



**MEETING OF THE  
FOSTER CITY PLANNING COMMISSION AND  
JOINT STUDY SESSION BETWEEN THE PLANNING COMMISSION  
AND PARKS AND RECREATION COMMITTEE**

**Council Chambers  
620 FOSTER CITY BOULEVARD, FOSTER CITY, CA 94404  
7:00 PM**

**Thursday, October 18, 2018**

**AGENDA**

**1 CALL TO ORDER - PLANNING COMMISSION MEETING**

**2 ROLL CALL**

Dan Dyckman, Chairman

Noemi Avram, Commissioner

Paul C. Williams, Commissioner

Oliver "Ollie" Pattum, Commissioner

Richard D. Wykoff, Commissioner

**3 COMMUNICATIONS FROM THE PUBLIC**

Under this agenda item, members of the public may bring items not already on the agenda. The Ralph M. Brown Act (the State local agency open meeting law) prohibits the Planning Commission from acting on any matter that is not on the agenda. Speakers are asked to fill out a "request to speak" card located on the table by the door and hand it to staff. Unless additional time is authorized by the Chair of the Planning Commission remarks should be limited to three minutes.

**4 CONSENT CALENDAR**

All matters listed under this item are considered to be routine by the Planning Commission and will be enacted by one motion in the form listed below. There will be no separate discussion of these items unless a citizen or a member of the Planning Commission so requests. If discussion is required, that item will be removed from the Consent Calendar and will be considered separately at the conclusion of the Consent Calendar. Vote may be by roll call.

**4.1. MINUTES OF SEPTEMBER 20, 2018 REGULAR MEETING**

**5 CONTINUED PUBLIC HEARING**

**6 NEW PUBLIC HEARING**

**6.1. PLANNING COMMISSION REVIEW FOSTER CITY MUNICIPAL CODE CHAPTER 17.58, ARCHITECTURAL CONTROL AND SUPERVISION, SECTION 17.58.020, IMPROVEMENTS SUBJECT TO ARCHITECTURAL REVIEW, SUBSECTION (C), IMPROVEMENTS WHICH ARE PROHIBITED.**

1. Open Public Hearing
2. Staff Report
3. Public Testimony
4. Close Public Hearing
5. Make a recommendation to the City Council whether or not to amend Chapter 17.58 of the Foster City Municipal Code

Project Planner: Curtis Banks, Community Development Director  
650-286-3229 or [cbanks@fostercity.org](mailto:cbanks@fostercity.org)

**7 OLD BUSINESS**

**8 NEW BUSINESS**

**9 STUDY SESSION - CONVENE JOINT STUDY SESSION WITH PARKS AND RECREATION COMMITTEE**

1. Roll Call for Parks and Recreation Committee

**9.1. UPDATE OF RECREATION CENTER MASTER PLAN**

1. Staff Report
2. Public Testimony
3. Discussion

Project Planner: Jennifer Liu, Parks & Recreation Director 650-286-3390 or [jliu@fostercity.org](mailto:jliu@fostercity.org)

**10 COMMUNITY DIRECTOR REPORT**

**11 STATEMENTS AND REQUESTS FROM THE COMMISSIONER**

**12 ADJOURNMENT**

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**NOTICES**

Legal notices were posted in accordance with State law at City Hall, 610 Foster City Blvd.; Foster City Public Library, 1000 E. Hillsdale Blvd.; Foster City Recreation Center, 650 Shell Blvd. (near the south building entrance); Metro Center Sign Kiosks (between 921 and 987 E. Hillsdale Blvd.); Sea Cloud Park, Pitcairn Drive (on the snack shack/restroom building); and on those properties about which a public hearing was held; and published in a newspaper of general circulation. Additionally, owners of property within 300 feet were mailed Notice of Public Hearing a minimum of ten (10) days in advance. Agendas for

Planning Commission Meetings are posted on cable television channel 27 and the City's web site ([www.fostercity.org](http://www.fostercity.org)) several days in advance of the meetings.

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## EVIDENCE

### Quasi-judicial Matters

California law requires that quasi-judicial matters be based on evidence. Applications before the Planning Commission involve matters that are quasi-judicial and therefore decisions must be supported by evidence.

### In General

All oral, written or pictorial evidence to be considered by the Planning Commission must be received prior to a decision being rendered by the Commission. Written, documentary, or pictorial evidence shall be collected and kept by the City for record purposes, and must be made available to an applicant, appellant or the public prior to a decision being rendered by the Commission. Evidence received or submitted during a public hearing or public meeting while an item is being discussed and evaluated by the Planning Commission shall be deemed to have met this requirement.

Evidence submitted for the record and for Planning Commission consideration may take the form of oral testimony, written information, documents, pictures, video tapes, audio tapes, and similar information. All evidence submitted must be of a length that is practicable for use by Commission members, and depending on its length and how it must be accessed or the need for special equipment in order to access it, must be received in a timely manner so as to afford the Commission and the public a reasonable opportunity to evaluate it and to allow an applicant, appellant and/or the public an opportunity to discuss, question and rebut it.

Any written material, correspondence or documents provided to a majority of the Planning Commission regarding any item on this agenda after the agenda packet was distributed will be made available for public inspection in the Community Development Department at City Hall located at 610 Foster City Blvd., Foster City, 94404, during normal business hours and at the meeting.

Information not admitted into the formal record shall not be used in rendering a decision.

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## APPEALS

All actions of the Planning Commission are appealable to the City Council *within ten (10) calendar days of the date the action was taken*. All appeals must be submitted in accordance with Section 17.06.150, Appeal Procedure, of Title 17 of the Foster City Municipal Code (copies available at City Hall). The required appeal fee as adopted by the City Council must accompany an appeal to the City Council of a decision of the Planning Commission or it will be considered incomplete.

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## MEETINGS

Unless otherwise scheduled, the Planning Commission meets in Study Session on the first and third Tuesdays of each month and conducts regular business and Public Hearings on the first and third Thursdays of each month.

Meetings begin at 7:00 p.m. and are held in the Council Chambers, 620 Foster City Boulevard.

