



**MINUTES
FREMONT PLANNING COMMISSION
REGULAR MEETING OF AUGUST 27, 2015**

- CALL TO ORDER:** Chairperson Bonaccorsi called the meeting to order at 7:00 p.m.
- PRESENT:** Chairperson Pentaleri, Commissioners Bonaccorsi, Dorsey, Karipineni, Leung, Reed
- ABSENT:** None
- STAFF PRESENT:** Kristie Wheeler, Planning Manager
Prasanna Rasiah, Senior Deputy City Attorney
Cliff Nguyen, Urban Initiatives Manager
Alice Malotte, Recording Clerk
Chavez Company, Remote Stenocaptioning
Napoleon Batalao, Video Technician
- APPROVAL OF MINUTES:** Regular Meeting of July 23, 2015, approved as submitted with **Commissioner Dorsey** and **Commissioner Reed** abstaining.
- DISCLOSURES:** **Commissioner Dorsey** drove by sites of Item 1 and 3.
Vice Chairperson Salwan spoke with Item 1 consultant & Applicant.
Commissioner Karipineni spoke with Item 1 Applicant and viewed the facility.
Commissioner Reed drove by sites of Item 1 and 3.
Chairperson Bonaccorsi met with Item 3 Applicant and spoke with representative.

CONSENT CALENDAR

THE CONSENT CALENDAR CONSISTED OF ITEM NUMBER 2.

IT WAS MOVED (PENTALERI/DORSEY) AND CARRIED BY THE FOLLOWING VOTE (6-0-1-0-0) THAT THE PLANNING COMMISSION TAKE THE FOLLOWING ACTION ON ITEM NUMBER 2.

- Item 2. **WARM SPRINGS URBAN PLAZA GENERAL PLAN AMENDMENT - Warm Springs/South Fremont Community Plan Area - PLN2015-00277** - To consider a

General Plan Amendment to add "Warm Springs Urban Plaza" as a new civic park subcategory to the Parks and Recreation Element. Pursuant to the California Environmental Quality Act (CEQA), a Final Environmental Impact Report (SCH#2013032062) was previously certified for the Warm Springs/South Fremont Community Plan for which the new park subcategory of "Warm Springs Urban Plaza" was included. Therefore, no further environmental review is required for the proposed amendment.

RECOMMENDED THAT THE CITY COUNCIL FIND THAT, BASED ON ITS INDEPENDENT JUDGMENT, NO FURTHER ENVIRONMENTAL REVIEW IS REQUIRED PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) AS A FINAL ENVIRONMENTAL IMPACT REPORT (EIR) (SCH#2013032062) WAS PREVIOUSLY CERTIFIED FOR THE WARM SPRINGS/SOUTH FREMONT COMMUNITY PLAN, FOR WHICH THE NEW PARK SUBCATEGORY OF "WARM SPRINGS URBAN PLAZA" WAS INCLUDED, AND FIND THAT AND THAT NONE OF THE CONDITIONS REQUIRING A NEW SUBSEQUENT OR SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT STATED IN SECTION 21166 OF THE PUBLIC RESOURCES CODE OR IN SECTIONS 15162 AND 15163 OF THE CEQA GUIDELINES ARE PRESENT;

AND

FOUND THAT THE PROPOSED AMENDMENT IS CONSISTENT WITH THE GENERAL PLAN AND WITH THE OTHER POLICIES AND CHAPTERS CONTAINED IN THE GENERAL PLAN. THESE PROVISIONS INCLUDE THE DESIGNATIONS, GOALS, OBJECTIVES AND POLICIES SET FORTH IN THE GENERAL PLAN'S LAND USE, COMMUNITY PLANS AND PARKS AND RECREATION ELEMENTS AS ENUMERATED WITHIN THE STAFF REPORT;

AND

FOUND THAT THE PROPOSED AMENDMENT FURTHERS THE PUBLIC INTEREST, CONVENIENCE, AND GENERAL WELFARE OF THE CITY, IN THAT IT WOULD SUPPORT THE CREATION OF A WIDE RANGE OF PARKS AND RECREATIONAL FACILITIES;

AND

RECOMMENDED THAT THE CITY COUNCIL ADOPT A RESOLUTION APPROVING THE PROPOSED GENERAL PLAN AMENDMENT TO ADD "WARM SPRINGS URBAN PLAZA" AS A NEW PARK SUBCATEGORY AND SPECIFY A MINIMUM SIZE STANDARD FOR CIVIC PARKS, AS SHOWN IN EXHIBIT "A."

