effective, developers would have the option of providing the moderate units onsite and paying an \$11.00 fee.

For detached units, the fee would be \$14.00 and \$8.50 for moderate units between the effective date of the ordinance and July 1, 2016, which would add up to \$22.50 psf, which was the current fee for detached units. In essence, the fees would stay the same through June 2016 with an option for onsite production and pay a lower fee.

In July 2016, the fee would be stepped up to \$14.25 for attached units and \$15.75 for detached units and the \$8.50 for moderate units. After July 2017, the maximum amount would be fully in place.

The current ordinance called for an annual adjustment of the Affordable Housing Fee based upon changes in a Construction Cost Index. Those projects deemed complete prior to the adoption of the revised ordinance would be subject to the current ordinance and the current fees of \$22.50 or 19.50 psf. However, as of July 2016, a prior provision that allowed the fee to be increased according to a construction cost index would be utilized. For rental projects that were not mapped and did not have an underlying subdivision map, the fees would not be increased and would be set at \$17.50 and \$8.75 with adoption of the ordinance and the fees would not be increased under this ordinance and would remain the same. For those who had an underlying subdivision map, the proposed phasing was the same as for attached ownership housing.

Other changes would include a change in the rental alternative percentage from 15% to 12.9%. This 15% requirement had been in place for several years and no production had been seen using that alternative.

Based upon feedback from the Planning Commission during the work session, some circumstances might allow a developer to provide very low or low income ownership and meet all of the concerns that the City might have. An alternative had been added that would allow that, as long as the developer could show that a viable plan was in place for the residents to deal with any financial emergencies and to access any services they might need. It had been discovered that the funding for those supportive services was not being used, because developers really needed the money

upfront for construction. They had other ways to finance supportive services once they had a financially viable project.

This ordinance would clarify that a development agreement would be a viable incentive for the developer and would comply with the Palmer decision if the developer was willing to provide the onsite units.

Minor changes would include the updating of the Basis and Purposes section to reflect the updated housing element; some new definitions concerning attached and detached housing; all references to redevelopment were deleted; fee terminology was changed to Affordable Housing Fee.

The Commission asked the following questions:

- **Commissioner Bonaccorsi** noted that affordable housing advocates were in attendance. He asked if consensus had come from the Affordable Housing community regarding eliminating the use of funds for supportive services. *Deputy Director Schoenholz stated that he had not heard any objections to this aspect of the draft ordinance.*
- The City now knew that if Lennar, Valley Oak and Toll Brothers master plans were approved, affordable housing units would be part of them, regardless of this ordinance. What was the reason to induce more rental by going from 15% to 12.9%. What was magic about that 2.1% spread that would suddenly change the dynamic in a way that would create rental housing that had not occurred before? *Community Development Director Schwob replied that they were not certain that 12.9% was low enough. However, it was worth a try to lowering the fee to this percentage that would stimulate rental production. With development of Warm Springs, the 15% would not allow the project to pencil with Lennar and they would prefer to pay the fee. The 12.9% was offered based upon the Nexus percentage and Lennar had stated they could accommodate that level of on-site affordable units. The city then asked if, instead of doing the moderate income, could they squeeze the affordability towards low and very low and they had agreed.*

Planning Manager Wheeler asked **Deputy Director Schoenholz** to summarize the Gold Sheet changes. At the study session with the Planning Commission, it had been suggested that an option might be made for developers to provide affordable housing onsite, not just the small percentage of moderate income, and it had been added.

Deputy Director Schoenholz stated that the Gold Sheet had corrected the staff report chart, but that the chart he had showed the Commissioners in this presentation was correct. Two email communications had not been included in the Planning Commission packets, so they were attached to the Gold Sheet. The Draft Ordinance had an incorrect calculation for fractional units. Confusing cross-references had been cleaned up.

Commissioner Salwan asked if the new provision that concerned negotiating development agreements for affordable units could be done by the City Council at any point, regardless of the ordinance.

Community Development Director Schwob stated that the development agreement provision that was added to the ordinance would provide an incentive to a developer that was required to get the regulatory agreement so that the units would be counted toward Regional Housing Need. It could be a zoning incentive or concession or reduced setbacks could be allowed, and so on. Fees could not be waived through a development agreement; the ordinance would have to be changed. The Council could always set fees at less than the Nexus amount.

Commissioner Salwan stated that, along the same lines, the fees would be the same whether they involved Centerville or anywhere else in the City. The developers had expressed the opinion that there was no incentive to build in Centerville. Was there some way to help to provide incentives in certain areas like Centerville?

