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>> Commissioner Bit-Badal: Good evening. My name is Edisa Bit-Badal, 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, November 14, 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. 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 of the speakers. 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 the City Council. The City Council will hold public hearings on these items. Roll call. Let the record reflect that all commissioners are present. With exception of Commissioner Kamkar. Deferrals. Any item scheduled for hearing this evening for which deferral is being requested will be taken out of order to be heard first on the matter of deferral. A list of staff-recommended deferrals is available on the press table. Staff will provide an update on items for which deferral is being requested. Staff, do we have any deferrals?

>> No, there are no deferrals tonight.

>> Commissioner Bit-Badal: Thank you, staff. Consent calendar. Consent calendar items are considered to be routine and will be adopted by one motion. There will be no separate discussion of these items unless a request is

made by a member of the Planning Commission, staff, or the public to have an item removed from the consent calendar and considered separately. Staff will provide an update on the consent calendar. If you wish to speak to one of these items individually, please come to the podium at this time. Staff, do we have items on the consent calendar?

>> There are no consent calendar items tonight.

>> Commissioner Bit-Badal: Thank you. Moving on to public hearing. Item 3A. Staff.

>> Thank you, Madam Chair. This is a conditional use permit to allow the continued operation of a drinking establishment named Mac's club. With after midnight use in the downtown zoning district on .19 Gross acres at 39 Post Street. This project is essentially a renewal, although it is not a timely renewal, did not meet the requisite requirements to qualify as such. But this has received a number of approvals since its original planning commission approval in 1997. Upon review of this, staff has consulted with police department, police department is neutral on this proposal. And so for those reasons staff is recommending that the commission recommend approval of this conditional use permit. Thank you.

>> Commissioner Bit-Badal: Thank you. Commissioner O'Halloran, did you have your light up? That's good, at least I'm going to try the call you up here. Is the applicant here? You have up to five minutes to make a presentation about your project.

>> I wasn't really prepared to speak. Did you have questions as far as the business is concerned?

>> Commissioner Bit-Badal: I do not see any lights up. But -- and you don't have speakers on this item, right? No, we don't have any questions for you but if you wanted you could have spoken and if you choose you don't have to.

>> I guess I had a question. It was my understanding that this will be a permanent conditional use permit, that we won't have to go through this every five years. Is that a yes?

>> Commissioner Bit-Badal: That's what the report states.

>> I'm glad to hear that. Because it's been a very difficult process to do, very difficult. Thank you.

>> Commissioner Bit-Badal: Thank you. And at this point since we don't have other cards on this item I will close the public hearing. Staff?

>> Any comments at this time.

>> Commissioner Bit-Badal: Thank you. At this time I would entertain motions. Commissioner Abelite.

>> Commissioner Abelite: I would like to make a motion to approve the project as recommended by staff.

>> Commissioner Bit-Badal: Commissioner Yob.

>> Commissioner Yob: I will second it.

>> Commissioner Abelite: I would like to point out that the applicant submitted October 16th, 2012. I don't know what went on with respect to the perspective of the applicant, but this is a very fast application submittal and turn time. So my compliments to the staff, thank you.

>> Commissioner Bit-Badal: Thank you, and Commissioner Yob would you like to speak to your second?

>> Commissioner Yob: No, thank you.

>> Commissioner Bit-Badal: Thank you, at this point we will vote by light. The motion was unanimously approved by all those who are present. Thank you. Item 3B.

>> Thank you. As discussed in the staff report, the subject planned development rezoning is for three single-family detached residences consistent with the goals and policies of the San José 2020 general plan and the designation of medium low density residential, eight units to the acre, this project has a density of 4.5 units to the acre. Additionally, the site layout height setbacks comply with the development standards of the city's flag lot policy, this should ensure compatible relationships with the adjacent neighborhood and properties that immediately abut the subject site. For this reason staff is recommending the Planning Commission find the project in conformance with CEQA and recommend the planned development rezoning as noted in the staff report. Thank you.

>> Commissioner Bit-Badal: Thank you. Is the applicant here? You have five minutes to speak but if you choose, you can forfeit it to afterwards. The applicant by communicating stated that they are not going to be interested in speaking at this point. However if there are questions by Planning Commissioners, they can come forward and answer those questions. At this point I do not see any questions from Planning Commissioners, and since there are no questions, I will close the public hearing portion of the agenda. Staff. Oops, there is -- great. Staff.