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*Any attendee wishing special accommodations at the meeting should contact Becki Hanan, Management Coordinator, Community Development Department, at (650) 286-3225, or send an electronic mail request to [bhanan@fostercity.org](mailto:bhanan@fostercity.org) at least 48 hours in advance of the meeting or contact the staff at [planning@fostercity.org](mailto:planning@fostercity.org) per the Americans with Disabilities Act.*

**PLANNING COMMISSION AGENDAS AND MINUTES ARE POSTED ON LINE AT:  
[WWW.FOSTERCITY.ORG](http://WWW.FOSTERCITY.ORG)**

***Regular meetings replay on FCTV Channel 27 at 1:00 p.m. on Friday and 5:00 p.m. on Sunday, following the meeting.***

## **REGULAR MEETING OF THE FOSTER CITY PLANNING COMMISSION**

Council Chambers – 620 Foster City Boulevard -- Foster City

### **MINUTES**

**SEPTEMBER 20, 2018**

1. **CALL TO ORDER**

**At 7:00 p.m. by Dyckman**

2. **ROLL CALL**

**Present: Commissioners Avram, Pattum, Williams, Wykoff and Chair Dyckman**

**Staff Present: Curtis Banks, Community Development Director; Monica Ly, Assistant Planner; Marlene Subhashini, Planning Manager; Jennifer Liu, Parks and Recreation Director**

3. **COMMUNICATIONS FROM THE PUBLIC**

1. None

4. **CONSENT CALENDAR**

1. MINUTES OF SEPTEMBER 6, 2018 REGULAR MEETING

**ACTION:** Motion by Commissioner Avram, seconded by Commissioner Pattum to approve the Minutes of September 6, 2018 Regular Meeting, passed 4-0-0-1 (Williams)

5. **CONTINUED PUBLIC HEARING**

1. None

6. **NEW PUBLIC HEARING**

1. USE PERMIT REQUEST TO ALLOW THE ON-SITE SALE AND CONSUMPTION OF BEER AND WINE AT THE GUCKENHEIMER CATERING DEPARTMENT IN THE GILEAD BUILDINGS – 303 & 309 VELOCITY WAY – GILEAD SCIENCES INC. – APN: 094-122-140, APN: 094-122-050, APN: 094-122-060 – NEIGHBORHOOD 1 – UP2018-0046

Commissioner Williams recused himself for this item.

**ACTION:** Motion by Commissioner Pattum, seconded by Commissioner Avram to close public hearing, passed 4-0-1-0 (Williams)

**ACTION:** Motion by Commissioner Pattum, seconded by Commissioner Avram, to Adopt Resolution No. P-19-18, approving UP2018-0046, passed 4-0-1-0 (Williams)

2. PLANNING COMMISSION PUBLIC HEARING TO CONSIDER: 1) A TENTATIVE MAP APPROVAL FOR A LOT SPLIT OF AN EXISTING APPROXIMATELY 10,394 SQ. FT. LOT WITH AN EXISTING SINGLE FAMILY HOUSE IN THE ALDEN CROSSING

PLANNED DEVELOPMENT INTO TWO (2) LOTS OF 5,249 SQ. FT. AND 5,145 SQ. FT. EACH; AND 2) AN ARCHITECTURAL REVIEW APPROVAL TO CONSTRUCT A NEW TWO-STORY HOUSE OF 1,952 SQ. FT. FIRST STORY AND 1,007 SQ. FT. SECOND STORY ON THE NEW VACANT LOT – 390 BISCAYNE AVENUE – NEIGHBORHOOD 8 – DISTRESSED HOME SOLUTIONS, LLC – APN 094-950-380 – AR-16-057 AND RS-16-002

Commissioner Williams returned for this item.

ACTION: Motion by Commissioner Pattum, seconded by Commissioner Williams to close public hearing, passed 5-0-0-0

ACTION: Motion by Commissioner Williams, seconded by Commissioner Pattum, to Adopt Resolution No. P-20-18, approving RS-16-002, passed 5-0-0-0

ACTION: Motion by Commissioner Williams, seconded by Commissioner Pattum, to Adopt Resolution No. P-21-18, approving AR-16-057, passed 5-0-0-0

## 7. OLD BUSINESS

1. None

## 8. NEW BUSINESS

1. None

## 9. STUDY SESSION

### 1. UPDATE OF RECREATION CENTER MASTER PLAN

The Planning Commissioners had the following comments:

- Some Commissioners expressed an interest in more public participation in future Work Group/Project meetings.
- There was interest in the Recreation Center being visible to the community.
- Restaurants should not compete with Foster Square. Snack area ok, but full restaurant problematic.
- Food trucks should be accommodated.
- Commissioner Williams noted noise levels that he experienced during the site walk.
- Consider including traffic calming on Shell Boulevard into the overall plan so the community is encouraged to slow down and engage with the park.
- Sentiment that this new facility is the “Recreation Center” i.e. that name/brand was relevant for the new facility.
- Was moving tennis courts and basketball courts considered as part of this process?
- Area should be for the community as a whole not just for nearby residents.
- Is a two-story building being considered?

## 10. COMMUNITY DIRECTOR REPORT

1. None

11. STATEMENTS AND REQUESTS FROM THE COMMISSIONERS

1. Commissioner Wykoff will be absent on October 18, 2018 Regular Meeting.

12. ADJOURNMENT

Adjourned at 8:13 PM to a October 18, 2018 Regular Meeting, Council Chambers, 620 Foster City Boulevard, Foster City, California.

PASSED AND ADOPTED by the Planning Commission of the City of Foster City at a Regular Meeting thereof held on October 18, 2018 by the following vote:

AYES, COMMISSIONERS:

NOES, COMMISSIONERS:

ABSTAIN, COMMISSIONERS:

ABSENT, COMMISSIONERS:

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DAN DYCKMAN, CHAIRMAN

ATTEST:

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CURTIS BANKS, SECRETARY



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DATE: OCTOBER 18, 2018

## **STAFF REPORT**

AGENDA ITEM NO. 6.1

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TO: FOSTER CITY PLANNING COMMISSION

PREPARED BY: CURTIS BANKS, COMMUNITY DEVELOPMENT  
DIRECTOR  
JEAN SAVAREE, CITY ATTORNEY

CASE NO.: NA

OWNER: NA

PROJECT LOCATION: CITY WIDE

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### **REQUESTED ACTION/PURPOSE**

Review the Resolution of Intention approved by the Foster City City Council on October 1, 2018, and make a recommendation to the City Council whether the Foster City Municipal Code Chapter 17.58, Subsection 17.58.020(C)(2), should be amended to allow repainting/restaining of the interior side of fences/walls with murals, multi-colored patterns, or similar features, so long as those features are not visible to the general public.