Community Development Director Schwob said that the City Council could set fees at different rates, which the Commission could recommend.

Chairperson Pentaleri opened the Public Hearing.

Doug Ford agreed with all of the recommendations coming from the HRC. The need for affordable housing in Fremont was the most extreme for the very lowest of incomes. The private market place did not provide housing for those folks. Page 33 of the Nexus Study listed the incomes for an Extremely Low Income Family of Four as \$28,000/year, for Very Low, \$46,000/year, for Low, \$67,000/year. Home ownership possibilities would not come out of those income levels. Those folks would be primarily renters. Using HUD's figure of 30% of income, the Extremely Low Income Family could pay no more than \$700/month. Average rent in Fremont, per the Nexus Study, was \$2,125. He had attended many of those meetings and he never heard that a developer was in favor of removing supportive services. They wanted supportive housing, because it kept people housed. The three cities that were quoted concerning the phase-in was for the fees to be phased in within three months not three years. The need for housing was most dire for people with disabilities and very low incomes who could not afford the market rates. Unless the In Lieu Fees were generated at the highest levels, those people would not live in Fremont.

John Smith noted that it was now 1:10 a.m. and stated that he was a 38-year Fremont resident and that he was an advocate for affordable housing. He thanked staff for the work they did on the Housing Ordinance that was before the Planning Commission tonight. Everyone had had a chance to express their concerns. According to the Housing Index Report he had received, dated February 9, 2015, the bottom of quartile of housing that had been sold in Fremont for \$500,000 median price; the next third quarter had been \$675,000; the upper second quarter had been \$882,000 and the top quarter percent had been \$1,700,098. When the Nexus Study had been performed,

the median price was \$620,000, approximately. Today, less than a year later, it was about \$780,000. Housing was not going down and it was not necessary to wait to increase the In Lieu Fees or the percentages that were being considered. A lot of affordable housing was built when redevelopment was available. He was cautious about the ability to have flexibility for building onsite as opposed to accumulating funds that could be leveraged for more affordable housing.

Commissioner Bonaccorsi asked his views about the concept of an incentive discount for rental properties at 12.9% as opposed to 15% or some higher number.

Mr. Smith believed that it was a great idea. However, he questioned that rental housing in conjunction with For Sale market housing should all be considered at 12.9%. They should stand on their own merits.

Dennis Martin, with the Building Industry Association (BIA), Bay Area, stated that it was an undisputed fact that the need for affordable housing was great and far too many families were spending far too much of their incomes, crushing their capacity to meet other needs. However, need alone was not enough justification for an impact fee. BIA's position was that no fee was justifiable, because the Nexus Study did not prove that building market-rate housing caused an increase in the need for affordable housing. In other areas, such as school impacts, proving causation was required before the city could levy a fee and these impacts could be measured and quantified. According to Nexus studies, the justified fee varied greatly from city to city. In Fremont, the fee was \$33 for a rental unit, in San Jose \$28 for a rental unit, and in Sunnyvale over \$60. This made no sense. The housing impact fee was, in actuality, a tax and a tax must be voter supported. BIA's recommendation was to cut all affordable housing impact fees from market rate development and to proceed on a different path. Funds for affordable housing should be raised by going to the voters for a parcel tax or a sales tax. The fees should be diversified to nonresidential development and otherwise seek a more regional and broad-based approach to raising funds for affordable housing.

Mark Robson, Robson Homes, stated that he was a housing advocate and his company had built a lot of affordable housing. The maximum fee to be charged was his concern. The affordable housing fee, the school impact fees, park fees, and so forth, came to \$81,500. With the revised fee at the maximum level of \$27.00, it would total \$94,500. In Union City that number was \$63,000 and in Newark \$46,000, in Milpitas \$31,000, San Jose \$56,000 to \$70,000. The \$70,000 in San Jose was because of a park fee that ranged from \$9,600 to \$24,000, depending on where one was in the city. If the fees were being lowered for apartments "as an incentive," what did that mean for fee increases on ownership units? It would be a disincentive and produce less housing. The reason for the lack of affordable housing was because there was not enough land and not enough units being produced.

What really concerned him with this fee was that people at the low end would have support and people at the very high end were able to afford homes and people in the middle class would not have support.

Commissioner Dorsey asked what his solutions would be.

