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>> Commissioner Cahan: Good evening. My name is Hope Cahan, and I am the chair of the Planning Commission. On behalf of the entire Planning Commission, I would like to welcome you to the Planning Commission public hearing of Wednesday, May 23, 2012. Please remember to turn off your cell phones. Parking ticket validation machine for the garage under City Hall is located at the rear of the chambers. If you want to address the commission, fill out a speaker card located on the table by the door on the parking ticket validation table at the back, and at the bottom of the stairs near the audiovisual technician. Deposit the completed card in the basket near the planning technician. Please include the agenda item number, not the file number, for reference. For example, 4A, not PD 06-023. The procedure for this hearing is as follows: After the staff report, applicants and appellants may make a five-minute presentation. The chair will call out names on submitted speaker cards in the order received. As your name is called, line up in front of the microphone at front of the chambers. Each speaker will have two minutes. After the public testimony, the applicant and appellant may make closing remarks for an additional five minutes. Planning Commissioners may ask questions for speakers. And response to commissioners' questions will not reduce the speaker's time allowance. The public hearing will then be closed, and the Planning Commission will take action on the item. The planning Commission may request staff to respond to public testimony, ask staff questions, and discuss the item. If you challenge these land use decisions in court, you may be limited to raising only those issues you or someone else raised at this public hearing or in written correspondence delivered to the city, at, or prior to, the public hearing. The Planning Commission's actions on rezoning, prezonings, general plan amendments and code amendments is only advisory to City Council. The City Council will hold public hearings on these items. Let the record show that all the commissioners are present except Commissioner Bit-Badal and Commissioner Kline and Commissioner Platten. Deferrals. I see none. Staff, do we have any changes to that?

>> There are no deferral items tonight.

>> Commissioner Cahan: Thank you. And consent calendar, staff.

>> Thank you. There are two items on the consent calendar tonight. Both are conditional use permits, the first one, item CP 12-005 is a conditional use permit to allow a performing arts rehearsal use in an industrial park

zoning district. The second item 2B is a conditional use permit to allow a secondary school and offsite parking arrangement within an adjacent property in the IP industrial park zoning district, both are exempt from CEQA and staff is recommending approval of both.

>> Commissioner Cahan: Thank you. I will entertain a motion on consent. (inaudible).

>> Second.

>> Commissioner Cahan: We have a motion to approve and a second, all in favor? Opposed, abstaining? We move on to public hearing, one item on that, staff.

>> Thank you, Madam Chair. This is a planned development rezoning from the R-1-2 single-family residence zoning district to the R-1-2 PD, planned development district to allow development for up to four single-family detached dwelling units on approximately 1.035 gross acres located on the south side of Barnes Lane, approximately 650 feet westerly of Almaden Road. Planning staff recommends that the Planning Commission find the project in conformance with CEQA and recommend to the city council approval of the proposed planned development zoning for the following reasons. The project is consistent with the envision San José 2040 general plan, the envision plan states that for a period of up to eight months following the adoption of the date of the envision 2040 plan, per implementation policy IP-1-9 that allows planned development zonings and development permits to be considered in conformance with the general plan if the project is for four or fewer residential units and on sites proposed with the residential general plan designation. A mitigated negative declaration was prepared and circulated in conformance with this -- or mitigated negative declaration was prepared and circulated in conformance with CEQA and there's no substantial evidence that the project will have significant effect on the environment. So the project is also consistent with the single-family design guidelines and proposes a grading plan that properly respects the development on adjacent properties. And just for clarification, I think I may have misspoke, with respect to the envision 2040, it's for a period of 18 months following the adoption of general plan that projects such as this can be considered. Thank you.

>> Commissioner Cahan: Thank you, Mr. Schoennauer, would you like to have your five minutes?

