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Planning Commission  
Wednesday, December 9, 2009

ORATER: Good evening, my name is Thang Do 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, December 9, 2009. 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 validation table at the back, and at the bottom of the stairs near the audio-visual 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: 4.a., not pd06-023. The procedure for this hearing is as follows: After the staff report, applicants and appellants may make a 5-minute presentation. The chair will call out names on the submitted speaker cards in the order received. As your name is called, line up in front of the microphone at the front of the chamber. 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 commissioner 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 the 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 action 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.

ORATER: the first order of business Is roll call. Let the record reflect, all Commissioners are present. Next is 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 the items for which deferral is being requested. If you want to change any of the deferral dates recommended, or speak to the question of deferring these or any other items, you should say so at this time. To effectively manage the planning commission agenda, and to be sensitive to concerns regarding the length of public hearing, the planning commission may determine either: To proceed with remaining agendized items past 11:00 p.m.; to continue this hearing to a later date; or to defer remaining items to the next regularly scheduled planning commission meeting date. Decision on how to proceed will be heard by the planning commission no later than 11:00op.m. Staff.

ORATER: Thank you. Mr. Chair. Contrary to what's on the agenda, there's an item which staff is recommending referral. PDC-08010. Senior affordable housing project on the west side of 6th Street between Taylor and Jackson. Staff is recommending this be deferred. Thank you.

ORATER: Motion to accept deferrals. Second. All in favor.

[aye]

ORATER: next is consent calendar. The 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.

ORATER: Staff will provide an update On the consent calendar. If you wish to speak individually. Please come to the podium at this time. Do we have any counsel?

ORATER: Just want to note, for the record, the item you just listened to, was really more for the public's information. It's not on your agenda. So you can't act on it. You can't act to defer it. Really i think staff was trying to alert the public, it was noticed but not on the agenda. You will be hearing it on a later date thank you.

ORATER: Commissioner Zito.

ORATER: Thank you Mr. Chair. I have a couple questions for two a. If we could pull that.

ORATER: Two a will be pulled. Any other requests? Staff?

ORATER: Thank you Mr. Chair. Actually staff was going to recommend item two a be pulled anyway.

ORATER: Thank you. With that, is there a motion to approve the remaining items. Two B. All in favor?

COMMISSIONERS: Aye.

ORATER: All opposed. So that brings us to the next item. Which is public hearing. First item two a. Conditional use permit for construction of an urban marketplace, including 4,606 square feet of new construction and re-use of 18,964 square feet of commercial space, on a 1.09 gross acre site containing a public facility (peralta adobe city landmark) in the dc downtown primary commercial zoning district, located on the south side of w. St. John Street between N. Almaden Avenue and N. San Pedro Street. Staff.

ORATER: There mr. Chair. This project site consists of multiple areas. It should be noted that while our site development would be required to alter building and a special permanent for an open-air sales establishment. It's also required for the uses of public property by a private use and as the commissioners are aware. They would be acted on by the highest level of approval, in this case. The conditional use permit. The project the accommodate interior as well as open air sales. The construction of new openings and awnings. While providing a cohesive identity to the market. In addition, a new modern, one story building will be constructed north of the Eldorado bakery and make it compatible with the existing building and overall site and area in general. As noted in the supplemental memo. The commission supported the project generally and reviewed it through a historic preservation recommended for approval at the December 16th director's hearing and found changes to the bakery building met the standards. The proposed are intended for downtown

revitalization strategy. With a mix of activities. Planning staff is there for the recommendation of this. A well-designed marketplace and while contributing to the vitality of the core. The architect here to give a brief demonstration

ORATER: is the applicant here? Sir, please come down to the podium, you have up to five minutes.

ORATER: Good evening. My name is John Mchenry. I am here with the development team. We are happy to have the opportunity to present to you tonight. Before I introduce the architect. I want to say the swanson families have been working in San Jose for four generations specifically in the downtown. I can say without hesitation that we have never been more excited about a project than this one. Let's me introduce Ed Mcfarland. He's the project architect and will share some of our vision. Thank you.

ORATER: okay. We'll get it together here.

ORATER: I am Ed Mcfarland. I am a principle of jrd architects. It had been my privilege. I know i only have a brief period. The goal is to create an active social center at San Pedro social square. We really want to enhance the adobe peralta by making it an active part of city and renovate the city and integrity of the historic fabric of that great San pedro neighborhood.

ORATER: This is a site plan they know many of you are familiar with. It's surrounded by saint john street and san pedro square. We are introducing 24,000 feet. Introducing a new market building at san pedro and saint john street. Incorporating the peralta adobe into an integrative market place. This is a perspective view looking over the market. The concept is to integrate the market and create an, animated area. Creating a true social center for this neighborhood. Another view from saint john and san pedro. Again, you can see the new market building we're creating. Again, renovating the structures around the peralta adobe plaza to bring back the light that was in his area and lost with some of the buildings with poor renovations over the years. This is a view of san pedro street. Renovation of the bakery building. Using the secretary of interior standards to bring them to vital retail buildings. Introducing awnings, which will give them a sense of civic scale and character, which they currently do not have. Also making very elegant transparent retail structures. This is an elevation. If we could get focus. That same view of san pedro street. The bakery building. The one on the right is the new market building. Another view at the corner of San pedro and saint john looking at the new market building. We like these having different areas. This one being the turn of the century building. This, i think, historically, this had been an eclectic area. We want to have buildings that address their age. This is a view long saint john. Showing opening up and removing the wall and gates that currently block the entrance and the visibility of the perate adobe. Opening up the plaza is important. During the operating days, the doors would be open. You can see the renovation of the lasardy building. It's a concrete building we are introducing new architectural elements. Introducing iconic signs to make it a lively facility. Okay. And a view again of the lasardy building.