The motion carried by the following vote:

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

PUBLIC/ORAL COMMUNICATIONS

Alice Cavette, Fremont resident, pointed out issues that were seen at three sites the Planning Commission had viewed in July:

- When approaching the Casa Bella development at Washington Boulevard and Olive Avenue, one's line-of-sight "smacked" into the townhouse located right at the sidewalk, which had been allowed by the City through a variance and setback between a major street and a building, allowing one more unit to be built than if the plan had been left at low density.
- Regarding Driscoll Townhomes, the City granted a setback variance of eight less feet, from 20 feet to 12 feet, between Driscoll Road and the front building, because it "fostered a pedestrian-scale environment." Again, that building was right at the sidewalk. The three-story buildings could be seen at the rise of the hill between the church and the low single-family area.
- In Irvington, while passing the "dreadful Pulte tower" that rose a full story over the overpass bridge, one could see all the balconies being used for storage and laundry.
- The Laguna Commons project was only one story in July. Wait until it becomes four stories and, again, right at the sidewalk.
- Lennar on Blacow Road was an example of front doors right on Fremont Boulevard, which would never be used for guests and, certainly, not for deliveries. The City was encouraging that placement of front doors and encouraging what one developer called "fake porches."

The City had also allowed front doors that faced developments' interior walls. So many front doors that would never be used, as such. What a waste. She asked that approving variances to front setbacks be thoroughly reviewed; make sure that the variance was truly justified; respect the judgment of those who decided the setback regulations in the first place; hold developers to a higher standard or end up with even more of these in-your-face projects all over town.

PUBLIC HEARING ITEMS

- Item 1. **ROYAL PALACE BANQUET HALL - 6058 Stevenson Boulevard - PLN2015-00235** - To consider an amendment to Conditional Use Permit PLN2014-00061 to allow events open to the public at an existing banquet hall located (within The Globe shopping center) in the Bayside Industrial Community Plan Area, and to consider a categorical exemption from the requirements of the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15301, Existing Facilities.

Notes/Corrections

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

Staff Report: Consider the request to amend CUP PLN2014-00061 ~~as shown in Exhibit "A"~~ to allow the existing banquet hall facility to have events that are open to the public including concerts, based on the findings contained in FMC Section 18.230.060 and subject to the conditions contained in Exhibit "A." ~~Exhibit "B."~~

Chairperson Bonaccorsi opened the Public Hearing.

Roger Shanks, consultant and representing the Applicant, stated that when the banquet facility had been approved in 2014, public events were prohibited. The City's overall definition for banquets allowed for up to 12 public events per year. They had been working with staff to bring the banquet facility back into parity with what the ordinance allowed for other banquet facilities. It had been suggested that his client mimic what had been approved for Diamond Palace, which included banquets and concert hall and would allow more flexibility for specific events. They were pleased with the Conditions as they stood at this time, and with the change to public events.

Chairperson Bonaccorsi asked the following:

- Condition 22 required that a written guest list be compiled in advance of an event. Was the Applicant willing to do that? As discussed by telephone, he envisioned the banquet hall being available for charity events, fund raisers, public functions, such as, The State of the City Address by the Fremont Chamber of Commerce, and it would be one of the 12 public events.

Mr. Shanks said, "Yes."

- Condition 24 required private, licensed security guards to be provided at all banquet events at the ratio of two guards per 100 patrons with one additional guard per each additional 50 patrons. Typically, the Chamber event had at least 400 people in attendance. With this Condition, eight private, security licensed personnel would be required. What would the estimated cost be per security personnel?

After consulting with the Applicant, Mr. Shanks stated security was hired at \$20 per person per hour.

- That would come to \$160 for eight guards per hour and \$640 for a four-hour event. Would that cost be passed onto the user of the event?

Yes, it would be part of the package agreement for use of the facility.

- Condition 25 stated that the banquet hall facility shall not be open until the minimum requirement of security personnel as prescribed by these Conditions was present.

Yes, they were aware of that Condition.

- If the total amount of security personnel could not be hired, would the event go forward?

Yes, in theory.

- The City has had a "bad history" with stand-alone banquet halls. In light of that, with not enough police force to address security concerns, the Police Department has reserved the right to increase the number of security guards. If the Fremont Chamber of Commerce had a history of having meetings that were raucous and out of control, the Chief of Police might decide that 20 personnel would be needed for this event. Was he aware of any other City banquet halls that have these conditions?