>> Commission, my name is Eric Schoennauer. And the Schoennauer Company represents Fred Egelston and Jill Amend on this application, they are the property owners on this site. I wanted to note that our location is in the developed area of Almaden. We're fully surrounded on all sides by residential development. As depicted in this aerial photo. And what we're trying to do is really fill in a missing piece of the jigsaw puzzle. As you can see from this aerial photo, our site is outlined in black, and there's new home development to our East, an existing new home, an older home to our West, and we're just filling in with new homes consistent in lot size and style to the existing neighborhood. Our outreach for this project, we have actually went door to door. We have a signed letter of support for our development. I know in your hearings here you rarely have people come forward in support of new development. In this case, all of the people with the red X we have a signed letter of support which I can slayer with you if you're interested. This is the layout of our four-lot subdivision. It is a fairly straightforward project. We have about an acre of land. We're dividing it in fourths. Each of the lots are at least 10,000 square feet. That is typical for the neighborhood. Most of the homes on Macias side of the area, are seven to 8,000 to 9,000 square feet, and some of the homes on Barnes go up to 13. So we're sort of right in the middle of the average at 10,000 feet. So the lot sizes are average. The homes that we've designed are frankly quite modest. They're 36, 37,000 -- or hundred square feet. The home right next to our parcel is over 4,000 square feet. So although we have average-sized lots our homes are modest in size. We're not overbuilding the site. We're trying to come up with a very good, respectful design. So with that I really would just like to open up to any questions if you have any. The development's fairly straightforward. We comply with the general plan, we comply with residential design guidelines, we are following all the rules, so we hope that you would support it, and I'll respond to any public testimony if there is any.

>> Commissioner Cahan: We have a question for you from Commissioner Kamkar.

>> Commissioner Kamkar: Thank you, Madam Chair. You mentioned the red check marks?

>> That's what I meant, I misspoke.

>> Commissioner Kamkar: I wanted to confirm that. If you could put that map back, my question is in regards to that. The neighbor to your -- it would be to the left of the screen, is that home --

>> The one here?

>> Commissioner Kamkar: To the left, no, no, the other side, to my left.

>> Yes.

>> Commissioner Kamkar: Okay, the question is, it's that a newer home?

>> Yes.

>> Commissioner Kamkar: That owner is not thinking about subdividing later on, is he, as far as you know, being a newer home I guess --

>> Trying to show you on the aerial here, the home that you're asking about is this property here.

>> Commissioner Kamkar: Right.

>> And it actually is a well-improved lot. It 23rd is a long lot that goes all the way through the block with a very spectacular lot with a swimming pool. I don't see that lot redeveloping, it's modern contemporary and very nice.

>> Commissioner Kamkar: Okay, those were my questions. Good job.

>> Thank you.

>> Commissioner Cahan: Okay, we have no questions at this time. We do have one speaker card so we will go to that and I'll allow you --

>> I'll come back if there's something to respond to.

>> Commissioner Cahan: Okay, and Mr. Burton, you may have two minutes. If you just introduce yourself before you begin your presentation.

>> Thank you for having me. My name is Philip Burton. I live in the adjacent home next to where the planned development is being looked at. We haven't gone through this before so really here to see what my options are if any, right? So he said something about filling in the puzzle for the next-door lots. So for us, when we moved to Almaden valley it was because of the low density, right? And specifically for our lot all the check boxes he has on there, none of these folks are going to be affected what they're doing next door besides us. Because when we bought the lot it came at a higher premium first of all. Second of all, my neighbor Steve hasn't approached me about anything he wants to do, it's always been through these guys sitting behind me there. I don't know if Steve still owns the property or if they own the property -- I know that's kind of not the case because you guys are going to have to make the decision on building. But for us we really want to understand why is this that this has to happen right now? Because if you look at the other houses that are in the neighborhood we have houses right now on our block that can be sold. So why am I going to think this is good for me adding four more houses to our neighborhood? It makes no sense to me. I want to understand that better. Secondly if I don't have any options here and they are going to build next to me, why build four, why not built three, why crowd the lot? These are the things my wife and I want to know about. It is as I see it and my wife sees it, not helping us whatsoever. We came to the neighborhood knowing it's harsh property next door. It's not bothering me fit stays that way forever. I want to understand why and what are my options.

>> Commissioner Cahan: Is your property the one that we were just discussing?

>> I'm on the other side. There are questions about property line, and all that. We put a lot of work into the lot because of the slope that it's on. This is going to be very disruptive for us and we want to know away guarantees we have from these guys that --

>> Commissioner Cahan: Okay. I have a question for you from Commissioner Kamkar.

>> Commissioner Kamkar: Thank you, Madam Chair. First of all, thank you for coming and expressing your concerns. The good news about this situation is, this is in San José. We have a very professional staff who check all the requirements, all the setbacks, all the, you know density requirements, and if something is not consistent with general plan, they look at it again and see if there is any reason why they should allow the project to go forward. And so when we get the recommendation of the staff that says, you know, we recommend that Planning Commission approve this or recommend approval to the city council, means that it has passed quite a bit of those hurdles. As far as your other situation as to are you going to be impacted by the construction or development, you're absolutely right. But the home you bought if I'm not mistaken is a newer home and so the same situation was true for these guys when your home was being built. So now, the shoe is on the other foot, if you will. You know. And so I understand your concern, but you know, unless there's been any kind of encroachment or there's been any kind of a -- you know illegal activity that you can tell us, I don't -- I mean the way I see it there exists they are right to develop the property.