ORATER: Sir. Your time has ran out. So.

ORATER: This is the last slide.

ORATER: If we could get this in focus. This is the view of the renovation of the lasardy building.

ORATER: Not quite in focus. If you could imagine. There we go. Good. That's it. Very brief overview. If you have questions. I glad to answer.

ORATER: Thank you very much.

ORATER: I'm sorry. Could you please come back to the podium. There's a question from Commissioner Zito.

ORATER: Thank you for that presentation. It's good to see color pictures. I am curious if you could put in your words the joint use agreement from the fact that's a public structure to now what seems to be a private use.

ORATER: John is probably a better person to address that. We have put together an agreement to put together a shared use. The site plan has been designed to allow for zoning of commercial use and civic use and museum use. I think they both reinforce each other. It brings activity and people. At the same time, the museum and peralta adobe brings back the civicness of the plaza.

ORATER: Will there be changes to the working of the museum from a retail perspective? With this agreement or it will be there and enhanced

ORATER: this will not be a retail use. It will be a museum use. We will maintain its use and Function. Maintain the schoolchildren tours of the peralta adobe. We see it bringing visibility and maintaining its current function.

ORATER: Thank you for that.

ORATER: Thank you Commissioner Zito.

ORATER: No other questions? I don't see anything. Thank you. Motion to close public hearing. All in favor. So staff. Are there any additional comments you would like to make?

ORATER: No. We're available to answer questions. Commissioner Zito.

ORATER: Thank you Mr. Chair. I'm trying to understand a little more about that. I was reading in the staff report. There's some deference to still allowing it for tours. I'm trying to understand how all that's working. The fact we're taking a public historical structure and integrating it into a private endeavor. A market. How does that work and being kept as a public historical structure?

ORATER: Thank you. The resolution references several agreements. Two of those would be pertinent. There's an existing agreement between the history the San Jose. That can be amended from time to time. Should that be necessary. There's also a use agreement that would be drafted that would, that would allow, essentially be the city giving use of public land. There's also a maintenance agreement, which is a key part of mitigation with reference to the environmental

reference. To be done with a preservation architect and how the use of Adobe is affected and how it will be maintained. Those can reference the way the history of San Jose uses the Site now and has the Adobe Days in the morning. And the southern part of the market would be closed off to the public. Or the northern part in the morning. The Adobe Days. The school tours, which the history of San Jose is doing now. Those would move to the south of the site and the market would open up gradually to the north. Those are coordinated with the market use.

ORATER: Does this city have a benefit. It's people will be coming and seeing the open market. Is there an opportunity for the city to benefit from this? Ms. Kline is here.

ORATER: Let me help with that question. Thank you very much. The city council and Redevelopment board has shown an interest. We are making the progress in terms of discretionary permits as well as the agreements that Ms. Zarnowitz has mentioned. This is something council has already endorsed. That's not the question before the planning commission tonight. Tonight the question is from a land use standpoint of the conditional use permit contain the appropriate conditions to ensure the viability of the market as well as compatibility of the surrounding use. We are excited about it and really want to make sure all regulators uses are in place.

ORATER: Is the city shielded from additional expenses that have to do with this particular endeavor? I'm very concerned with the city's financial situation. Seeing as we have a private venture working with this, if we're going to approve a conditional use permit, making sure the city is protected and the historical integrity is preserved.

ORATER: Director.

ORATER: Would you like to make a comment?

ORATER: Let me help answer that as well. The city, the issue before you tonight is the conditional use permit. As they mentioned. The historic preservation permit and the cup went to the commission and in terms of the historic interface. Those issues appear to have been resolved. In terms of the city's financial commitment and responsibility, this cup in no way obligates the city. In some future time. If the city council wishes to make a financial decision. They do that independent of the CUP. Your action in no way obligates the council in no way.

ORATER: Thank you.

ORATER: Commissioner Zito are you through with your questions?

ORATER: Um, I'm guessing I just can't get there from here. So, I will relinquish the floor

ORATER: I move that we approve the Conditional use permit for construction of an urban marketplace including 4,606 square feet of new construction and re-use of 18,964 square feet of commercial space, on a 1.09 gross acre site containing a public facility (Peralta Adobe City landmark) in the DC downtown primary commercial zoning district, as recommended by staff. And if it's seconded, I would like to speak. I see this as an exciting project. This is the chicken and the egg in terms of retail and housing. This is more than excellent approach. I see it along the lines of

the historic old town in san diego which incorporates restaurant, old town los angeles, next to the train station. I suspect that this is going to actually improve the connection between residents and visitors with our city with our historical underpaintings. I recommend adoption of the motion.

ORATER: Thank you. Commissioner Platten.

ORATER: I want to echo. I am very excited and do think, it will likely enhance the historical quality or awareness of downtown san jose. I think it's exciting. If there are no other speaker lights. Let's vote by lights. The motion passes. Unanimously. Next item. Conditional use permit & determination of public convenience or necessity for off-sale of alcoholic beverages on a 3.7 gross acre site in the cp pedestrian commercial zoning district, located at 1711 branham lane.