### **RECOMMENDATION**

That the Planning Commission provide a recommendation to the City Council whether or not FCMC Section 17.58.020(C) should be amended.

### **BACKGROUND**

#### **Issue**

On September 17, 2018, at Councilmember Perez's request, the City Council agreed to consider whether or not to approve a Resolution of Intention directing the Planning Commission to review FCMC Section 17.58.020(C) and recommend whether or not it should be amended. On October 1, 2018, the City Council adopted a Resolution requesting review of the ordinance's provision regarding murals. (City Council Resolution No. 2018-91; Attachment 1)

During the City Council's discussion on October 1, 2018, Councilmember Perez indicated that he was requesting the City Council to adopt the Resolution of Intention because he had received requests from property owners to amend the ordinance so that property owners could install murals on their properties. Councilmember Perez indicated that he could support this request so long as the mural is painted on the interior of the property's fence/wall and that it was not visible to the general public. With

that limitation, the City Council approved the Resolution of Intention which is before the Planning Commission for it review and recommendation.

## **Chapter 17.58 Architectural Control and Supervision**

FCMC Chapter 17.58, Architectural Control and Supervision, (attached) was originally adopted in 1989. This Chapter of the Municipal Code was adopted to assist in “maintaining the high standards of architectural design that have distinguished Foster City as the first successful planned community in California.” (FCMC Section 17.58.010, Intent and Purpose) This Chapter established procedures and criteria for review of proposed structures, buildings, improvements, and modifications to real property which were deemed necessary in order to meet the following objectives:

1. To preserve the architectural character and scale of the neighborhoods and community;
2. To assure that development is well designed, in and of itself and in relation to surrounding properties, including that the height, facade length, roof form, colors, materials, and architectural details of a proposed building should be compatible with the height, facade length, roof form, colors, materials, and architectural details of buildings in the immediate vicinity;
3. To prevent the erection of structures, additions or alterations or other property improvements which significantly impact the privacy of adjacent properties; cause a significant diminution of sunlight to the interior of an adjacent building or to the exterior of adjacent properties; cause undue glare or noise impacts to adjacent properties; and significantly block or limit existing views from the interior and exterior of adjacent properties, and that individual rights are weighed against the needs and requirements of the community;
4. To assure that developments enhance their sites and are harmonious with the highest standards of improvements in the surrounding area;
5. To promote and protect the health, safety and general welfare of the city;
6. To preserve views of and from the lagoons and waterways which provide a visual connecting link for adjacent lots and developments;
7. To enhance the residential and business property values within the city and in neighborhoods surrounding new or modified development;
8. To assure that each new development is designed to best comply with the intent and purpose of the zone in which the property is located and with the general plan of the city;
9. To encourage the maintenance, repair, replacement or improvement of surrounding properties. (FCMC Section 17.58.010(B))

Section 17.58.020, Improvements Subject to Architectural Review, contains a detailed list of improvements which are subject to or exempt from architectural review. Architectural review must be completed prior to issuance of any building permit or construction of improvements listed in Section 17.58.020(A). Architectural review is conducted by either the Planning Commission or Community Development Director per Section 17.58.040. In order to approve an architectural design review application, the Planning Commission or Community Development Director is required to make the following findings:

- A. That the proposal is consistent with the Foster City general plan and Title 17, Zoning, and Chapter 2.28, Planning, of the Foster City Municipal Code.
- B. That the design of the proposal is appropriate to the city, the neighborhood and the lot in which it is proposed.
- C. That the design of the proposal is compatible with its environment with respect to use, forms, materials, colors, setbacks, location, height, design, or similar qualities as specified in Section 17.58.010. (FCMC Section 17.58.050, Findings Required)

If an applicant's property is also subject to deed restrictions or private covenants, codes, and restrictions (CC&R's), the applicant is required to obtain any approvals required by those documents and present that approval to the Planning Commission or Community Development Director as part of the architectural design review application. (FCMC Section 17.58.070, Special Provisions)

Decisions made by the Planning Commission or Community Development Director on architectural design review applications may be appealed. (FCMC Section 17.58.040, Architectural Review Procedures)

While the above-referenced code sections reference items subject to or exempt from architectural review, Section 17.58.020(C) addresses improvements which are prohibited in Foster City. It is this section of Chapter 17.58 which the Planning Commission is asked to now consider. FCMC Section 17.58.020(C) prohibits:

1. Repainting or restaining which uses a bright pastel, fluorescent, or a primary color or a color out of character with existing colors used in the neighborhood;
2. Repainting or restaining which uses murals, multi-colored patterns, or similar features

### ***Public Noticing***

In order to inform the most immediately affected property owners, the neighborhood and the general public, the Public Hearing was noticed in the following ways:

- Published in the Islander on October 3, 2018
- Displayed on FCTV/Channel 27 on October 4, 2018 to October 18, 2018
- A Public Notice was mailed to neighbors on Sailfish Isle (south of Cod Street) on October 4, 2018
- Posted on the Foster City website at [www.fostercity.org](http://www.fostercity.org) on September 28, 2018
- Posted on-site and at all of the City's official posting locations on September 27, 2018

### **ANALYSIS**

The City Council has requested that the Planning Commission review the prohibition in Section 17.58.020(C)(2) and determine whether or not this subsection should be amended to allow for installation of murals, multi-colored patterns, or similar features on the interior side of fences/walls, so long as those features are not visible to the general public.