>> Staff has nothing further to add. Thank you.

>> Commissioner Bit-Badal: Thank you, Commissioner Cahan.

>> Commissioner Cahan: Thank you, Madam Chair. Staff, because it's rezoning, I assume we won't be discussing any of the details of the specific project at this time, am I correct?

>> There will be a planned development permit that would follow this should the city council approve this rezoning for the three units. That would work out the details. The conceptual site plan that's proposed is part of this plan set has been pretty thoroughly vetted with staff and frankly when we get to the planned development

permit stage for that reason probably 80 to 85% of all the project issues have really been resolved. So we are not really look to further tweak this. We'll look a little bit further as far as architectural trim and details and that sort of thing but staff is pretty satisfied with the site design as currently shown.

>> Commissioner Cahan: The drive weigh, potentially could be very narrow and let's say if the middle house had a party, would the end house actually be able to get to their home if people came in and parked on that drive?

>> One of the things that staff looks to do with these projects is try to minimize the amount of hard scape where possible and maximize the landscaping. And so we follow the residential design guidelines with respect to what the driveway widths are, and that identifies the driveway for two-way aisle for like say town house project or fairly large project needs to be 26 feet under certain conditions when there's not parking backing out onto it, it can be reduced to 20 feet. And further goes on to indicate that for projects that are less than four units, when there's not going to be a lot of back and forth traffic or conflicts between people coming and going at the same time, that it can be further reduced. So it identifies that for driveways for four units or less, it can be reduced to 16 feet or less. And driveways that serve only two units, which is once you get to the one-third point into the project, it only serves two units from that point on, it can be reduced to 12 feet, actually, and so this is consistent with that. Staff felt because of the narrowness of the lot and the importance of making sure there's an adequate landscape buffer among the units, keep the driveway as narrow as possible, but we feel confident it does the job it's supposed to do and is not going to create a conflict.

>> Commissioner Cahan: Is there parking for guests?

>> Yes, there is -- the driveways are fairly long, and so there's extra parking alongside each garage. So for like the last unit, that can -- there's a two-garage covered, two cars side by side, two apron spaces, there's no fire truck turn around requirement per se on this because of the depth of the project and so they're able to stack actually probably another four cars, five cars, easily, before they even get to the point where they're even with the house that's in the middle of the lot. And a similar situation exists in terms of the extra-deep driveway for the other

units. Provides guest parking opportunity not to mention the guest parking that's out by the street which can handle probably two to three cars.

>> Commissioner Cahan: So what I'm hearing is that there's potential for people to park between the first house and the second house and I mean the first house closest to the actual street. So between the first house and the second house and that there is room for a car that's driving to the third house down that driveway to squeeze by a parked car?

>> No, actually the driveway that connects between the first house and the second house would not allow parking alongside that driveway. But once you get past the second house, that driveway from that point serves just one lot. And if they want to park within the length of that driveway, they can do that.

>> Commissioner Cahan: And you haven't had any issues with this sort of a lot structure with people getting blocked in by the first or second house parking issues?

>> There's going to be an easement that will be required that will happen with the tentative map which is going to be in conjunction with the planned development permit that will require that be kept open, free and clear. And it will need to be, so that both the houses on the two rear lots will be able to have access through. So even though the driveway leave is 12 feet wide, what we found is actually that by dialing it down to a certain number, you make the uncomfortable for people to park there, obviously be too narrow to park and still be able to drive by. Whereas if we made it slightly wider that would encourage people to park there. That's why we dialed that number in very carefully so the 12 feet would allow a moving truck to go by, if it needs to or some other sort of medium size truck, ambulance whatever the case may be but if we make that much wider I think we're probably inviting parking along that side in which case you would have to widen that up from 12, not just incrementally but probably about 20 feet or maybe a little bit more. And that would really decimate the landscape opportunities along the side.

>> Commissioner Cahan: Thank you, that's helpful.

>> Commissioner Bit-Badal: Thank you, Commissioner O'Halloran.

>> Commissioner O'Halloran: Thank you, Madam Chair. I just had a broader educational question following on from Commissioner Cahan. I live in a neighborhood that has odd-sized lots like this also. And I was just wondering, have we had a lot of infill developments like this, and have there been issues once they're built that were unforeseen or is it pretty much gone as staff expected in approving these projects?