>> Fair enough I mean but to me it's kind of a waste of my time if I have no options here. What am I coming to the council for? Because you're right these homes are new but they all started and stopped about the same time. I'm not saying that things need to stay the same forever but the way this is positioned to me is they are doing me basically the favor of coming in and redeveloping the neighborhood. That doesn't really matter to me. What really matters is how this thing is built next door to my house, all right? So I'd say if you were in my shoes that you probably wouldn't be happy about this situation either.

>> Commissioner Cahan: So you brought up some good questions and Mr. Schoennauer is going to come up and discuss some of these, I suspect staff will speak to that also. And I hope afterwards you'll have the chance to

speak to key people about this as well. We do have another speaker card that appeared. So that is Mr. Hong. If you will state your name before you begin your presentation.

>> Okay, thank you. My name is Adi Wi Huong. Just like that gentleman I'm the neighbor to this supposed development. And as the first gentleman showed, they got everybody approved except that two boxes. I think previous gentleman is the one, I'm the one next to it. All right? To be honest, I haven't really had time to go through all this. But if I could, I would just probably need ask more time to review this. Because we didn't get the detail. I have a bad experience I can share with council. And we were -- I was the owner of Alexis manor place probably a few blocks away. Somebody bought an old gym and they have no way to get the storm system. I -- in that property, I have a private public storm sewage, I mean public storm pipe, what were they called, easement. And the guy bought the gym, he had no way to discharge the sewage. He wanted to use that one to -- he want to use the storm easement to build the sewage. And he was threaten all of us, there's actually for the other, with threaten with all the neighbors saying I have a public storm sewage, I mean storm easement, he want to build the storm pipe. So that actually we have -- go went through lot of hassle. But for this property I understand I also have backyard have some easement but I don't really understand what it is. So I would like to understand a little bit more on the development in term of how the discharge goes, any impact to our property. Because all the backyard was all done. And I would like to understand a little bit more before I raise my concern or approval or whatever. But given the bad experience I had before I really hope to --

>> Commissioner Cahan: Thank you. Unfortunately you are limited to two minutes but you will get some response back on this, we will discuss the issue as well, and did you happen to receive any notification of this project in the mail?

>> Well, I mean I noticed this public hearing.

>> Commissioner Cahan: Usually staff is very good about sending a mail piece, alerting there is an issue. Usually they hold a meeting beforehand. And that's the time when people really have the opportunity to sit down and hear about all the issues. And I'm sorry, that that didn't come to your attention.

>> Yeah.

>> Commissioner Cahan: And hopefully we can answer some of your questions here for you.

>> So I wanted to get a chance to really understand because the reading and the discharge because that's a pretty large lot right now.

>> Commissioner Cahan: Thank you very much. All right. Mr. Schoennauer.

>> With regard to public outreach, we made an extra effort last year. This is almost, gosh, nine, ten months ago. We went door to door. Because this is a small project. It's only four homes so it doesn't have a broad impact in the neighborhood. So we really wanted to go to the most immediate neighbors door to door. We left cards. We left a letter to -- if they weren't home, to contact us. We made every effort to get letters of support from every person. In addition, in conformance with the city's outreach requirements there has been a sign on both the Macias and the Barnes side of the property now for many months. And of course, the public notice for this hearing was mailed to everyone I think within 500 feet of the property. So it's inconceivable that someone couldn't know about the project. Starting with Mr. Burton's comments. And we've had ongoing exchanges and communication with the Burtons so I think I understand their concerns. They live in this home here, on Macias, adjacent to our site. And early on, because we did this early outreach, we learned that one of their primary concerns was view, view, and privacy from their house. Because they bought a house at the end of the subdivision. And they liked that. So we specifically designed our development to be very sensitive to their concerns. So on this exhibit, outlined in orange and pink is their home. I wanted to compare what we could build today with no discretionary approval. Because the zoning code, we're R-1-2 zoning. So today we could build a two-story home, 35 feet tall, 15 feet from the property line. So this red box shows you where we could go pull a building permit today, and build a home. Two stories, that orientation to their home. So we of course aren't going to do that. So what we've done is the two-story element of our home is highlighted in solid green. We've moved it 36 feet away from the property line. The dotted area here is just one story. Not only is it one story, it has a hip roof to even lower the