Mr. Robson said that a good solution would be a broader tax, as suggested by the last speaker. Because of all the job growth, people could not find an apartment. Yet, there was no commercial tax and it all fell on the residences. There were plenty of solutions. It was the will to get them done.

Commissioner Dorsey added that the City of Fremont had won a lot of awards and had been on a lot of top ten lists. People wanted to live in a nice community and have their children attend good schools. This year, alone, 25% of her class had moved to Pleasanton/ Danville/San Ramon, because Fremont's housing was too expensive.

Mr. Robson noted that there were still buyers for these homes.

Commissioner Salwan asked if he had mentioned all of the impact fees that he had to pay.

Mr. Robson replied that did not include all of the Planning fees, building taxes, etc., on top of the \$94,000. He estimated that the cost was another \$30,000 in Fremont, based upon a 2,000 sf single family home. He appreciated the changes the City had made, particularly, on the pipeline and having time to work this into the system, along with some of the other creative opportunities that had been provided. His issue was with the maximum fee.

Commissioner Reed stated that Mr. Robson was a respected developer and, at some point, high fees would drive him out of the market. At \$94,000 plus \$30,000, was he there yet?

Mr. Robson stated that some projects did not pencil, particularly in a more affordable section of the City at the lower end of the density range where the density could not be bumped up.

Commissioner Reed asked if he had already felt the impacts and had said, "No" to some projects that he would have taken on if there had been more reasonable fees.

Mr. Robson said he had and the fees were a big part of it.

John Nguyen-Cleary, Chairperson of the Human Relations Commission (HRC), agreed with John Smith's comments. He also thanked staff who had been extremely inclusive, who had led the relatively complex Draft Affordable Housing Ordinance. He supported the timeline proposed by staff for full implementation of the Nexus

supported fees. It was still in keeping with the two-year timeline. HRC's recommendations were:

- Regarding fees that have to do with only the rental construction In Lieu Fee, they recommended maintaining the fee at \$19.50 psf and not dropping it to \$17.50.
- Regarding the Affordable by Design units at 700 sf or less, setting that at \$10.00 psf rather than at \$8.75.
- Regarding the 12.9% rate, it should apply only to market rate rental units. He had not seen adequate justification for applying 12.9% to for-sale units. The HRC's recommendation was that the Nexus fees specific to each construction type should be applied in all cases.
- The HRC appreciated the value of the section of the ordinance regarding alternative development options that allowed for a developer to negotiate a development agreement for provision of affordable rental units. There were many elements of negotiation that were important regarding timing, siting, preemptively partnering with a affordable housing developer and many more. Their concern was that the door would be opened for any and all future developments to negotiate down the percentage of included affordable housing units. Their unanimous recommendation was that a provision be added to that clause (Basic Requirement B2A) that read, "That in no case may a negotiated development agreement provide rental affordable units resulting in fewer onsite affordable housing units than are otherwise provided for in this ordinance." This section was just about onsite rental affordable unit provision. The fees and the percentages, as established otherwise in the ordinance should be followed. Anything else could be negotiated.

Commissioner Bonaccorsi asked if he had a view on the issue of any of the portion of the funds being used for supportive services.

Mr. Nguyen-Cleary did not have an opinion and it had not been discussed in the Human Relations Commission.

Commissioner Bonaccorsi asked his response to **Community Development Director Schwob's** explanation as to why the 12.9%, at least for the Lennar project, was across the board and it would not pencil out if market rate percentages were used for the other product types, such as 17% for condos and townhomes.

Mr. Nguyen-Cleary said that it sounded like the City guessed at an approximate percentage they thought developers would agree to. He would like to see if actual modeling had resulted in the 12.9%. The Keyser Marston memo distributed yesterday specifically referred to a Nexus support for 12.9% inclusionary housing of market rate rental units. That section of that ordinance referred to all units and development on that site. That was not what yesterday's memo supported.

Chairperson Pentaleri closed the Public Hearing.

Chairperson Pentaleri stated that observations by **Mr. Nguyen-Cleary** of the Human Relations Commission concerning the In Lieu fees for the rental construction were persuasive. Essentially, now by creating a differential between the ownership rates and the rental rates, a differentiation had been created that would tend to support development of rental housing in Fremont. He was persuaded that the City should retain the \$19.50 psf or the \$10.00 psf for units less than 700 sf. The 12.9% was intended to be applied to the rental component and not to be applied across all the components for a project coming forward. It was appropriate for the City to use negotiations to incentivize production of affordable housing, but it should be clear that a floor was needed and that they were trying to achieve or exceed minimums.