As noted above, the Resolution of Intention was introduced for discussion by the City Council based on requests made to Councilmember Perez. One of these requests was made by the owners of a property with a mural that has been a subject of code enforcement. In 2009, the City received a complaint about a mural at 309 Sailfish Isle. The mural is on the side yard fence and visible from the sidewalk. The property owners resolved the code enforcement by covering the mural with wood. In May 2016, the property owner sent a letter to Councilmember Perez asking that the issue be revisited. In August of 2016, a new complaint was filed that the mural was uncovered. In November of 2016, the property owner again covered the mural. Until brought up by Councilmember Perez in September, the issue had not been discussed by the City Council. The mural remains covered. Attached is the letter dated May 7, 2016 from Salim and Salwa Bastshon to then Mayor Perez along with pictures of the mural.

As mentioned above, this Chapter of the Municipal Code was adopted to assist in maintaining the high standards of architectural design that have distinguished Foster City as a Planning Community. If this provision is modified to allow for painting of murals on walls and fences, the City Attorney has indicated that the City could not regulate the content displayed by homeowners in their murals.

The City Council's Resolution of Intention requests that the Planning Commission address the following question:

- 1 Should Foster City Municipal Code Chapter 17.58, Subsection 17.58.020(C)(2), be amended to allow repainting/restoring of the interior side of fences/walls with murals, multi-colored patterns, or similar features, so long as those features are not visible to the general public?

As the Planning Commission takes public input and formulates its recommendation, staff asks that the Planning Commission consider the following questions:

1. Does visible to the general public mean visible from the sidewalk, public street, or lagoon?
2. If the mural was visible from the second story of another property, would that be acceptable?
3. If permitted, should murals be allowed on the entire length and height of a fence, or just a portion?

## **NEXT STEPS**

If the report from the Planning Commission recommends modification to FCMC Subsection 17.58.020(C), the City Council would be required to hold a public hearing and, within sixty (60) days, "approve, modify or disapprove the recommendation of the Planning Commission." (FCMC Section 17.74.070)

## **INDIVIDUALS, ORGANIZATIONS, AND DOCUMENTS CONSULTED**

Foster City General Plan and Municipal Code  
City Attorney

## ATTACHMENTS

Resolution No. 2018-91

Staff Report prepared for October 1, 2018 City Council Meeting

Chapter 17.58, Architectural Control and Supervision of the Foster City Municipal Code

Letter from Salim and Salwa Batshon dated May 7, 2016

Pictures from 309 Sailfish Isle

RESOLUTION NO. 2018-91

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FOSTER CITY APPROVING A RESOLUTION OF INTENTION PER FOSTER CITY MUNICIPAL CODE SECTION 17.74.030 REQUESTING THAT THE PLANNING COMMISSION REVIEW FOSTER CITY MUNICIPAL CODE CHAPTER 17.58, ARCHITECTURAL CONTROL AND SUPERVISION, SECTION 17.58.020, IMPROVEMENTS SUBJECT TO ARCHITECTURAL REVIEW, SUBSECTION (C), IMPROVEMENTS WHICH ARE PROHIBITED

CITY OF FOSTER CITY

WHEREAS, on September 17, 2018, the Foster City City Council agreed to consider a request by Councilmember Perez to determine if there is City Council interest in adopting a resolution of intention, as required by Foster City Municipal Code Section 17.74.030, to initiate an amendment of Foster City Municipal Code Chapter 17.58, Architectural Control and Supervision, Section 17.58.020, Improvements Subject to Architectural Review, Subsection 17.58.020(C), Improvements Which Are Prohibited; and

WHEREAS, Foster City Municipal Code Section 17.74.030 requires the Council to adopt a Resolution of Intention in order to commence review of Foster City Municipal Code Chapter 17.58, Subsection 17.58.020(C) and to refer the matter to the Foster City Planning Commission; and

WHEREAS, after receiving public comment on October 1, 2018, the City Council finds that there is good cause to initiate a review of Foster City Municipal Code Chapter 17.58, Subsection 17.58.020(C).

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Foster City hereby adopts this Resolution of Intention pursuant to Foster City Municipal Code Section 17.74.030.

BE IT FURTHER RESOLVED that the City Council directs the Planning Commission, within 45 days of receipt of this Resolution, to set a date for public hearing as required by Foster City Municipal Code Section 17.74.040.

At the public hearing, the Planning Commission is instructed to review Foster City Municipal Code Chapter 17.58, Subsection 17.58.020(C), and determine whether or not the Planning Commission would recommend amendments to this Subsection of the City's Zoning Ordinance for City Council consideration. During the public hearing, the City Council requests that the Planning Commission consider the following question:

1. Should Foster City Municipal Code Chapter 17.58, Subsection 17.58.020(C)(2), be amended to allow repainting/restaining of the interior side of fences/walls with murals, multi-colored patterns, or similar features, so long as those features are not visible to the general public?

BE IT FURTHER RESOLVED that after the public hearing process is concluded, the Planning Commission is directed, within 45 days, to make a written report of its findings and recommendations to the City Council as required by Foster City Municipal Code Section 17.74.060. The report should contain a list of persons who testified at the hearings, a summary of the facts addressed at the hearings and copies of any documents submitted, along with the Planning Commission's findings and recommendations.

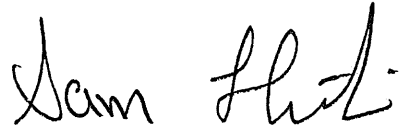
PASSED AND ADOPTED as a resolution of the City Council of the City of Foster City at the regular meeting held on the 1st day of October, 2018, by the following vote:

AYES: Councilmembers Bronitsky, Perez, Pollard and Mayor Hindi

NOES: None

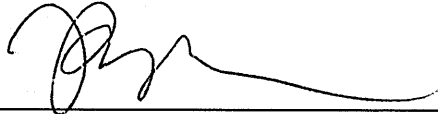
ABSENT: Councilmember Mahanpour

ABSTAIN: None



SAM HINDI, MAYOR

ATTEST:



PRISCILLA TAM, CITY CLERK



DATE: October 1, 2018

TO: Mayor and Members of the City Council

VIA: Jeff Moneda, City Manager

FROM: Jean Savaree, City Attorney

SUBJECT: CITY COUNCIL RESOLUTION OF INTENTION PER FOSTER CITY MUNICIPAL CODE SECTION 17.74.030 REQUESTING THAT THE PLANNING COMMISSION REVIEW FOSTER CITY MUNICIPAL CODE CHAPTER 17.58, ARCHITECTURAL CONTROL AND SUPERVISION, SECTION 17.58.020, IMPROVEMENTS SUBJECT TO ARCHITECTURAL REVIEW, SUBSECTION (C), IMPROVEMENTS WHICH ARE PROHIBITED

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### RECOMMENDATION

Staff requests that the City Council determine whether or not it wishes to adopt a resolution of intention to initiate consideration of a zoning ordinance modification of Foster City Municipal Code (FCMC) Chapter 17.58, Architectural Control and Supervision, Section 17.58.020, Improvements Subject to Architectural Review, Subsection (C), Improvements Which Are Prohibited, as provided for in FCMC Section 17.74.030.