Diamond Palace had the same condition. He was not certain about any others.

- Did he believe that the Royal Palace had some distinguishing characteristics that would make it more amenable to events like The State of the City than any other banquet hall in the City?
It was larger and had the capacity to service those types of uses. Only the Marriot could handle a similar large, public event.
- Were the Marriot and Doubletree increasingly being booked for local events?
Yes. A need existed in the City for banquet facilities for public and private functions.
- Would the Applicant support an amendment to this Condition that would allow the Police Department, in certain instances, to waive the requirement for security personnel based upon the past history of the organization using the facilities with no track record of violence or being a threat to the community?
This Condition was written for large events; not public events involving the Chamber of Commerce, Rotary Club, Abode. His client would support that amendment.
- Was there a high demand for more than 12 per year?
Yes, there was.
- That was based upon the current ordinance and was beyond the Commission's scope, but would they be open to discussing a waiver requirement for this facility?
Yes, they would.

Commissioner Leung asked the following:

- What was the maximum capacity of this banquet hall? What about other events?
Mr. Shanks replied that concert seating had the highest capacity, which was a maximum of 900 people. Banquets would be 600 to 700 people. Two rooms were available at this facility, so if both rooms were combined, they would accommodate the larger number of people.
- If the event included live entertainment or dancing, how many people would the facility accommodate?
Dancing was allowed only for weddings and events where the guests were invited. Events open to the general public were not allowed to have live entertainment and dancing. The dance floor would be removed. They did not want a "night club procedure."
- Would a concert be the only kind of event where tickets were sold to the public?
With a concert event that was open to the general public, all tickets would have to be sold through the ticket office at the Royal Palace. The Chamber of Commerce, Abode, et al., could not sell their own tickets. That would allow a guest list of who would be attending.
- With 900 people attending a concert, could the previously discussed level of security be applied?
Yes, it would.

Vice Chairperson Salwan asked if a Rotary or Chamber of Commerce event be considered a special event where security would be required. He noted that corporate

parties, wedding receptions and other social gatherings would be considered special events. How did they feel about this Condition?

Mr. Shanks stated that security would be required. They were operating under that Condition at this time; however, it would be nice if that Condition didn't apply to charitable events. Who would make that determination?

Vice Chairperson Salwan asked would he approve the number of security personnel being reduced by the Police Chief, because the Police Chief had deemed it would not be necessary for the event?

Mr. Shanks stated they would like that.

Commissioner Karipineni stated that she also supported the potential modification for security guards, as discussed. She asked if security guards were needed only when the event offered alcoholic beverages, music or dancing. She believed the better solution was to allow the Police Department the discretion to either require increasing or decreasing guards.

Chairperson Bonaccorsi commented that even the Marriot had a no host bar during similar events and he expected that appropriate language could be decided upon by all interested parties.

Vice Chairperson Salwan asked if there was never any dancing allowed?

Mr. Shanks clarified that for private events, i.e., a wedding, dancing was allowed, but not for public events.

Chairperson Bonaccorsi closed the Public Hearing.

Commissioner Pentaleri agreed that Police Department discretion would be best. What was staff's opinion about discretion regarding security guards? Would it erode enforceability?

Sr. Deputy Attorney Rasiah suggested revising the Condition to simply state that the Police Department would have the discretion to either increase or decrease the amount of security. It would not create an inconsistency issue to amend the Condition in the way that had been described.

Commissioner Pentaleri stated that the onus was to apply the Condition consistently to all banquet halls.

Chairperson Bonaccorsi asked about the 14-day requirement for a banquet event. Was that just a bare notice requirement or would the Zoning Administrator do something with that?

Planning Manager Wheeler answered that it was just to provide staff notice, which would allow coordination with the Police Department. In this case, it might involve coordination to determine how many security personnel might be required for the event.

Chairperson Bonaccorsi stated that many events were planned five months in advance. Was the notification a matter of no less than 14 days?

Planning Manager Wheeler agreed. Notification could be four months before the event.

Chairperson Bonaccorsi brought up the fact that with all tickets to something like the State of the City by the Chamber of Commerce handled by the Royal Palace, the Chamber may not wish to relinquish the ability to collect revenues and the ability to know who was coming, along with the event's corporate sponsors. That may be an event killer, even for nonprofits who wanted direct contact with their guests. Was that a Condition that could be reviewed to figure out how to increase flexibility?