He appreciated the notes on page 582 of the Agenda Packet indicating that the alternative section would be updated to allow for proposals that would increase ownership affordability instead of payment of Affordable Housing Fees for lower income households. He still had concerns that the draft contained what may have inadvertently amounted to well-intentioned poison pills for actually having any chance of realizing affordable ownership units onsite. In particular, G-1A through G-1C on page 599 should be revised. Specifically, subparagraphs A and B should allow partial satisfaction of requirements of deeper levels of affordability onsite and allow a credit toward the In Lieu Fee. It should allow for any amount of the requirement for Low, Very Low and Extremely Low Income housing to be provided onsite. The paragraph should be revised to allow for partial satisfaction of the requirements within each category through onsite units and for negotiation to reduce In Lieu Fees associated with some categories in exchange for exceeding targets in others.

Community Development Director Schwob summarized that he was saying that a developer could satisfy any amount of the fee and pay the fee for the remaining part as long as the basic minimums were achieved. While that could be done, it could be challenging and time consuming, administratively, to figure out on each project. Staff got the gist of what he was saying and they could probably accommodate that, but it would be very, very difficult and time consuming to figure out on an individual case-by-case basis.

Chairperson Pentaleri suggested that subparagraph C should be deleted. If someone desired to purchase a unit, they should be allowed to, because the goal was affordability for purchase.

Community Development Director Schwob added that Extremely Low or Very Low Income homeowners when the water heater breaks or the roof leaked, they would not, typically, be able to make those repairs, which would force them to sell their home. The turnover of these homes would be significant. In the one or two recent situations where the City allowed EL/VL ownership, the developer contributed additional funds to the City to administer those turnovers, that would be frequent, and also to provide the City with housing funds that could be used to provide a low interest or zero interest loan to homeowners for emergencies.

Chairperson Pentaleri wondered where to draw the line. It was not obvious to him that because supportive services were provided with rental projects for people with the same income levels, that they would be necessary for buyers.

Community Development Director Schwob stated that it was within the purview of the Commission to recommend what they wanted. It came down to a policy choice.

Chairperson Pentaleri asked about the rationale for In Lieu Fees to be paid on projects that fell within one of the City's transit oriented priority development areas. It seemed that In Lieu Fees should not be allowed on projects that already fell within one of the PDAs.

Community Development Director Schwob asked if he was saying that the developers would have to produce affordable housing onsite.

Chairperson Pentaleri agreed.

Deputy Director Schoenholz mentioned that the City could not require rental housing in PDAs under the Palmer decision.

Community Development Director Schwob expected that people would be forced into Option G, which could probably not be sustainable over a period of time.

Commissioner Bonaccorsi stated this was like playing just one note on the piano and more notes needed to be played. More economic incentives were needed. Even the BIA representative talked about the causation issue on employers. If a source of funding was had from commercial linkage fees, it would relieve some of the pressure from looking only from residential developers to try to meet our need. The Council will have the authority to look at rates and it could be an opportunity to hold rates. Funds for supportive services should not be eliminated particularly if there will be isolated units onsite. He agreed that it was important to get the production out there and other ways might be available to get the supportive services.

Deputy Director Schoenholz pointed out that there was an Action Item in the Housing Element to perform a Commercial Linkage Study in Fiscal Year 2015-2016.

Commissioner Bonaccorsi was aware of that.

Chairperson Pentaleri stated that he had identified removing supportive services as something that could be funded through the Affordable Housing Fees. Was there a problem with leaving that in there? The flexibility that it provided was good.

Community Development Director Schwob stated that the ordinance had been interpreted as the supportive services could only be within a project that the City had provided assistance to for construction. Supportive services money could not be used to help Human Services provide programs to help keep people housed. A few

programs were funded from other sources, such as the Boomerang Funds that were unrestricted. However, fees to be used for supportive services were very restricted. They could only be spent in a project, such as Cottonwood where they had supportive services in the same building. This money could not be used to help fund supportive services to very low income families scattered through the City. No use of the funds had been found within the prior four years. Several of the affordable housing providers had been talked with and they said that they found it more beneficial to have the money for construction. That was the reason for the recommendation.

Commissioner Reed would like to see these rates reviewed, perhaps, in a year or two. Some of it was science, some was guessing. Low income housing must be supported. However, like Mark Robson had said, if the maximum was so high, would people buy in the top quarter? Perhaps they might buy a little lower. The City had to be very careful about a \$94,000 add-on to every new house.