>> They probably tend to work a lot better than a lot of the court-home type projects we approve. We put smaller, greater number of units on a smaller driveway, longer driveway length works pretty well. When the flag plot policy was developed back in 1986 I believe, we had -- we were very concerned about really how the relationship was on the units on each side. We wanted to make sure it wasn't going to set a precedent for other lots to develop and do similar things and essentially double the density of a neighborhood, for example. So some of the key principles are that we need to make sure that the lot that we're looking to do a flag lot on is the anomaly in the neighborhood. Has to be oversized, has to be much larger than the other lots in the neighborhood. Needs to be developed in such a way where the lots in the back can be at least 8,000 square feet which goes beyond the minimum that we would typically require for a conventional R-1-8 subdivision for the purpose of making sure we are able to provide big are setbacks around the back, also to be able to provide extra parking and to be sure it's going to be compatible with the neighborhood.

>> Commissioner O'Halloran: Thank you.

>> Commissioner Bit-Badal: Thank you, Commissioner Abelite.

>> Commissioner Abelite: Quick question for staff about annexation. Page four at the top of, talks about this has to go through annexation. Am I correct this is in the county?

>> Yes, rezoning, upon annexation it has a zoning that applies that will allow development. That's distinction. When this goes forward they will need to go through annexation before the tentative map can be approved.

>> Commissioner Abelite: That's all.

>> Commissioner Bit-Badal: There are no further questions. Commissioner Abelite.

>> Commissioner Abelite: I'm happy to go ahead and make a motion to approve the project as recommended by staff.

>> Commissioner Bit-Badal: And we have a second from Commissioner O'Halloran. Would you like to speak to your motion?

>> Commissioner Abelite: No I'm fine, thank you.

>> Commissioner Bit-Badal: Any comments from Commissioner O'Halloran? Thank you, and at this point we will vote by light. The item is approved, unanimously by all those commissioners who are present. Thank you. Item 4, petitions and communications, staff do we have any petitions for this evening or communications?

>> Laurel Prevetti: No, we do not.

>> Commissioner Bit-Badal: Thank you, item 5, referrals from boards commissions or other agencies, staff?

>> Laurel Prevetti: We have none.

>> Commissioner Bit-Badal: Thank you, good and welfare report from city council.

>> Laurel Prevetti: The city council did not meet yesterday so there is no report.

>> Commissioner Bit-Badal: Thank you, commissioners reports from committees, Norman Y. Mineta. Commissioner Cahan.

>> Commissioner Cahan: No meeting no report.

>> Commissioner Bit-Badal: Thank you. Review and synopsis from our annual retreat from September 27, 2012. Commissioner Cahan.

>> Commissioner Cahan: Thank you, Madam Chair. At the retreat we were fortunate to have representation from the police and we discussed a lot of the entertainment permits and the downtown zoning and there was discussion about those facilities that have under 100 attendees and some assistance that the police could use from us on helping with the safety there, and I don't see that in the retreat synopsis. And I'm hoping that we can either get more details on that or have a study session where we can further discuss this with the police, to really get a good idea of how we can assist them.

>> Laurel Prevetti: Certainly. Staff, if it's okay, Madam Chair, we would be happy to convene a dialogue with our Planning Commission and the representatives of the police department that joined us in September to identify what specifically what we can do, if it's an ordinance ordinance change or if it's some of the way we write our conditions for C.U.P.s. So there may be a couple of different strategies. So we're happy to add that to the list of potential study sessions if it's the will of the Planning Commission. If I may, I'm also curious if you would like the retreat synopsis to acknowledge that request by the police department. And I'm seeing nods. So --

>> Yes please.

>> Laurel Prevetti: Thank you.

>> Commissioner Bit-Badal: Thank you with that addition to the synopsis, do I have a motion to approve it? We have a motion by Commissioner Cahan. Do we have a second? And second by Commissioner Yob. All those approving please say aye.

>> Commissioner Abelite: I'll be abstaining.

>> Commissioner Bit-Badal: And Commissioner Abelite is abstaining from this motion. So thank you. We're moving forward with item number 6 D. Synopsis from November 7, 2012.

>> Laurel Prevetti: Madam Chair, if I may, the last part of the synopsis has a typo of two extra words under commission calendar and study sessions. The request was for additional information on other cities' practices regarding third party review of cell towers. Period. We apologize for the extra words. Under good and welfare, so staff is respectfully asking that you accept that correction.