profile. So there's 26 feet from the property line to the two-story element of our house. Their house, on the other hand, is two stories, seven feet from our property line. Didn't seem to be a problem in 2006 when they built their house, seven feet from our property. So you add that up, we're 36 feet from the property line. We're 43 feet from their house to the two-story element of our house. And looking at the elevation, this is what it looks like. So this is looking from the street, at our house. And so I've mocked -- drawn this up sort of by hand, so it's sort of crude. This is the property line depiction. And this pink box is the neighbor's house. So from the property line, from the fence line, we have a setback of 10 feet. And then from the setback, we have another 26 feet to get to the two-story element. So I can't imagine being more sensitive to their concerns about view and privacy. In addition, we designed our one-story element with a hip roof, so you can see the roof is pulled way back, so the ridge line is as far back from the edge of the property as possible. So I don't know what else we could do. We're going well beyond code requirements. Well beyond residential design guideline standards, to accommodate and address their concern about view and privacy. With regard to the other neighbor's concern about drainage. Of course all of the drainage is thoroughly evaluated by the Public Works department. We have a Public Works final memo stating that the plan meets the current requirements. But the basic plan is the storm drainage is collected in an easement area here and is directed out to the city storm drain system. So it does not rely in any way on the neighbor's property. Their existing subdivision has a whole bunch of cross-easements where they send their drainage onto their neighbor's property. And then ultimately it passes through all the lots and ends up in the city's storm drain. We did not pursue that approach here. Instead, we are containing and handling our own storm drainage and it is not going on anyone else's private property. It goes straight to the city's storm system after being cleaned as required by the new L.I.D. requirements. So with that I'll answer any further questions.

>> Commissioner Cahan: Okay, thank you. At this point we have no questions. Thank you very much. Oh, we do have a question. Commissioner Bit-Badal.

>> Commissioner Bit-Badal: I know you had mentioned you had done extensive outreach. During the outreach did you hear any other concerns that over the past nine months? When you left your cards and your notice of development?

>> I'm just showing my really fancy working map here because I think I had this up before you came into the meeting. We walked door to door. Every parcel here, every parcel with a red check we have a signed letter of support on here. And these are the letters, so you can browse them. In terms of concerns, the Burtons stated their concerns and we worked to resolve them. Mr. Huong I don't think we ever had any direct communication with. His concerns were new but the city requirements are that we address those. A neighbor near queen's bridge said he was mainly concerned about construction traffic up and down the street and wouldn't sign a letter of support because of the dust and noise. Beyond that we never heard any other statements of concern.

>> Commissioner Cahan: Thank you. Okay. I'll entertain a motion to close public comment. Motion and second, all in favor? Okay staff.

>> Thank you. I think Mr. Schoennauer made a lot of good comments in terms of design modifications that were made through the process, and staff is fully supportive of those. I want to share one other thing that wasn't touched upon, and that is how the grading was done to improve the relationship between the subject site and Mr. Burton's house. Along the side of the property from one side to the other there is a 13-foot drop and so we have two properties on each street and basically within those two properties we have to find a way to have a transition that will pick up 13-foot grade difference. And so we've done that without having to do any retaining walls between Mr. Burton's house and the house next door. So we're doing that by essentially recognizing that that's really the sensitive critical interface. And so the house is padded up about two feet higher because that's what we need to have in order for the property to drain to the street, two feet considering that the steepness of the cross-slope to the slot is really nothing. We picked up that main grade difference between the two proposed houses and the house on the west side, but the house -- these houses are sitting in a hole relatively to that so that doesn't have a sensitive interface. Normally if this was a conventional subdivision you would have 13 feet make up -- pick up that difference, would you do a roughly four foot three inch retaining wall to make that uniform. I think the applicant's done an extraordinary job in the sense of engineering this in such a way that we only have a two foot grade difference between Mr. Burton's house and the house next door and he we're able to do it without a retaining wall.

>> Councilmember Campos: Okay, thank you. Hopefully if you have any other questions you can get those answered this evening with Mr. Schoennauer. Instead of trying to do e-mail sometimes face to face is easier. I see no questions from the commission so I will entertain a motion. Commissioner Kamkar.