Commissioner Bonaccorsi made the motion to move staff recommendation with the following changes:

- Keep the rental rate at \$19.50 psf and not reduce it to \$17.50.
- Keep the rate at \$10.00 psf for less than 700 sf rentals, which was the HRC recommendation.
- Rather than having 12.9% across the board irrespective of product types, 12.9% should apply to fair market rental properties and 15% for all other types of products.
- Concerning the development agreement, a two-tier floor should be the same 12.9% and 15%.
- Add a condition that the City Council and staff explore exemptions or reductions in overall fees for affordable housing products to incentivize affordable housing production.

Chairperson Pentaleri asked why use a 15% requirement rather than using the maximum Nexus-justified percentages?

Commissioner Bonaccorsi stated that there was a value to having onsite production, which was different from HRC's view. It did not sit in a fund for two years. He was not convinced that going to 12.9% on the one end was justified while going to the default categories would not create an incentive, at all, and the impact fee would just be paid and the onsite construction would not occur.

Commissioner Reed seconded the motion.

Commissioner Dorsey offered a friendly amendment to include the language about not being able to negotiate if it was going to change the number.

Commissioner Bonaccorsi had provided for development agreements in the motion.

Commissioner Salwan recalled that the City Council spoke about comparing the City of Fremont’s rates to other areas. It would take some time but it would be nice to see where the City was better or worse and how to be competitive in the region. He liked incentivizing the rental units, which was a good way to make them affordable and increase supply, along with cutting down on rental rates. He was in agreement with everything else.

IT WAS MOVED (BONACCORSI/REED) AND CARRIED BY THE FOLLOWING VOTE (7-0-0-0) THE PLANNING COMMISSION –

RECOMMENDED THAT THE CITY COUNCIL FIND THE PROPOSED ZONING TEXT AMENDMENT IS AN IMPLEMENTATION MEASURE OF THE GENERAL PLAN FOR WHICH AN ENVIRONMENTAL IMPACT REPORT WAS PREPARED AND CERTIFIED AND THAT NO FURTHER ENVIRONMENTAL REVIEW IS REQUIRED;

AND

FOUND THAT THE PROPOSED ZONING TEXT AMENDMENT IS CONSISTENT WITH THE GENERAL PLAN;

AND

FOUND THE PROPOSED ZONING TEXT AMENDMENT FURTHERS THE PUBLIC INTEREST, CONVENIENCE, AND GENERAL WELFARE OF THE CITY;

AND

RECOMMENDED THAT THE CITY COUNCIL INTRODUCE AN ORDINANCE APPROVING THE PROPOSED ZONING TEXT AMENDMENT AS SET FORTH IN THE DRAFT ORDINANCE (EXHIBIT “A”).

The motion carried by the following vote:

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

DISCUSSION ITEMS

MISCELLANEOUS ITEMS

Election of Officers 2015

Commissioner Leung stated that she would like to pass the opportunity to serve as Chairperson this year, so she nominated and **Commissioner Karipineni** seconded **Commissioner Bonaccorsi** for Chairperson in 2015, which was unanimously carried by all present.

Commissioner Leung nominated **and Commissioner Reed** seconded **Commissioner Salwan** as Vice Chairperson in 2015, which was unanimously carried by all present.

New **Chairperson Bonaccorsi** congratulated former **Chairperson Pentaleri** for his leadership, particularly during this evening's hearing.

Former **Chairperson Pentaleri** replied that he would no longer be making the mistake of calling now current **Commissioner Bonaccorsi Chairperson Bonaccorsi**.

Commissioner Salwan also commended former **Chairperson Pentaleri**. He had done a great job, especially with chairing this particular meeting.

Commissioner Karipineni thanked former **Chairperson Pentaleri** for the example he had set.

Commissioner Dorsey thanked former **Chairperson Pentaleri** for keeping her in line.

Commissioner Reed thanked former **Chairperson Pentaleri** for his very good job and asked for more breaks.

Information from Commission and Staff:

- Information from staff: Staff will report on matters of interest.
 - Report on actions of City Council Regular MeetingNone.
- Information from Commission: Commission members may report on matters of interest.
None.

Meeting adjourned at 2:15 a.m.

SUBMITTED BY:

Alice Malotte

Alice Malotte
Recording Clerk

APPROVED BY:

Kristie Wheeler

Kristie Wheeler, Secretary
Planning Commission