### EXECUTIVE SUMMARY

On September 17, 2018, at Councilmember Herb Perez's request, the City Council agreed to consider directing the Planning Commission to review FCMC Section 17.58.020(C) and recommend whether or not it should be amended.

This report summarizes Chapter 17.58, the current language found in Subsection 17.58.020(C), and attaches a proposed resolution of intention for the City Council's consideration.



## BACKGROUND

FCCM Chapter 17.58, Architectural Control and Supervision, was originally adopted in 1989 (See Attachment 2). This Chapter of the Municipal Code was adopted to assist in “maintaining the high standards of architectural design that have distinguished Foster City as the first successful planned community in California.” (FCCM Section 17.58.010, Intent and Purpose) This Chapter established procedures and criteria for review of proposed structures, buildings, improvements, and modifications to real property which were deemed necessary in order to meet the following objectives:

1. To preserve the architectural character and scale of the neighborhoods and community;
2. To assure that development is well designed, in and of itself and in relation to surrounding properties, including that the height, facade length, roof form, colors, materials, and architectural details of a proposed building should be compatible with the height, facade length, roof form, colors, materials, and architectural details of buildings in the immediate vicinity;
3. To prevent the erection of structures, additions or alterations or other property improvements which significantly impact the privacy of adjacent properties; cause a significant diminution of sunlight to the interior of an adjacent building or to the exterior of adjacent properties; cause undue glare or noise impacts to adjacent properties; and significantly block or limit existing views from the interior and exterior of adjacent properties, and that individual rights are weighed against the needs and requirements of the community;
4. To assure that developments enhance their sites and are harmonious with the highest standards of improvements in the surrounding area;
5. To promote and protect the health, safety and general welfare of the city;
6. To preserve views of and from the lagoons and waterways which provide a visual connecting link for adjacent lots and developments;
7. To enhance the residential and business property values within the city and in neighborhoods surrounding new or modified development;
8. To assure that each new development is designed to best comply with the intent and purpose of the zone in which the property is located and with the general plan of the city;
9. To encourage the maintenance, repair, replacement or improvement of

surrounding properties. (FCMC Section 17.58.010(B))

Section 17.58.020, Improvements Subject to Architectural Review, contains a detailed list of improvements which are subject to or exempt from architectural review. Architectural review must be completed prior to issuance of any building permit or construction of improvements listed in Section 17.58.020(A). Architectural review is conducted by either the Planning Commission or Community Development Director per Section 17.58.040. In order to approve an architectural design review application, the Planning Commission or Community Development Director is required to make the following findings:

- A. That the proposal is consistent with the Foster City general plan and Title 17, Zoning, and Chapter 2.28, Planning, of the Foster City Municipal Code.
- B. That the design of the proposal is appropriate to the city, the neighborhood and the lot in which it is proposed.
- C. That the design of the proposal is compatible with its environment with respect to use, forms, materials, colors, setbacks, location, height, design, or similar qualities as specified in Section 17.58.010. (FCMC Section 17.58.050, Findings Required)

If an applicant's property is also subject to deed restrictions or private covenants, codes, and restrictions (CC&R's), the applicant is required to obtain any approvals required by those documents and present that approval to the Planning Commission or Community Development Director as part of the architectural design review application. (FCMC Section 17.58.070, Special Provisions)

Decisions made by the Planning Commission or Community Development Director on architectural design review applications may be appealed. (FCMC Section 17.58.040, Architectural Review Procedures)

While the above-referenced code sections reference items subject to or exempt from architectural review, Section 17.58.020(C) addresses improvements which are prohibited in Foster City. It is this section of Chapter 17.58 which the City Council is asked to now consider. FCMC Section 17.58.020(C) prohibits:

1. Repainting or restaining which uses a bright pastel, fluorescent, or a primary color or a color out of character with existing colors used in the neighborhood;
2. Repainting or restaining which uses murals, multi-colored patterns, or similar features.

## ANALYSIS

Councilmember Perez requests that the City Council direct the Planning Commission to review the prohibition in Section 17.58.020(C)(2) and determine whether or not this subsection should be amended to allow for installation of murals, multi-colored patterns, or similar features on the interior side of fences/walls, so long as those features are not visible to the general public.

If the City Council wishes to consider this modification to Chapter 17.58, Subsection 17.58.020(C), it may initiate the process by filing with the Planning Commission a resolution of intention to do so. (FCMC Section 17.74.030) A resolution of intention is attached for the City Council's consideration (See Attachment 1).

If approved, the resolution would be transmitted to the Planning Commission which would be required to hold a public hearing on the resolution within forty-five (45) days. (FCMC Section 17.74.040) After public hearing, the Planning Commission would be required to make a report of its recommendations and reasons therefore to the City Council. The report must contain a list of persons who testified at the hearing, a summary of the facts adduced at the hearing, and copies of any maps or data and/or documentary evidence submitted in connection with the proposed amendment. A copy of the recommendation would then be transmitted to the City Council within forty-five (45) days after the notice of hearing; provided however, that such time could be extended with the consent of the City Council.

If the report from the Planning Commission recommends modification to FCMC Subsection 17.58.020(C), the City Council would be required to hold a public hearing and, within sixty (60) days, "approve, modify or disapprove the recommendation of the Planning Commission." (FCMC Section 17.74.070)

## SUMMARY

If the City Council wishes to consider modifications to FCMC Section 17.58.020(C), it may do so by adopting the attached resolution of intention (Attachment 1). If the City Council wishes to provide additional direction on the resolution, it may do so prior to approving the resolution. Once adopted, the resolution would be referred to the Planning Commission for its review and report back to the City Council per FCMC Section 17.74.060.