Planning Manager Wheeler replied that the Condition would not allow outside promoters to sell tickets.

Commissioner Pentaleri asked if that would apply if the event were held at the Marriot?

Chairperson Bonaccorsi said that it would not apply to the Marriot. He was hoping to look at ways where the legitimate concerns of regulating these events could be balanced, because of the past history of demonstrated problems.

Chairperson Bonaccorsi opened the Public Hearing to allow Mr. Shanks to address that issue.

Mr. Shanks stated that was an issue that they had and he thanked the Commission for raising it. When they suggested not having that Condition, they were told that it would be a deal breaker. Tickets for events sponsored by nonprofits that had to go through the Royal Palace would be cumbersome. Particularly for daytime events that were business-related, it was not necessary and cumbersome.

Commissioner Pentaleri stated that if the intent was to make sure that the guest list was correct, as collected and provided, then perhaps it didn't matter how it was collected.

Mr. Shanks said that the intent was to know who and how many guests were coming, since with the general public one didn't know. With many of the organizations who might want to use this facility, the ticket sales were tracked, they know who's coming, they have a guest list and name tags were prepared.

Commissioner Pentaleri said that was his point. If that was the requirement, specify that as the requirement rather than specifying the implementation that the banquet hall collect the tickets. The real requirement should be that the information was collected and provided in a timely manner.

Planning Manager Wheeler added that this requirement was consistent with the City's Special Events Ordinance. She would be uncomfortable changing that Condition without someone from the Police Department being in attendance and concurring with whatever change might be suggested.

Commissioner Leung asked if the 12 events had already been approved and the permit fee had already been paid or was there a separate permit fee according to the event and its size?

Planning Manager Wheeler replied that there was no separate Special Event Permit. However, that there be no outside promoters was a carry-over from the Special Event Ordinance. This CUP would allow the facility to have 12 events per year without any special subsequent permit.

Vice Chairperson Salwan stated that it seemed that two tiers might work best: one for a breakfast/lunchtime event and the other for the parties, banquets, etc. Perhaps the regulations should be slightly different for the two different types of events. The Police Department and staff could work that out. What was Mr. Shanks' opinion about two different tiers?

Mr. Shanks believed that it would be very helpful, since two different venues were involved; one was business, charitable, philanthropic and the other was entertainment. However, he didn't believe that it could be changed tonight.

Chairperson Bonaccorsi asked if he would be open, as the Applicant, to discretion being given to the Police Department to waive the requirement of outside ticketing, depending upon the user, as well, if it was not inconsistent with existing municipal ordinances.

Mr. Shanks said that it would be a great way of doing it. He could only hope for something like that.

Sr. Deputy Attorney Rasiah stated that the security guard Condition was relatively straight forward. With the promoters and the tickets, creating a two-tier system could become a little tricky, because one didn't want to get into a situation where the outside promoters, whose business it was to promote events and sell tickets involving dancing and night club events, may try to sandwich their way into a category that was intended to be directed towards the kind of activities being discussed tonight. It could end up involving promoters who might claim to be a nonprofit or who might claim to fit into that category with the health and safety effects that the condition was intended to be directed towards. He advised caution in trying to amend that Condition tonight.

Staff and the Police Department could consider, going forward, how that Condition could be amended in the future. It was important that other banquet halls be treated the same way.

Chairperson Bonaccorsi said that he was not suggesting a two-tier distinction, as it would be a nightmare to include it in a Conditional Use Permit. For purposes of tonight, a waiver by the Police Department, which was inconsistent with the Fremont Municipal Code or was something that this Police Department and staff believe could never be exercised because of the implementation problems. At least this could be a placeholder where the Police Department could waive the ticketing requirement using whatever criteria they choose without setting any precedent for any future use. It would be broadening Condition 23 to have two aspects to the waiver.

Sr. Deputy Attorney Rasiah argued that the issue could be some discretion without accompanying standards.

Chairperson Bonaccorsi asked for a motion that would provide some direction to staff on considering other ways of creating standards so that tickets didn't have to be exclusively handled through the user. He believed that would be a deal killer.

Commissioner Pentaleri asked if the Commission was the decision authority for this matter.

Chairperson Bonaccorsi and **Sr. Deputy Attorney Rasiah** stated that it was.