ORATER: Thank you Mr. Chair. This is a condition use and permit of public convenience of necessity as a proposed liquor store. The vacated tenant space. As indicated in the staff report, there are many conditions for the public necessity. There is special findings that are needed to be made for both applications. The more rigorous findings are part of determination of public convenience and necessity. Unfortunately, staff is not able to make two of the four required findings. Specifically finding 3 and 4, which would state that the proposed uses were further from a residence by 150 feet or more. Staff is not able to find that finding and number four. Alcohol sales would not represent the majority of use. The proposed liquor store and that's the sole purpose. Unfortunately, with this, staff has no choice but to recommend denial and recommend the planning commission find the similar findings and determination of public convenience or necessity. Is the applicant here?

ORATER: Would you like to speak? Please come down to the podium. You have five minutes to address the commission. And please state your name for the record.

ORATER: I am Josephine. When we initially wanted to say we understand what the situation is. We have already spoken with the planning department and why they needed to recommend a denial. On our part. Before we came to the city, we did do our own initial investigation and toward the city of san jose's requirements, it did meet the criteria and we got the green light to apply. It was after the city discovered based on the boundary plats of the state, it did not meet the requirements you heard at this point. The owner is not a new business owner. His background to doing this. Obviously, when you look at the map, the 150 square feet is that tract of homes in the back, not bases but in the back. In that location. There are several stores that would not compete with this or add a hindrance to the business of neighborhood. We feel the store will be tastefully done. The owner does have liquor stores in other areas and does carry an abc license. There are no evidence of this being a high-crime area and bring negative elements to the store. Just based on the criteria. It may not be possible to prove it at this point. We hope when we appeal to the city council, they will understand, right now, it's a vacant area and we hope to bring business to the location without negative aspects. Thank you very much.

ORATER: Thank you. There are no questions from the commission. Is there a motion to close? All in favor? Staff, could you discuss on the late finding they don't qualify.

ORATER: The issue of overconcentration is looked at in a couple of different ways. That based on overconcentration of the census map. There is a map that has four census maps that converge basically at the intersection of Camdem and highway 85. The findings with respect to the location within having four establishments within a thousand feet is not overconcentrated based to that criteria. That's not what's in place to make this determination regarding this process. This is the fourth establishment within a thousand feet. Since the census tract is overconcentrated that kicks in the public necessity. The commission knows at looking at these before. If the location is within 150 feet of residential, we have no choice other than to do a Denial. The city council has the option to overturn. They are not held to the same rigorous determinations.

ORATER: Thank you. Commissioner Kamkar.

ORATER: The 150 feet that you are talking about, is that, i guess the birds fly. Is that how you calculate that? Or actually through the street. There's a creek between these establishments. How does that come into play? The determination of actual use is located at the back of the center. The creek itself is 70 feet wide. It puts it basically at 100 feet. Doesn't get into the issue of the orientation, the applicant is correct. Staff does recognize it backs up and from a walking standpoint. It's more than 150 feet to get to the tenant space.

ORATER: I'm of the opinion. Whoever came up with those rules meant it to be like that. Having to climb over your back fence. Go over a creek. There's not a bike way or path way in the back. So here we may be misinterpreting or misapplying the rule. The second item you mentioned was you said three of the four overconcentrated. Is this site located within the three?

ORATER: Yes. It is.

ORATER: Thank you. Commissioner Kamkar.

ORATER: Thank you Mr. Chair. I'm going to move we deny continual use permit and determination of public convenience or necessity on a 3.7 gross acre site. As recommended by staff.

ORATER: There are no further comments. Let's vote by lights. I'm sorry. Commissioner Zito

ORATER: I'll support the motion and would also like as we have done in the past to essentially endorse this application to the city council. I see no reason why it shouldn't be overridden by the city council. If it's just a technicality, the applicant makes a good point and gives them an opportunity to enhance the site and bring much-needed business to that area.

ORATER: So, is that part of the motion?

ORATER: No. I support the motion because we have to do the denial.

ORATER: Seeing we have no choice but to deny. Other than the fact we have to deny,

ORATER: I understand, but should we be sending that message as a commission rather than an individual commissioner

ORATER: If the rest of commissioner wanting to go along. Mr. Commissioner Campos.

ORATER: I don't share that same sentiment, i think the goal should be to have a good balance of options to purchase alcohol. There seems to be good options to get to that threshold with liquor stores. I don't think that's consistent with creating good neighborhoods. So, as personally, i wouldn't share the same sentiment. We could all make comments to the council. Thank you.

ORATER: Thank you. Commissioner Kamkar.

ORATER: I wanted to say that i would support Commissioner Zito's sentiment on this. If there was a way to convey our individual, you know, feelings, I would support that.

ORATER: Thank you. Commissioner Jensen

ORATER: I'm going to have to support. In the past, when we made these recommendations it was generally a grocery store where the applicant self imposed 5 to 10 percent maximum ratio of the floor to alcohol. This is not a grocery store. It's actually a liquor store. It does seem with three census tracts right there know overconcentrated there doesn't seem to be a need. Thank you Commissioner Jensen. Commissioner Cahan.

ORATER: I have sympathy. They did research and consult with staff before choosing this site. But, there was a late discovery. In other words. If the rule changed on them, I have sympathy, not to say whether the application should be approved or denied. But to say that, I'm sure that council will take that into act. With that, let's vote by lights.

ORATER: The motion is approved unanimously. So moving on to item three b. Staff. A planned development rezoning to allow up to 38 single-family detached residential units on an 18.5 gross acre site, located on the west side of cadwallader avenue, approximately 500 feet southerly of prunetree lane.

ORATER: Thank you Mr. Chair. The subject site was the subject of a general plan amendment that this commission heard from the eastern portion to change the land use from part of the site from two units to five units. It's now the plan development is moving forward as indicated in the staff reports. But i would like to call your attendance to correspondence prior to this meeting and staff is recommending three changes to the development standards. There's a handout in the supplemental memo. I will come up and walk you through those changes. Thank you.