>> Commissioner Kamkar: Madam Chair I would like to propose a motion. Consider the mitigated negative declaration in accordance with CEQA, recommend to city council the planned development rezoning from R-1-2 single family residence to R-1-2 PD, planned development zoning to allow development of up to four single family detached dwelling units on a 1.035 gross acre site as recommended by staff.

>> Commissioner Cahan: We have no -- Commissioner Abelite.

>> Commissioner Abelite: I just want to say that I think the plans that's in the elevations and the drawings I've seen are extraordinary. I mean, I think it is very high quality, I think it's going to help the neighborhood considerably, and I think the applicant should be commended for all their work not only in trying to mitigate the neighborhood which we always run into and we always see. But I think this is an extraordinarily high area of care, expertise and housing in the city. So I welcome it and I think everybody else should, too. Thank you.

>> Commissioner Cahan: Commissioner Bit-Badal.

>> Commissioner Bit-Badal: I concur with my fellow commissioner as well. I actually was walking that neighborhood just last week and I spent a lot of time, and read the report and looked at the design, the architect has done really an excellent job, and I know he has a reputation in developing and designing really high-quality homes. So I know these four homes will really be a great addition to that neighborhood. In the future I hope a year or two from now we will also hear back from Mr. Burton and other neighbors stating the same thing. Thank you.

>> Commissioner Cahan: Okay, and I agree, I think it's well done. I appreciate the further explanations. I think the homes look very nice. I think they'll bring up your housing value for the whole neighborhood. And a reminder, in case you're still not satisfied with what you've heard here, this will go on to city council after this, so you'll have

another opportunity to speak on the issue. With that, we'll take a vote. Okay and that motion passes with all commissioners present in favor of and that includes Commissioner Bit-Badal who came on early on in the item. Okay. Petitions and communication. Do we have any of those, staff?

>> Not tonight.

>> Commissioner Cahan: Okay referrals from city council boards commissions or other agencies?

>> Laurel Prevetti: None this evening.

>> Commissioner Cahan: Good and welfare report from city council.

>> Laurel Prevetti: Thank you, Madam Chair. Last week the city council did adopt an ordinance regarding payday lending. The ordinance that was passed reflected the commission's recommendation in terms of the quarter-mile distance from the very low income census tracts and also as that distance between payday lending establishments. They spoke specifically acknowledging the Planning Commission's role and comment on that, so they -- so I wanted to pass that along. In addition, the motion that passed also put a cap on the number of payday lending establishments. And they chose the number 39, because that was the number of payday lending establishments that were licensed according to the Department of State corporations at that time. So the second reading for the ordinance is next week. And then it will be in effect 30 days later. So thanks to the Planning Commission for helping the council in its decision-making on that. And that concludes staff's report.

>> Commissioner Cahan: Thank you. The commissioners report, Norman Y. Mineta San José international airport noise advisory committee did not meet so I do not have a report. Review and approve the synopsis from 5-2 and 5-9. Okay. So for May 2nd, all the commissioners were present. Let's start with that one. Okay, motion to approve May 2nd, and a second. All in favor? Any opposed? Okay. All right and then for May 9th. We had Commissioner Abelite and Commissioner Yob were absent. Did you have an opportunity to review the meeting?

>> Commissioner Abelite: I did review it but I don't know if you want me to vote on it or not.

>> Commissioner Cahan: Since it was your application I know that you're familiar with what happened.

>> Commissioner Abelite: Right. But I don't vote.

>> Commissioner Cahan: But we -- okay since you're not able to vote on the other items, although there wasn't much else, we aren't able to vote for that. Subcommittee formation reports and outstanding business.

>> Laurel Prevetti: We have none.

>> Commissioner Cahan: And commission calendar and study sessions.

>> Laurel Prevetti: Just a requirement that the commission is meeting on June 6th, and June 20th, in the month of June.

>> Commissioner Cahan: And may I have a reminder for the last meeting date of the current commission?

>> Laurel Prevetti: June 20th will be the last meeting date, and so probably for June 6th, well council's going to be having its Planning Commission interviews on June 5th and so we should know who will be seated on the commission then on June 6th. And we probably need to be voting for chair and vice chair for next July. So we typically like to give ourselves a little bit of a cushion so we're not handling that business the very last meeting of the June calendar.

>> Commissioner Cahan: Okay, great, thank you. Commissioner Yob.

>> Commissioner Yob: I just wanted staff and my fellow commissioners know that I will be absent for the June 20th meeting.

>> Commissioner Cahan: Okay, and with that we are adjourned.