Commissioner Reed offered a motion: The Police Chief shall have the authority to either raise or lower the amount of security personnel needed for each event. Direct staff to explore flexibility, but no quota or rates that actually would have to be followed. City Council and staff could work together on that. He agreed that it could be a deal killer.

Sr. Deputy Attorney Rasiah clarified: The Condition would remain the same, but staff would be directed to explore the idea of refining that condition across the board for future entitlements.

Chairperson Bonaccorsi asked if the motion was to make an explicit amendment to Condition 24 to allow an increase or decrease. The second aspect was to explore Condition 19, but not to give a directive that said it must be changed.

Sr. Deputy Attorney Rasiah added that built into the Conditions was the ability to make some "minor modifications." If something could be worked between staff and the Applicant that qualified, then it could be done at staff level without a guarantee.

Commissioner Reed agreed to the above.

Chairperson Bonaccorsi encouraged the Applicant to continue working with staff to look at amending the Conditional Use Permit, if a minor amendment was not allowed.

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

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

AND

FOUND THAT THE PROPOSED AMENDMENT TO CUP PLN2014-00061 IS IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S GENERAL PLAN, INCLUDING THE GOALS AND POLICIES SET FORTH IN THE LAND USE ELEMENT OF THE GENERAL PLAN, AS ENUMERATED WITHIN THE STAFF REPORT;

AND

APPROVED THE AMENDMENT TO CUP PLN2014-00061 AS SHOWN IN EXHIBIT "A," BASED ON THE FINDINGS AND SUBJECT TO THE CONDITIONS CONTAINED IN EXHIBIT "B."

The motion carried by the following vote:

AYES: 7 – Bonaccorsi, Dorsey, Salwan, Karipineni, Leung, Pentaleri, Reed

NOES: 0

ABSTAIN: 0

ABSENT: 0

RECUSE: 0

- Item 3. **STATE STREET MIXED - USE DEVELOPMENT PROJECT REVISIONS – 39155 State Street – PLN2016-00014** – To consider a General Plan Conformity Finding pursuant to Government Code 65402 for the disposition and development of City-owned property in the Downtown Community Plan Area, an Amendment to the Development Agreement by and between the City and Fremont State Street Center, LLC, and revisions to the approved State Street Mixed-Use Development Project to allow the inclusion of 12 additional units (from 145 units to 157 units) through a Major Downtown Design Review Permit, Vesting Tentative Tract Map No. 8279 and modifications to the Preliminary Grading Plan, and to consider a determination that no further environmental review is required pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15183 as the project revisions would be consistent with the density established by the Downtown Community Plan for which a Final Supplemental Environmental Impact Report (SCH#2010072001) was previously prepared and certified.

Commissioner Karipineni recused herself from this item, because of an interest in the vicinity of owned property.

Urban Initiatives Manager Nguyen stated that the developer's representative Dave Hopkins was available for questions. This would be a catalyst project in the Downtown. It had come before the Planning Commission in October 2014 when a unanimous recommendation was made to City Council, which approved it in November 2014. It was originally approved for 145 units and 21,000 square feet commercial retail space that would front Capitol Avenue, the signature street currently under construction and almost completed. Additional property to the southwest, currently where Nation's was located, had been acquired by the City. The majority of the land would be used to complete C Street. The developer had requested permission to add 12 units on the remnant and at full cost and expense to the developer, they would fully construct C Street, New Middle Road, B Street and half of State Street, with sidewalks on both sides of the street, travel lanes on both sides the full width of the street without any contribution from the City.

Commissioner Pentaleri asked the following:

- The figure on page 54 of the packet, page 8 of Staff Report, stated only Nation's would be impacted. However, it looked like the Falafel restaurant might be also be affected.
Urban Initiatives Manager Nguyen replied that the Nation's structure would be impacted by the new public street. Other areas involved to some extent would be some portions of the parking lots of the adjoining properties and a portion of the Falafel business's patio. Their parking lot would be reconfigured and a new patio would be constructed, along with a new driveway.
- What would the interface to the Fremont side be?
An outdoor dining area would be constructed for that end-cap business. The tract plan could give a sense of how the driveway cut would influence the reconfiguration of the parking lot that was shared with Fremont Bank.
- The only business to be relocated would be Nation's?
That's correct.
- Would B, C, D Streets and New Middle Road be changed to different names?
All of the agreements between the City and developer referenced these streets, as shown. He was absolutely right; these street names would be changed in the future to be consistent with the theme of the Downtown.