If the City Council does not wish to initiate this process, no further action is required.

Attachments:

- Attachment 1 - Resolution
- Attachment 2 - Chapter 17.58, Architectural Control and Supervision, of the City of Foster City Municipal Code

## Chapter 17.58 ARCHITECTURAL CONTROL AND SUPERVISION

### Sections:

- [17.58.010](#) Intent and purpose.
- [17.58.020](#) Improvements subject to architectural review.
- [17.58.030](#) Architectural review approval required prior to construction or improvement.
- [17.58.040](#) Architectural review procedures.
- [17.58.050](#) Findings required.
- [17.58.060](#) Architectural guidelines adopted by resolution.
- [17.58.070](#) Special provisions.

### **17.58.010 Intent and purpose.**

A. It is the intent of the city council in enacting this chapter to protect the health, safety, and general welfare of the city by maintaining the high standards of architectural design that have distinguished Foster City as the first successful planned community created in California.

B. This chapter establishes procedures and criteria for review of proposed structures, buildings, and improvements to real property and modifications to such which are necessary in order to meet the following objectives:

1. To preserve the architectural character and scale of the neighborhoods and community;
2. To assure that development is well designed, in and of itself and in relation to surrounding properties, including that the height, facade length, roof form, colors, materials, and architectural details of a proposed building should be compatible with the height, facade length, roof form, colors, materials, and architectural details of buildings in the immediate vicinity;
3. To prevent the erection of structures, additions or alterations or other property improvements which significantly impact the privacy of adjacent properties; cause a significant diminution of sunlight to the interior of an adjacent building or to the exterior of adjacent properties; cause undue glare or noise impacts to adjacent properties; and significantly block or limit existing views from the interior and exterior of adjacent properties, and that individual rights are weighed against the needs and requirements of the community;
4. To assure that developments enhance their sites and are harmonious with the highest standards of improvements in the surrounding area;
5. To promote and protect the health, safety and general welfare of the city;
6. To preserve views of and from the lagoons and waterways which provide a visual connecting link for adjacent lots and developments;
7. To enhance the residential and business property values within the city and in neighborhoods surrounding new or modified development;
8. To assure that each new development is designed to best comply with the intent and purpose of the zone in which the property is located and with the general plan of the city;
9. To encourage the maintenance, repair, replacement or improvement of surrounding properties. (Ord. 371 § 24 (part), 1989)

### **17.58.020 Improvements subject to architectural review.**

A. Each improvement as defined in Section [17.04.265](#) which is not otherwise declared exempt below shall be subject to architectural review as provided in this chapter. Improvements subject to architectural review include:

1. New buildings, structures or additions to existing structures;
2. Modifications to the exterior of a structure, including, but not limited to, the addition of windows, the introduction of bay or bow windows or new/unapproved window shapes or materials (such as glass block), doors, rooftop equipment, roof material or color, nontubular skylights, solar panels or loading docks;
3. Addition of paved area to a front yard including asphalt, cement and brick except for walkways;
4. Decks above grade at any point (except as exempted below), gazebos, patio covers, trellises, windscreens and similar improvements;
5. Exterior storage of recreational vehicles, recreational vehicle equipment, boats, boat trailers, campers and camper shells pursuant to Chapter [17.64](#);
6. Flagpoles more than fifteen feet in height in an "R" district or more than twenty-five feet in height in a "C" or "M" district or in multi-family common areas;
7. All improvements which the community development director deems similar to those listed above;
8. Elimination of the setback requirement between a spa or hot tub and a common area property line in the RT/PD, C-2/PD, or R-3/PD districts upon securing architectural review approval by the planning commission in each planned development;
9. Children's play structures not otherwise exempt pursuant to subsection (B)(20) of this section. These structures shall be reviewed for location, height, size, colors, materials and impact on neighboring properties.

B. Improvements Exempt from Architectural Review. The following improvements shall be exempt from architectural review:

1. Modifications to the interior of a structure;
2. Repainting or restaining of buildings or structures on properties in R districts, which are not in a PD (planned development) district, provided the new color is not bright pastel, fluorescent or a primary color, or out of character with the existing colors used in the neighborhood;
3. Repainting or restaining of buildings or structures on properties in C-U, C-I, C-2, C-M, M-I, PF, OSC or any PD (planned development) district, provided the new color is within the project color palette previously approved by the city with the specific development plan for the project. However, within projects zoned R1/PD, adjacent properties which front on the same street shall not use the same color scheme;
4. Exterior landscaping of single-family detached homes unless required as a condition of approval of use permit or architectural review;
5. Replacement of landscape materials with the same species of plant;
6. Replacement of portions of the exterior of structures or improvements using materials of the same size, type and color;
7. Maintenance which does not involve replacement of any parts;
8. Improvements which are otherwise subject to use permit;

9. Storage sheds and other accessory structures lower than the fence line in a side or rear yard, except that storage sheds on waterfront property which are visible from public waterways shall require an architectural review by the community development director;
  10. Decks less than eighteen inches above grade at any point which are also a minimum of five feet from any property line;
  11. Flagpoles which are fifteen feet or less in height in an R district or less than twenty-five feet in height in a C or M district or in multifamily common areas;
  12. Modifications (frame materials, muntins (grids) or other similar minor modifications as determined by the community development director) to existing windows and doors;
  13. Replacement of existing first story rear or side yard windows with garden or greenhouse style windows;
  14. Replacement of existing doors, including garage doors;
  15. Fences on nonwaterfront property which do not face a public right-of-way;
  16. New windows three square feet or less in size located on the first floor on a nonwaterfront property, not in a planned development (PD) district, and not facing a public right-of-way;
  17. Exterior spas, hot tubs or swimming pools, whether portable, temporary or permanent, that comply with the requirements of Chapter [17.66](#), including but not limited to setbacks of the spa, hot tub, or swimming pool and associated equipment;
  18. Replacement of exterior siding in the R-1 district with stucco, wood, wood shingle, vinyl or fiber cement siding, except that changes of siding on Eichlerstyle houses as determined by the community development director shall require an architectural review permit;
  19. Tubular style skylights;
  20. Children's play structures located in a side or rear yard, with a maximum height of eight feet, set back a minimum of five feet from any property line and located behind a minimum five-foot-tall fence with no electrical outlets or lights;
  21. Basketball standards or similar equipment as determined by the community development director.
- C. Improvements Which Are Prohibited. The following types of improvements are prohibited:
1. Repainting or restaining which uses a bright pastel, fluorescent, or a primary color or a color out of character with existing colors used in the neighborhood;
  2. Repainting or restaining which uses murals, multi-colored patterns, or similar features. (Ord. 589 § 1 (part), 2014; Ord. 515 § 2 Exh. A (part), 2005; Ord. 507 § 2 Exh. A (part), 2003; Ord. 437 § 1, 1997; Ord. 433 § 1 (part), 1996; Ord. 391 § 1 Exh. A (part), 1992; Ord. 371 § 24 (part), 1989)