ORATER: The first recommended change is to address the interface so the southern part of the property. Part of the discussion on the general plan amendment identified concern with respect to the fact that there was a number of proposed lots along this property and there would be one particular adjacent property, the one highlighted in green that would abut a great, a significant number of lots. This plan represents a slight change to that. Staff feels it doesn't go far enough. Within the area identified in the blue outline area. Staff is recommending that there be a change to

that area to reflect slightly wider than what's proposed. Staff is recommending that the frontage on the lots that abut that one particular parcel identified as 676-89-006 is the partial green on the site. The frontage be 110 feet. It was chosen because of the fact that happens to be consistent with the frontage of the rectangular lots.

ORATER: The side of houses will vary from zero to 10 feet. It would be okay on flatter parts. Staff is not really interested in having tall retaining walls and have identified two ways to deal with that. One is to have a standard of the maximum of three feet at the bottom of the slope. If the grade differential of the two lots on each side is greater than three feet. Rather than increasing the height of the retaining wall. That difference be made up with a slope. This shows how that would work. Showing a single retaining wall on the downhill side up to three feet. Because the lot is more than three feet, has a pad elevation taller. That would be a 2 to one slope and would necessitate a slope on this side. That allows flexibility where one lot could have a five foot slope. In the areas where the lots are steeper. Particularly on the side closer to Neman Boulevard would address that slope. We find this design standard works pretty well.

ORATER: Since this is on the same issue you're addressing. Let me ask this question; the change from 84 foot to 110, does that increase the number of lots?

ORATER: Not necessarily. Staff thinks there could be an opportunity to relocate lots possibly.

ORATER: We'll have as much trouble with the public that uses this. Um, it would probably necessitate taking one lot of the mix. That lot could conceivably be located closer to Neman and this particular area, which is actually a very large lot. It's a little steeper. We think that, it could probably be designed to fit in better with the combagz of the grading we're putting in place. The third item identified in the supplemental memo deals with the houses on Neman Boulevard. This is the part of the property that is a lot steeper. Because it's a lot steeper, staff wants to make sure we have a good interface wall on the road. Directly to the south. There's yard areas that are flat doesn't go to the sidewalk. Staff is proposing a flat yard area be limited to 25 feet in depth. In reality, I think the ways these things would be set up. The house would be in the neighborhood of about 50 feet from the Neman Boulevard frontage and that provides enough opportunity to take up the slope area that needs to occur because that lot pad will be quite a lot higher than the street. This is consistent with the development that was done to the south and consistent that was done with other areas where we have houses that are perched up high to the street. 25 feet in depth and the remaining area be kept in the area and the primary privacy fence would be located at top of the hill. With that, that concludes staff-recommended changes and we are in support.

ORATER: There are several questions. Could the questions be held until after the public hearing?

ORATER: I have a question regarding the question. Specific to the picture.

ORATER: Quick picture. The area designated as 3 to one slope. Who would that be owned? Who would be the owner of that? The homeowner whose fence backs up. Homeowner's association or the city?

ORATER: Typically in a backup situation. That would be maintained by the city. Although it would be owned privately. In this case. We don't have a string of properties like that. The property owner would be able to maintain that Commissioner Zito.

ORATER: That was along the line of my questions. Any property in this configuration, it would be their responsibility

ORATER: We could look at that slope area as being taken care of by the homeowner an association

ORATER: Could you put the original diagram up about the 110?

ORATER: I'm just curious, here is a property that has four, as it's drawn currently, has four lot that is back up to it, right across the street. I can't read that side ways. Lands of, starts with a "k". If you look at that property. There's almost five lots that back up to that property. How are these different perspective of trying to provide privacy

ORATER: Just to make sure I understand? Are you talking about that property? Primarily in terms of the houses. There's one side that takes a turn and one house oriented on the other side. If we were looking at compatibility, we would see the same number of houses. We have houses with unique geometry. I do want to point out, the general plan for the eastern portion of the site is actually five units which allows greater development potential than being proposed. I think the development overall is coming in at 2.6 or some number on that order. Per acre.

ORATER: That was what it was sold at the GP stage anyway

ORATER: Right. So, okay. So, as far as equity is concerned, you don't feel that's necessary.

ORATER: They're not all lined up shoulder to shoulder. It's a different circumstance.

ORATER: Thank you Commissioner Zito. Is the applicant here? Please come down to the podium, you have up to five minutes to address the commissioners.

ORATER: Good evening Chairman Do. We are here tonight to ask that you approve the rezoning request. We support staff's recommendations and directions. We are welcome to working with staff. We have not had a chance to fully assess their recommendations. We are committed to work with them and meet the requirements prior to any council zoning as we try to balance topography of the site and so forth. Since i was last before you, we did attempt to address the edge conditions that staff further talked about this evening. This was our site plan at the time of the GP amendment where we had five lots adjacent to the lots next door. Since then, we reduced to four to help that edge condition by relocating a lot. It also bumped up the size from 10,000 to 12,000 square feet. Granted what staff is recommending now would result in us relocating that lot further and open up those lots to be much larger and wider. And we understand the challenges of working in these situations in an in-fill site and recognize these types of interface issues are not unusual where you have lots abutting older developments or proposed developments. In this particular slide, those green parcels reflect parcels of 3 or 4. Part of that is lotting pattern and timing. We recognize this

is always a sensitive issue. We can address the southerly edge condition and work with staff to work with that goal without having to compromise on the number of units. I just want to remind council again. What we're proposing is consistent with the surrounding area and plotting. Our density is 2-1/2 dwelling units per acre. We have from one and a half to 2-1/2 drilling acres. Lot sizes vary quite a bit. Again, not unusual in terms of development in this particular neighborhood. I just also want to say that over the past five years, we have tried to make this site plan as evolved. It has evolved to improve neighborhood compatibility, we're looking at the typical lots of the neighborhood. We have increased from 8000 to 10,000 feet. We acquired six acres to address the access issue and eliminate traffic. So, i hope the commission would recognize again, as we move through this process, we attempted to be responsive to both staff, council and community concerns. Obviously, we're committed to working with that. So with that, i would ask that you approve this rezoning. And remind, it does meet all general plan policies and other policies.