Commissioner Reed suggested Wasserman Street would pay homage to a wonderful mayor.

Chairperson Bonaccorsi noted that Recital B of the Development Agreement had assigned more than 50 percent interest of the LLC to an entity called Summerhill. Under Exhibit D, some sort of finding was made as to that kind of transfer of the interest. Could he address that issue?

Urban Initiatives Manager Nguyen said that had been proposed in terms of the transfer, which the City Council would consider in September.

Chairperson Bonaccorsi suggested that the Applicant could address it. The signature line should have reflected a new manager other than TMG Partners or somebody else if that was a significant transfer.

Chairperson Bonaccorsi opened the Public Hearing.

Dave Hopkins, Regis Homes & the TMG Partnership, stated that it had been discussed only at staff level, but had not reached Council and would be brought before Council on September 15th. At this time, the entity continued to be TMG and Regis Homes and would continue to be thereafter, as well. This is a consideration to bring a third party into the partnership. Tremendous progress had been made in the area. Capitol Avenue had progressed and one could see through to Fremont Boulevard and one could picture the presence of a retail center. A marketing team has started putting together materials that will go out to the marketplace and generate interest very early on, and the design team will maximize the flexibility of that retail space to accommodate a wide range of tenants. They were happy to absorb the little piece that would be taken off the traveled corridors and to make it a part of the project.

Vice Chairperson Salwan asked if Summerhill would be purchasing this project.

Mr. Hopkins said that Summerhill would be an admission into the partnership. This was an entity that was in agreement with the City at this time and that entity would not change.

Chairperson Bonaccorsi asked the following:

- If this entity became a member of the partnership, did he anticipate having new managing members or would Summerhill be added as a new managing member.
Mr. Hopkins chose to defer those questions to the upcoming City Council meeting, since they had not had any conversations with staff and it was premature to discuss the future structure.
- Could he speak to any other parcels that were being considered that might be acquired either by purchase or by eminent domain beyond these 12 units?
No sites were being actively considered.
- This location was orphaned in terms of being a viable candidate for retail space. Had he considered amending the Development Agreement to increase the retail space beyond the 22,000 square feet, given that the residential units would be increased?

Did he mean increasing the retail on Capitol Avenue?

Chairperson Bonaccorsi said, "Yes." In his opinion, it had been light at the time of approval, but he had been willing to go along with it because additions would not be made and activation of the Downtown was important.

No, they had not considered adding any more retail at that site. The retail had always been envisioned to be located on Capitol Avenue and no more Capitol frontage was available. From an economic perspective, if more retail were added

rather than residential, they would have been unable to build all of the streets that were planned.

Chairperson Bonaccorsi closed the Public Hearing.

Commissioner Leung congratulated the staff and Applicant for successfully acquiring the rest of the property to make the map whole. Everything was in line with what had been approved previously. She would recommend approval to the City Council.

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

FOUND THAT NO FURTHER ENVIRONMENTAL REVIEW IS REQUIRED PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) GUIDELINES SECTION 15183 AS THE PROJECT IS CONSISTENT WITH THE DENSITY ESTABLISHED BY THE DOWNTOWN COMMUNITY PLAN FOR WHICH A FINAL SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT (SCH#2010072001) WAS PREVIOUSLY PREPARED AND CERTIFIED, AS ANALYZED IN THE UPDATE TO ENVIRONMENTAL COMPLIANCE CHECKLIST SHOWN IN EXHIBIT “A,” AND FIND THAT THIS ACTION REFLECTS THE INDEPENDENT JUDGMENT OF THE CITY;

AND

FOUND THAT THE PROJECT REVISIONS ARE IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S GENERAL PLAN AND DCP. THESE PROVISIONS INCLUDE THE DESIGNATIONS, GOALS, OBJECTIVES AND POLICIES SET FORTH IN THE GENERAL PLAN'S LAND USE, MOBILITY, COMMUNITY CHARACTER, HOUSING, AND ECONOMIC DEVELOPMENT ELEMENTS AND DCP'S GOALS AND POLICIES AS ENUMERATED WITHIN THE STAFF REPORT;