#### **17.58.030 Architectural review approval required prior to construction or improvement.**

- A. Prior to the issuance of any building permit or construction of any improvement for any of the items listed in Section [17.58.020](#)(A), architectural review approval shall be obtained as required by this chapter. (Ord. 371 § 24 (part), 1989)

#### **17.58.040 Architectural review procedures.**

A. Application. To obtain architectural review approval, an application accompanied by plans, supporting information and an application fee as established by city council resolution must first be submitted to the city. The required content of the application, supporting information and plans shall be as determined by the community development director. The supporting information shall include evidence that the applicant provided the adjacent property owners an opportunity to review the proposed plans and mail in their comments either in the form of a signed statement from the adjacent property owners or a certified mail receipt.

B. Review for Completeness. Within thirty days of submittal of the application the community development director or his/her designee shall determine if the application is complete.

C. Decision.

1. Planning Commission Review. The planning commission shall either approve, approve with conditions or deny the application in accordance with the provisions of this chapter and any other applicable requirements of federal, state or local law for all architectural review applications pertaining to:

a. Major improvements on properties in any district, including but not limited to the following improvements to property in R districts:

i. Room additions on waterfront property which the community development director cannot approve pursuant to subsection (C)(2) of this section;

ii. Second-floor room additions on nonwaterfront property which the community development director cannot approve pursuant to subsection (C)(2) of this section;

iii. Substantial changes or additions to waterfront decks that in the opinion of the community development director might significantly impact neighbors' waterfront views; or

iv. Any improvement deemed by the community development director to be similar in nature.

b. On waterfront properties, room additions reviewed by the planning commission shall be subject to a use permit approved by the planning commission.

c. In districts other than R districts, the planning commission shall review modifications which result in an increase in floor area or a substantial change in the appearance of the building as determined by the community development director, including but not limited to use of lighting to outline features of a building, or any other item as determined by the community development director.

d. The planning commission shall review proposed changes to shopping center building colors in a legally noticed public hearing for the following neighborhood business or commercial mix districts: Charter Square Shopping Center/APN 094-473-010, 094-473-020 and 094-473-030; Beach Park Plaza Shopping Center/APN 094-261-330 and 094-261-270; The Market Place at Metro Center/APN 094-522-190; Edgewater Place Shopping Center/APN 094-541-070 and Marlin Cove Shopping Center/APN 094-330-150.

2. Community Development Director Review. For all architectural review applications other than those requiring planning commission action pursuant to subsection (C)(1) of this section, the community development director shall either approve, approve with conditions or deny the application in accordance with the provisions of this chapter and any other applicable requirements of federal, state or local law within ten days from the date the application was deemed complete unless a time extension is granted by the applicant. The community development director may refer the application to the planning commission for comment or final action. The community development director shall review:



- a. Room additions on the waterfront side of waterfront property that are less than two hundred square feet in area on the first floor only.
  - b. Greenhouse/solariums on waterfront and non-waterfront properties.
  - c. The community development director shall review all room additions on nonwaterfront property and the nonwaterfront side of waterfront properties except second-floor additions that exceed four hundred square feet or are visible from the waterfront.
  - d. The community development director shall also review changes in windows and doors, addition of detached accessory buildings, fences, rooftop equipment, minor changes or additions to waterfront decks that in the opinion of the community development director will not significantly impact neighbors' waterfront views.
  - e. Changes in building and roofing material in all districts not otherwise exempt from review.
  - f. Other minor exterior changes and building color changes in all zoning districts not otherwise exempt from review with the exception of shopping center building colors in the following neighborhood business or commercial mix districts: Charter Square Shopping Center/APN 094-473-010, 094-473-020 and 094-473-030; Beach Park Plaza Shopping Center/APN 094-261-330 and 094-261-270; The Market Place at Metro Center/APN 094-522-190; Edgewater Place Shopping Center/APN 094-541 070 and Marlin Cove Shopping Center/APN 094330-150.
- D. Notice of Decision. Written notice of the decision shall be provided to the applicant and owner within five calendar days after the decision is rendered. In the case of decisions rendered by the community development director, written notice of the decision shall also be provided to the planning commission within five calendar days after the decision is rendered.
- E. Decision Not Effective Until Permittee Acknowledges Acceptance of Any Conditions. Any architectural review decisions shall not be effective until the permittee acknowledges acceptance of any conditions of approval and any appeal period has lapsed or if there is an appeal until a final decision has been made on the appeal.
- F. Appeals. The appeal period as prescribed in Section [17.06.140](#) shall begin on the date the notice of decision was issued. Any decision on an architectural review application shall not be effective until the appeal period prescribed in Section [17.06.140](#) has lapsed or, if there is an appeal, until a final decision has been made on the appeal or upon the preparation of a notice of decision if the appeal period is waived pursuant to this section. The appeal period may be waived by the community development director if all abutting property owners have submitted signed statements waiving their rights to file an appeal. (Ord. 551 § 1, 2009; Ord. 522 § 2 Exh. A, 2005; Ord. 507 § 2 Exh. A (part), 2003; Ord. 484 § 1, 2001; Ord. 465 § 1, 1999; Ord. 453 § 1, 1998; Ord. 433 § 1 (part), 1996; Ord. 371 § 24 (part), 1989)

#### **17.58.050 Findings required.**

Prior to approving an application for architectural review, the following findings must be made by the approving body:

- A. That the proposal is consistent with the Foster City general plan and Title [17](#), Zoning, and Chapter [2.28](#), Planning, of the Foster City Municipal Code.
- B. That the design of the proposal is appropriate to the city, the neighborhood and the lot in which it is proposed.