ORATER: Thank you; i do recognize you have been working with the community and have been in this process for four and a half years. It has been challenging to say the least. I want to make sure you say that and recognize the work have done. One thing i'm confused about and it may not be something you have control over. We received these drawings, I think on tuesday. So we didn't have a lot of time to look them over. The one thing I'm a little confused on, i was looking at the number of units in the GP. The staff put you would be asking for 40 units. This says 41. I am looking at the drawing and how many units are there? One drawing shows 38, one shows 39. I'm confused to the proper numbering. And which is the correct set of drawings.

ORATER: I suspect and maybe staff can help clarify this. There are existing homes there. One of those lots that you're looking at, i guess the 39 is an existing home and going to stay

ORATER: From your perspective.

ORATER: We are proposing 35 new lots and three existing that we would rebuild or that we would likely rebuild for a total of 38 homes on the site. Recognizing, there are additional homes on this site, which brings to the 41.

ORATER: That's what i don't understand can you tell me, there's lands. The cerali and bianca. How many existing homes are on the lands of cerali.

ORATER: We could probably ask somebody. I think it's two. Three. Again, it would be easier if we had the exhibit up. Go ahead

ORATER: Yeah. That would be much more helpful. Is there a set of drawings we could put up?

ORATER: I'm looking at sheet three, dated october 30, 2009. If it's what you have there. I don't know.

ORATER: That's not the one you're looking at. You can see the footprints of the homes. So land cerali.

ORATER: So it's all that hatch area? Essentially the 9.7 acres at us at the GP.

ORATER: Existing home here, here and here and a cul-de-sac.

ORATER: Over here, there are two homes.

ORATER: so there are five.

ORATER: so five plus your 35 is 40.

ORATER: Yeah, well there's also an existing allocation for residents that came to the six acre parcels. If you would, there's 35 plus three existing or allocations that were permitted.

ORATER: So when all is said and done and this goes through as you expect. How many homes would be left? In other words, you will have 35 lots.

ORATER: Yeah. 38 total. Plus the three existing homes. Total of 41

ORATER: you would actually put 38 lots

ORATER: again, there's 35 new lots plus three existing

ORATER: Mr. Chair. If i could clarify. On the lands of bianca. They will not be part of this rezoning. This is taking the back part of that. So if you take those two houses out of the equation, there's going to be 32 houses on the actual zoning site when all is said and done.

ORATER: 32?

ORATER: I'm sorry.

ORATER: 38.

[laughter]

ORATER: This has been a numbers game from the beginning.

ORATER: So, what, because this is part of zoning that lands of Bianca. This is part of land density calculation is that correct?

ORATER: The rear portion of that has three houses on it, will have three houses on it. So the existing houses, those are not included.

ORATER: When you did the calculations, it comes to this 2.5

ORATER: No. It should not. It would only include the portion that would be encompassed on that screen.

ORATER: Okay. Then, may be, if you look at the front of the staff report, the white outline essentially includes all of the lands of Bianca. And so does both on page two, the GP end zoning in red. Shows all of the lands of Bianca. My understanding from reading. The area in the red is 18.7. Give or take. Therefore, when you did your calculation, you got your 2-1/2 because you got all this property that's very low density.

ORATER: I counted up all the new.

ORATER: If staff is the right people to discuss. I will defer

ORATER: In looking at the city plan provided, there's basically 38 houses that are included. Lands of bianca actually has two houses. So one of the houses that would be preserved would be the house on the lands of cerali and the remaining houses would all be new.

ORATER: Two on the lands of bianca and three on cerali and 38 new lots. Which equals 41.

ORATER: Correct.

ORATER: So.

ORATER: And the acreage, I thought included the land with the units

ORATER: Existing lands of bianca

ORATER: That's how we got the 2.5

ORATER: Right, because you included all that.

ORATER: That's what i thought. The other thing, you showed a drawing. I appreciate you're able to move one of the homes across, but, the email that you sent, at least to me at 3 o'clock this afternoon, which identified this, you know, shows where you took one of the homes. If you put up that one drawing. Exhibit 2, i think you called it.

ORATER: There we go.

ORATER: That's exhibit 1. Is there an exhibit 2?

ORATER: Previous. Previous. Keep going.

ORATER: perfect.

ORATER: So there's exhibit 2, showing Five.

ORATER: Yeah, that's the time we were doing our GP. This is the site plan we were working with.

ORATER: Across the street, you have lot 17 and 18. There were two lots across the street.

ORATER: Then you go to exhibit 3.

ORATER: I can do that. Okay.

ORATER: So you move one lot

ORATER: Right, we move one lot and made adjustments with the lotting pattern

ORATER: Now there's now units across the street.

ORATER: Correct.

ORATER: Okay. And again, the sensitivity was to the southern edge of the site. We were trying to be responsive to that estate. We were moving to see if we can't help that situation. This evening staff came with additional recommendations and again we're going to try to work with.