AND

FOUND THE MAJOR DOWNTOWN DESIGN REVIEW PERMIT FOR INCLUSION OF THE 12 ADDITIONAL RESIDENTIAL UNITS TO THE APPROVED PROJECT AS DEPICTED IN EXHIBIT “B,” (PRECISE SITE PLAN, ARCHITECTURAL ELEVATIONS AND FLOOR PLANS), FULFILLS THE APPLICABLE REQUIREMENTS SET FORTH IN THE FREMONT MUNICIPAL CODE;

AND

APPROVED THE MAJOR DOWNTOWN DESIGN REVIEW PERMIT, AS DEPICTED IN EXHIBIT “B” (PRECISE SITE PLAN, ARCHITECTURAL ELEVATIONS AND FLOOR PLANS), BASED ON FINDINGS AND SUBJECT TO CONDITIONS OF APPROVAL AS SHOWN IN EXHIBIT “E;”

AND

FOUND THAT THE REVISED SUBDIVISION MAP, VESTING TENTATIVE TRACT MAP NO. 8279, AND MODIFICATIONS TO THE PRELIMINARY GRADING PLAN, AS SHOWN IN EXHIBIT “C,” 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

APPROVED VESTING TENTATIVE TRACT MAP NO. 8279 AND MODIFICATIONS TO THE PRELIMINARY GRADING PLAN, AS SHOWN IN EXHIBIT "C," BASED UPON THE FINDINGS AND CONDITIONS OF APPROVAL SET FORTH IN EXHIBIT "E;"

AND

APPROVED THE PROPOSED REMOVAL AND MITIGATION FOR THE ADDITIONAL ON-SITE TREES REMOVED PURSUANT TO THE CITY'S TREE PRESERVATION ORDINANCE, BASED UPON FINDINGS AND CONDITIONS IN EXHIBIT "E;"

AND

FOUND THAT THE DEVELOPMENT AGREEMENT AMENDMENT AS SHOWN IN EXHIBIT "D" IS CONSISTENT WITH THE GENERAL PLAN, DCP AND ZONING ORDINANCE, AND WOULD ADVANCE PUBLIC HEALTH, SAFETY AND WELFARE AS DESCRIBED IN THIS REPORT AND EXHIBIT "E;"

AND

RECOMMEND THAT THE CITY COUNCIL INTRODUCE AN ORDINANCE APPROVING THE DEVELOPMENT AGREEMENT AMENDMENT BY AND BETWEEN THE CITY AND THE APPLICANT AS SHOWN IN EXHIBIT "D;"

AND

FIND THAT THE LOCATION, PURPOSE AND EXTENT OF THE PROPOSED DISPOSITION OF PROPERTY LOCATED ON THE SOUTHWEST SIDE OF STATE STREET AND FUTURE EXTENSION OF CAPITOL AVENUE TO FREMONT BOULEVARD, AS SHOWN ON EXHIBIT "F," IS IN CONFORMANCE WITH THE GENERAL PLAN AS DESCRIBED IN THE STAFF REPORT.

The motion carried by the following vote:

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

DISCUSSION ITEMS

None

MISCELLANEOUS ITEMS

Information from Commission and Staff:

- Information from staff: Staff will report on matters of interest.

The September 10th Planning Commission meeting would be cancelled. The item for that meeting would be pushed out to September 24th.

- Report on actions of City Council Regular Meeting
- Information from Commission: Commission members may report on matters of interest.

Commissioner Reed stated that one of his heroes was a seven year, nine month old little girl whose name was Gwendolyn Strong. He displayed a photo of her and said that she had been born with SMA. She had been paralyzed from the first day she was born, and it was expected that she would not live to second grade. He read a poem she had written and said that she had recently passed away on September 25th. She was truly larger than life and should be thought of when, for example, one loses their keys. He asked for 7.8 seconds of silence in remembrance of her.

Commissioner Pentaleri was pleased to see that the former Central Chevrolet now had a, hopefully, successful, new commercial use.

Commissioner Dorsey stated that she had reached out to the Superintendent regarding the special closed session on Saturday 29th to, hopefully, finish the agreement with the developers from Warm Springs. School had started and it was a testament to the people who want to raise their families and had planned for their children go to school in wonderful Fremont. During her first visit to the Planning Commission, **Chairperson Bonaccorsi** had stated that if you build it, they will come. "Well, they're building and they're still coming."

Meeting adjourned at 8:13 p.m.

SUBMITTED BY:



Alice Malotte
Recording Clerk

APPROVED BY:



Kristie Wheeler, Secretary
Planning Commission