>> Commissioner Bit-Badal: Would you please repeat it? Because I wasn't on that page at that point.

>> Laurel Prevetti: If you look at the very last sentence of the synopsis, there are two extra words, are handled which really don't make sense. So we'll just delete those two.

>> Commissioner Bit-Badal: So do I have a motion to approve? Commissioner O'Halloran.

>> Commissioner O'Halloran: Thank you, Madam Chair. Just a housekeeping matter, I was confused by this December 5th session. I was going by this calendar. Does this get updated and it was an omission?

>> Laurel Prevetti: That's correct, typically does get updated. We are a little bit short staffed so we're unable to get that done in a way that was timely for your packet at this time. But we are having a study session on the 5th.

>> Commissioner Bit-Badal: Thank you, which is our next meeting. And counsel.

>> Renee Gurza: I just had one question. On item 3B was the item to request to continue the item until March, or continue the item to no later than March? I thought there was discussion about you know however long it takes to do whatever outreach you're going to do, but to bring it back no later than March. So anyway I thought March was an outside decade rather than, that the commission wanted to see it in March. Just a clarification.

>> Yes, I think it was no later than March.

>> Commissioner Bit-Badal: Thank you, so with those two corrections, on our synopsis, do we have a motion to approve? Commissioner Cahan? Do we have a second? Commissioner Yob and all those approving please say aye. Any abstention, no, none. Okay moving on to item number 6 E do we have fully reports from subcommittees?

>> Laurel Prevetti: Yes, actually, we as director Horwedel mentioned last week, we're going to start listing the various subcommittees on your future agendas with the members so we can keep those on the forefront of our mind. We did extend an invitation to the urban design subcommittee to join us for a meeting on Monday, regarding the 1 South Market project. So we -- while this is a different way of the subcommittee engaging on urban design, we felt it was important, now that we're getting some key projects in our office, to invite this subcommittee to discuss this very prominent project. Our historic landmarks commission also has a subcommittee on urban design. So those two commissioners have also been extend an invitation. So there may be -- so in other words, in addition to the subcommittee itself, meeting and queening, discussing issues of interest, as appropriate, when we see opportunities for those of you with specific interests, we definitely want to be inclusive and invite those interested parties as well. Thank you.

>> Mayor Reed: Commissioner O'Halloran.

>> Commissioner O'Halloran: Thank you, Madam Chair. Being relatively new, this is a subcommittee of the Planning Commission?

>> Laurel Prevetti: That's correct. A couple of years ago, the commission established several subcommittees. One was on the capital improvement program, which successfully concluded its work at the retreat. The second one was on urban design, and we've had other ideas as well. So we were basically -- that group had decided to be in abeyance until after the general plan update was finished.

>> Commissioner O'Halloran: Okay.

>> Laurel Prevetti: And now that the update is finished and we're starting to see pretty major projects coming forward, we're looking at how we can invigorate and enliven our subcommittees. So again I went back through our notes, who were those two members that had volunteered, found them and then we did extend an invitation. And then of course last week you established a bylaws subcommittee so we will be reporting on the efforts of the subcommittee. And this is a standing item, as you recall on your agenda, because over time, the commission has found that there may be a new issue that would cause an interest on the part of a couple of commissioners to decide to form a subcommittee. So it is more on an ad hoc basis. But we do want to recognize the commission's effort in this regard. So.

>> Commissioner O'Halloran: So can I ask a little bit more about the urban design subcommittee? Who are the members of that and is -- how are those members selected? Is it just volunteering or --

>> Laurel Prevetti: Again, the committee was formed by the commission that was seated at the time. I believe it was either 2010 or 2011. I'd have to go back to my notes. And the commission itself voted for those members. Those are Commissioner Abelite and chair Bit-Badal. I know there's other interest and Commissioner Kline was interested but was not an official member of this. And it started really looking at how we redevelop shopping centers to be more vibrant mixed use neighborhoods and urban villages. So that was the genesis. And as I say, now that we're starting to get some prominent development applications, as we think about how San José can have more of an urban design sensibility, it made sense to engage a subcommittee that had already been created by the Planning Commission in that conversation. It certainly does not preclude other discussion or

involvement on the part of the commission with respect to community meetings, et cetera but we really want to make sure that as San José starts implementing its general plan, that we have a more conscious approach to urban design and really give it the voice that it needs. So Commissioner O'Halloran, I'm sure the commission will be considering other subcommittees, it may be over time, the commission wants to decide on changing membership, et cetera. But this is why we have the standing items, so that way as items come forward, we can have the conversation, and it's agendized properly.