ORATER: That was my question. You went from two homes abutting that to now four abutting that lot.

ORATER: Again, you could look at lot patterns any way you prefer in terms of what's the orientation of the home? What's the longest length of a particular lot as can you tell in this area. There are several situations where you're going to have lots abutting, adjoining parcels and it's not uncommon to have 3 or 4 adjacent property owners. Again, that's a fairly large lots at the end of the cul-de-sac. The lotting is reflective that we believe adjacent neighborhood lotting patterns are.

ORATER: Commissioner Zito, we have a number.

ORATER: I understand, that was the last of my question.

ORATER: Thank you. There are a number of speakers. I will call three names at a time. Please come to the bottom of the stairs. Bonnie mays and Cheryl. Ms. Mays. Please approach the podium.

ORATER: Thank you. Bonnie Mayes represents the round table steering meeting. The neighbors and residents have brought us issues and we would like to give the following recommendations. First is about density. We are talking about 2.5 overall? What does the blend of density. We support no more than 2.5. That's primarily our recommendation. We want no more than 35 homes. Whether it's 35. 41. 35 would be the appropriate number considering the ever green policy. No more than that. The setbacks are very important. They are custom lots. Setbacks mean a larger setback. We're proposing 16 feet on each side. No more than two stories on each side. As opposed to 2.5. The lot size be 13,000 to 15,000 square feet. There's not a lot of traffic. There should be bike, period of time and public safety.

ORATER: There is a lot of hill side smoke land. It goes from 8 to 18 feet slope. We would like a park land dedication that it be useable. If it's a slope like this. It's hard to use. We prefer that. The neighbors are very concerned about unbuilt lots. The neighbors would really appreciate if the developer could give them assurance it would not have weeds and please preserve as many trees as possible. Thank you.

ORATER: Thank you ms. Mays. Next speaker please

ORATER: As one of the owners of the property. I'm asking for rezoning. We will really like to forward move and get this development going. Our developers have worked hard in the planning of this development to conform to city policies and be consistent with the surrounding elements. They have made changes along the way. This project has been in the works for five years. I think we're fortunate to have developers to still take the risk in these economic times. We are getting really frustrated in this policy. We have lost two family members waiting for that to go through. This was something they worked very hard towards and we'd really like to see this happen before we lose anybody else. Thank you.

ORATER: Thank you. I will call the next three names. Lory, wane chen and jenny chang please come to the bottom of the stairs.

ORATER: Commissioners. I am Bob. My wife and i live on the property. My wife has lived there most of her life on this property. We are now here from the zoning. Our developers have worked long and hard. Continually reviewing the details as you have seen and mark presented this project. I looked around the neighborhood and the last block and prunetree lane. Most the homes are on smaller lots. Even though you see different densities. You drive down the streets and those lots are very small. Some have steep slopes. The houses on the southwest side of neman boulevard. Are not much different. They are just newer. The only large lot seem to be the ones that you have issues with in mark's presentation. So, although there are some complaints about lot sizes, I basically it be left to the architects who have immediate skills to do a good job. Our property will have beautiful homes on strategically terraced lots. And will be pleasing to the neighborhood and improving property values. Now I ask you show your support by approving this project as detailed in the application. Thank you.

ORATER: Thank you. Next speaker, please.

ORATER: Good evening. I am lori pianca. I am here tonight to recommend you approve this. You are seeing a picture of the back two acres of our property. This is how it looked prior to development. Our land is not suited for horses and cows. This next picture is also what we used to see ten years ago toward downtown san jose. These statements that there are these huge lots that surround house. These are our kids. This is what we see now. Okay. Here's my barn where I kept my horses. This is a tree my parents planted when, we nurtured in' 71. Which is what we see now. Same spot. Sorry, can we go back one. This is my grandma. This is the top of our priority. The driveway looking down across the road. Notice there was nothing there. This is now. As a landowner, i should be able to develop my property the way I chose. I hope you will approve this plan which will have an average density of 2.5 acres. Thank you. Thank you very much.

ORATER: Hi my name is wane chen. I live in the area. There's a flaw in the plan. Before you approve it. Let me put this picture up here. Anyhow. Yeah. Um, the school district as decided the now homes will attend cadwallader elementary. It's underutilized. The developer tends to block off traffic so no access to cad water. In today's society. Kids don't walk to school. Parents drive them. You know there's a lot of problems with creeps out their taking kids off the street. Even driving in today, the santa claus jumping out of a bush grabbed a kid. They caught the guy. The decision by the board to give full access to cad water. They have to drive miles away to get to cad water. You look at the configuration. One thing. All the neighboring communities don't want traffic from Cadwallader to neman. Yet they block it. The current plan does not work. It's contradicting criterias. They say the kids can go to Cadwallader. The recommendation. You look at it. They will put emergency access to cadwallader. Move that and give follow access to cadwallader.

ORATER: Sir, your name is up. Next speaker, please. And i will call the next three names, which are Javier, Karen.

ORATER: Good evening. My name is jenny chang. I am one of the neighbors in the area. I am speaking on myself and some of the neighbors. Here are some of recommendations I have. I believe me neighbor met you, she sent an email to the commission yesterday regarding our recommendation. I'm just reiterating what the neighbor's recommendations are. First of all. Evergreen elementary school district agreed the students will be attending cadwallader. Second, the developer has agreed to the density of 2.5 dwelling units. We would like to request there be a density of two dwelling units per acre considered and a minimum size of 15,000 square street. Building heights not more than 25 feet. No neighborhood lots should have two new homes behind them and be a comparable existing lot. No view should be obstructed. Please keep it in line with the surrounds neighborhood. And we also would like to see there be public parks or open space dedicated and the entire project be completed within two years. We're okay with the custom lots. We would like to the construction completed within two years. We don't want to have the lots sitting there with weeds and debris and flies. Because we're currently faced with custom lots.