C. That the design of the proposal is compatible with its environment with respect to use, forms, materials, colors, setbacks, location, height, design, or similar qualities as specified in Section [17.58.010](#). (Ord. 371 § 24 (part), 1989)

#### **17.58.060 Architectural guidelines adopted by resolution.**

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A. The planning commission may, by resolution, approve or authorize the community development director to approve architectural guidelines for specific developments or specific types of development which are consistent with the intent and purpose of this chapter.

B. Architectural guidelines may include regulations for property improvements which are different than are contained elsewhere in Title [17](#), Zoning, and where they differ, such guidelines shall supersede the provisions of this title. For items not specifically mentioned in such guidelines, the provisions of this title shall otherwise apply. (Ord. 406 § 1, 2, 1994: Ord. 371 § 24 (part), 1989)

#### **17.58.070 Special provisions.**

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A. Private Architectural Review. Where deed restrictions or private property covenants, codes, and restrictions require review by a private architectural board, committee, or Homeowners' Association, the review shall be accomplished by the applicant and the findings of the board or committee shall be transmitted in writing to the city prior to city action. Application to the board and transmission of its findings shall be the responsibility of the applicant, not the city. (Ord. 371 § 24 (part), 1989)

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#### **The Foster City Municipal Code is current through Ordinance 617, passed August 20, 2018.**

Disclaimer: The City Clerk's Office has the official version of the Foster City Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

**SALIM BATSHON**  
**SALWA BATSHON**

309 Sallfish Isle | 650-333-1472 | salimbatshon@gmail.com

**RECEIVED**  
JUN 21 2016  
**CITY MANAGER**

**5/7/2016**

Attention Mayor Herb Perez and the City of Foster City

**Dear Mayor Herb Perez**

A few years ago we contracted a world renowned artist to paint a historic depiction of some of the most beautiful scenes in early 20th century Mediterranean culture and community. The paintings were created on the inner wood fence of our outdoor sitting area and were meant to depict the importance of what community stands for. With scenes depicting neighbors socially interacting, enjoying food and coffee in the city center with gorgeous views of the Mediterranean sea.

Much like our beloved seaside community in Foster City the paintings were a daily reminder for our family to appreciate the small community ideals that make Foster City and our former homeland parallel in values, culture and diversity.

A few days after the paintings were completed, a neighbor of ours complained to the city that these paintings were illegal and law enforcement succumbed to her demands and we were forced to shutter the paintings. Even though they were on our own private property and met the respectful rights of the 1st amendment.

Years have now passed and I am constantly thinking about those positive paintings and how my young grandchildren who visit me daily will never see them. Not only were thousands of dollars spent to paint them, I am burdened with the thought of never exposing those beautiful scenes to my family.

Mayor Perez, I am writing you today to ask of you kindly to please re-consider the cities position of making us shutter the paintings and for you to come and view them yourself and

hopefully appreciate the art, diversity and community values it brings to our family. Please don't hesitate to contact me anytime to discuss.

Sincerely,

A handwritten signature in black ink, appearing to be 'SLB' with a horizontal line through the middle.

**Salim and Salwa Batshon & Family**





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# JOINT STUDY SESSION

## STAFF REPORT

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DATE:  
October 18, 2018

AGENDA ITEM NO. 9.1

TO: FOSTER CITY PLANNING COMMISSION AND PARKS AND RECREATION COMMITTEE

PREPARED BY: JENNIFER L. LIU, PARKS AND RECREATION DIRECTOR

OWNER: CITY OF FOSTER CITY

PROJECT LOCATION: RECREATION CENTER, 650 SHELL BOULEVARD

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### **REQUESTED ACTION/PURPOSE**

The purpose of this item is for the Planning Commission and Parks and Recreation Committee to receive an overview of the preliminary Conceptual Design Plans for the Recreation Center Master Plan Project CIP 301-678 that will be presented to the City Council at its meeting on October 29, 2018.

### **BACKGROUND**

The Recreation Center opened to the public in 1974. Due to its location as a central amenity in Foster City's "crown jewel" Leo J. Ryan Park, the William E. Walker Recreation Center is a hub of activity in the Foster City community. The current need for significant structural upgrades to this aging facility has dictated the timing for a conversation about achieving the best and highest use of the Recreation Center facility and its surrounding park amenities.

At this time, the City Council is considering facility replacement versus repair options. To inform this decision, in April 2018 the City entered into an agreement with Burks Toma Architects to provide Conceptual Design Services for replacement of the Recreation Center facility and its integration with the surrounding park. The agreement Scope of Work included ten (10) deliverables. On Monday, September 17, 2018, BTA and the Parks and Recreation Department reported out to the City Council regarding the first four (4) deliverables, which encompassed the predesign phase, and provided a similar update to the Planning Commission at its meeting on September 20, 2018. The Parks and Recreation Committee received periodic updates regarding the progress of the project since the public outreach began in 2016 and monthly since the Capital Improvement Project was approved by the City Council in December 2017.

### **ANALYSIS**

Based upon the information gathered from the public input process and the development of the pre-design reports, three Conceptual Design alternatives have been prepared. This is a major milestone in the project timeline as it provides a "first look" at how the Recreation Facility may someday integrate into and contribute to the Foster City community. The Conceptual Design Alternatives are the precursor to the final Conceptual Design Plans currently under development by the City's consultant, Burks Toma Architects.

At this meeting, Burks Toma Architects will present preliminary versions of its three conceptual design alternatives, which have been developed based upon public and City Council input and pre-design data and related findings. On October 29, 2018, the City Council will review the three alternatives that will eventually be incorporated into the final Conceptual Design that becomes a guiding vision for the project.

## **NEXT STEPS**

Upcoming Public Meetings:

October 29, 2018:

- Special City Council Meeting to present 3 preferred alternatives

November 26, 2018

- Special City Council Meeting to review final conceptual design alternatives, cost, and fiscal analysis