>> Commissioner O'Halloran: So as far as the duties of the subcommittee are they essentially a liaison between the larger Planning Commission? Are they meant to represent the views of the whole Planning Commission? In other words if we had input as commissioners should we be funneling that through the committee members?

>> Laurel Prevetti: No, we have to have respect for Brown Act and not conduct business outside these chambers. Then again, the urban design subcommittee was created to identify ways in which San José could better implement its general plan with an urban design sensibility. This is a committee that to my knowledge has not yet met.

>> Commissioner O'Halloran: Okay.

>> Laurel Prevetti: Does not have a specific work plan. It's fairly flexible. Again, I take full responsibility for suggesting we extend an invitation to the subcommittee. We knew that we would be doing the same for our historic landmarks commission. So again, I think we're kind of feeling our way on this one.

>> Commissioner O'Halloran: Okay.

>> Laurel Prevetti: But again to the extent that one or more of the subcommittee members can join us on Monday then you'll have an opportunity for a report-out at the December 5th meeting because they will have met and they will have something to share with you.

>> Commissioner O'Halloran: Okay, thank you.

>> Commissioner Bit-Badal: Commissioner Kline.

>> Commissioner Kline: I want to 100% confirm that information. I was at one point a nonvoting member of that subcommittee, I backed at I think at one point, said I didn't need to be there. The two committees I was on are done, so I think it's necessary to start out look at the retrofit villages and shopping center and this was a long conversation two years ago and we did a little bit of work altogether in study sessions. Let's start it now, excited let's do it and then we looked in detail at 2040 plan said whoa, this is already being done, there's no reason to duplicate the effort. Let's wait until the 2040 general plan is done and let's see how we can implement. So I think the idea of the work schedule was how do we as a Planning Commission help the 2040 plan get implemented in the village concept. Now is there a role for us to play there. And I think the last conversation we had is some definitely these two reps should be involved in anything having to do with village planning, handbook design, new ordinances coming out, that give that group a little bit of head start. So obviously we don't see a lot of things until the very, very end, if you notice we also, whoa, that's interesting, it would be really nice to have the subcommittee at least have a little heads up what's involved on that type of level. So as these village ordinances come out they'll have the first crack at it. Even though they can't tell us necessarily they'll have some background on it so we won't be completely shocked. Not that we're completely shocked, but a little bit more in depth. I think that was the last discussion we had.

>> Commissioner Bit-Badal: Thank you so much for discussing this, Commissioner Kline. As a point of clarity, can other commissioners contact staff if they have ideas about urban villages or if they've seen something at a conference, is that something they can do staff?

>> Laurel Prevetti: Of course. We're always open to ideas if you find articles or Youtube videos or whatever it may be, if you would like us as the secretary to be able to share it with the full commission we're always interested in your ideas. So thank you.

>> Commissioner Bit-Badal: You're welcome. That's a great way for commissioners if they come across an item that they are not part of that commission that they can share it with staff and we truly value every one of your opinions here. So with that commission calendar and study session do we have any changes other than December 5th which we're adding the study session? No other changes. Sometime within this week, I will be meeting with our staff to discuss future study sessions. If you have any ideas, please send them over to staff. So on December 5th that would be a great idea to discuss what we would like to see in 2013 or at least the first six months in 2013 so we give staff ample time for study session to schedule them accordingly. Commissioner Cahan.

>> Commissioner Cahan: Thank you, Madam Chair. As you say that the discussion about the urban village I think pretty much everyone on the commission is really interested in that. So perhaps adding a study session to the urban village, urban design.

>> Commissioner Bit-Badal: Great, thank you for that recommendation. I do not see any more lights. Before I adjourn I would like to wish you all a happy thanksgiving to you and your families. Personally it is a month of giving thanks. I would like to thank you, my fellow commissioners and staff, both the counsel and staff from Planning Department, and beyond, even technicians who are staying with us every night, making sure our lights are on and our name is read and I wish us a wonderful, peaceful month during thanksgiving. So thank you again for all your work, and with that I will adjourn this meeting. Have a great night.