ORATER: Ms. Chang, your time is up.

ORATER: Thank you there chair.

ORATER: Ma'am. Please take the question from Commissioner Kamkar

ORATER: I have a question for you.

ORATER: The question is, you want traffic on cadwallader? You want homes to open up.

ORATER: We want opening from Cadwallader side.

ORATER: I understand. I understand that. My question is; wouldn't that put more cars if it opens up on to cadwallader? Because, you know, if i'm not mistaken, this school is a block and a half away. If i need to get to my kid, I would walk. I wouldn't get into my car. Like today's weather, when it's so cold or raining. People drive their kids to school due to safety reasons.

ORATER: I understand. I would want my kid to walk to get used to the weather. I just don't understand, you know, the reasoning, you mentioned safety issues. If you need to get to your kids. I think i can get to my kids if I can walk not have to fight to the other cars who want to get there. I don't quite understand that question. Which of the neighborhoods do you live in?

ORATER: Sycamore. By that map. Is it on the right or left? Sycamore grove place. Right there. Yeah. I'm on that street. Okay. Thank you very much.

ORATER: Okay. Thank you Commissioner Kamkar. Next speaker, please.

ORATER: Thank you mr. Chair. Good evening commission and thank you for the good work you Do. I bring you greetings from the same neighborhood. Particularly to Mr. Zito for his excellent work and good listening skills trying to help us all. First of all. I want to be clear on the point we are not against the development of this area. In fact, we welcome new neighbors. We are, again, is the high density that has been proposed. When we bought our properties some years back, we bought it under the understanding that the zoning was on, was intended to be developed with .2 units per acre. Right now, it's been proposed 25 fold increase. We believe that's a bit unreasonable. So we are glad to support. In conclusion to this matter. If the total number of properties reaches up to 35 with the existing properties, I may add this process as democratic as it is. Is quite confusing, we have been fed with misinformation. Now we're here we just saw an overhead stating 35 or 36. We saw a memo stating it was 41. I don't know why all of this misinformation is floating around. We would support up to 35. But that number, 35 is up to and including the three properties already built. So, thank you very much. And thank you for your time.

ORATER: Thank you, sir. Next speaker, please.

ORATER: Good evening, i'm david Margoletti. I live in the area. When this first came up. I was a little upset. I think the developer has done a great job. Change is what this city is about. Nothing is going to be perfect. I think what they're proposing is very viable. They deserve to be able to develop their property like everything else develops their property. Putting the traffic on to Cadwallader would be a complete disaster. Whether it was 38, it just, that street isn't made for that. Yes, there's a problem with getting back and forth to school. As with a lot of people in that area. Not everybody goes to that school. There's a lot of kids that go to private school. Not all 38 cars are going to go to that direction. I think how it's proposed is viable and I support. Thank you.

ORATER: Next speaker, please. Karen greenwell. Next speakers, please come to the bottom of the stairs.

ORATER: Thank you staff from 84 feet to 110 feet. Most of the surrounding developments are 1-1/2. Certainly the develop or can average the number. The number of 2.5 is still nearly double of the surrounding developments. Why does it have to be 38. Why can't you compromise and put it closer to two units per acre. This would be a total of 35 or 36 homes. This still gives enough to make a profit and decreases the total number he's trying to fit in. Thank you

ORATER: Thank you. Mr. Jerry bean.

ORATER: Good evening. I would like to reiterate that most the residents are not ggainst the sale of the property. We're not against the development. It's the density once again. I want to just bring up two points. Reiterate what karen greenwell said. Most of the adjacent properties are much lower densities. One. 2, again, if you look at this picture, this is a map of the ridge. The property in question, is right here. It's at the northern end of the ridge. The whole ridge is one for one. Why is it the planning commission believes it should be five. We are looking at over three houses per acre at the top of the ridge here. My question is; i would like to yield to the planning commission. Why do you disagree, why shouldn't this be zoned the same as the top of the ridge?

ORATER: We will take it up with staff. But, it's not, we are able to answer that question.

ORATER: But you voted last time. We never heard why you disagree. I would just like to hear reasoning.

ORATER: Sir, we understand the community's concern about the number of homes in this location. The density issue was decided by the city council last week on December 1st. Tonight we're looking at the next level of detail. How do we accommodate the development potential of the 38 total housing units. Maximum potential. 41. My numbers are confused. As we continue to hear the testimony tonight and the discussion with the commissioners, they're going to balance the direction now that council has set for this priority with making sure the development standards will meet the objectives the community has with compatibility. That's really what we're here to discuss. We're past the discussion of whether it's 2 or 5. Council made that decision that week.

ORATER: It doesn't need to be 2.5.

ORATER: I want to clarify, this is the public testimony. It's not to engage in a debate with the commission. In you could listen and then move on. Thank you. Thank you, sir. Next speaker, please.

ORATER: My name is sapish. I am here to represent several members of community. I address each one of you. I was somewhat stunned and appalled at the least meeting. At those three meetings, there was unanimous petition from the community. It's unbelievable. Fortunately one person from your council who was there, present and witnessed the unanimous opposition. The planning development did not report this in their statement to you. Fortunately, jim zito, the only one who attended and witnessed the opposition was there and presented a proposal voted down. The commission voted for the development. This is a mockery of the process. The planning commission needs to uphold the community whom they represent and restore the credibility of the city's processes. I have another slide showing 83 percent has less than 1.5. What you're being asked for is 2.5. This is a huge increase, which will result in a devastation of the quality of life in this area. Due to noise. Crime. Inadequate structures. I am to do unfortunat person to have five houses behind me.

ORATER: Sir. You're time is up. We appreciate your comments. Next speaker, please.

ORATER: Hello everyone. After reading the summary from the round table report we had on December 1st. It was stated that the developer was asking to build 35 new homes. Why was not the zoning put at two units per acre and would have been more compatible with the surrounding land use. It makes no sense to jump up. It seems the number keeps jumping up. My concern about the school. I have written the mayor with all the kids generated through this project to cadwallader school. The safety and traffic issues will increase. We don't want a through street. I have asked also that there be adult supervision on school days and i hope will be addressed. Our plea is we keep the report of the dac findings that no more than 35 homes be built. We feels that a reasonable request to keep it at 35. Thank you for your consideration.

ORATER: Does the applicant wish to make a rebuttal statement?

ORATER: No.

ORATER: Okay. Thank you. Is there a motion. Let's see. Commissioner Zito.

ORATER: I will move to close public hearing.

ORATER: Is there a second? All in favor. So, turn back to staff.

ORATER: Thank you mr. Chair. I want to clarify the unit count issue. I'm sorry i was mistaken. If i would have read the report, I would have had the answer. As it turns out. All of the lands of pianca are included. There are 38 new houses proposed. Two houses existing. So three existing, 38 new.

ORATER: Thank you. Commissioner Jensen

ORATER: Thank you Mr. Chair. A question was brought up something to the affect of 35 houses imply in evergreen?

ORATER: Thank you. The evergreen established a pool of 500 units which the city council deemed was the maximum amount of houses. So the site had allocation for six units originally under the old system. Under the current system. Under those 500 pools that could be distributed, there's a rule in place no more than 35 could be granted to any one site. There's an exception that does allow larger project sites. So under the applicant's proposal. They would be taking full advantage of the maximum 35 units allocated to this one site and adding to the original Six? Thereby with 41

ORATER: Correct.

ORATER: And there's been a lot of discussion about lot sizes and density. A number of homes are across Neman from this proposal site. Do you know what the lot sizes on neman across the street?

ORATER: I'm sorry, i don't have the information in front of me. If you look at neman directly across the site. There's a project and i think those lots of 6000 square feet. I worked on that a decade ago. The lots to the south of bigger. Another thing to note, while there are properties that

abut this site. There are cul-de-sac lot that is culminate to this site. There's a large property line. If you look at the units within The tract itself. The more rectangular lots. And the exception of lands of Cerali. There are similarly sized.

ORATER: r 15. Those are 8000 square foot lots.

ORATER: Along country vista, those look like they were relatively small parcel sites. More elongated. More narrow than wide.

ORATER: They're deeper. The frontages are 60 feet apiece.

ORATER: Then, i understand that an agreement has been made with respect to the inclusion of two cul-de-sacs and no direct access to cadwallader, in terms of good urban design and you have heard me say this before, i am challenged with the introduction of additional cul-de-sacs. I believe current planning practices are recognizing that cul-de-sacs are detrimental to communities and neighborhoods. I seriously adult there's going to be some huge traffic jam on Cadwallader as a result, but, i would just like to voice my opinion that the additional cul-de-sacs are really not the best idea. That i see in this plan. Thank you.

ORATER: Thank you Commissioner Jensen. Commissioner Zito.

ORATER: Thank you mr. Chair. So, couple questions that i have. Number one. 2-1/2 story vision here. Are any of the other developments surrounding this developments have 2-1/2 stories?

ORATER: It's pretty much the standard height we have in place for every r one property, 6000 square foot lot or bigger in the city. We're trying to make sure the height requirements are the same with the surrounding developments. I feel confident all the surrounding developments have the same 2-1/2 story requirements.

ORATER: I haven't seen many. Most are one story along Cadwallader. In the evergreen policy. I am reading page 39. For the development of significant amounts of slope. The preservation of slope should be considered in site design. New buildings should be arranged so to preserve those views. For the benefit of the Commission.

ORATER: Yes, it seems like evergreen is the privileged child. That rises cackles with the Commissioners. Over five years and many, many hundreds of dollars, developers and the community has come together to put together this policy for taking care of unique surroundings that evergreen has. When you hear 2.5 acres. It does seem that way. Because of the hilly nature of this site. I'm concerned about the 2-1/2 stories and 35 foot height. It would essentially go against one of the key, what do they call these? Key elements. The clustering of the homes. Again, when you have them at a higher elevation, you do block out the views. One the owners came and showed her hers and some of the pictures she showed, showed quite a bit of space between the homes. You were able to see straight through. I think that's what people are looking for. Five by five doesn't seem to be consistent with 2-1/2 acres. 435000 square feet. 70 percent are under 12,000 square feet. At leasts drawings i have. They may not be the latest. I'm a little concerned, you have 2.5, but you got 3 or 4 lots because of the fact they purchased or have option on those lots and are not

being built to full density. You end up with 3 or 4 that are 50,000. When you have five foot setbacks, you create a wall of homes. I really appreciate what you presented to us regarding 110. I'm not so much concerned about the 35 units. We know these not going to build more. He doesn't have a historical component. He can only do 35. How can we assure they are spread out so we don't have a wall of homes and you really block out views and end up essentially going against the key outcomes in the evergreen policy. Can we spread them out? Have more side by side? Have 15 foot setbacks instead of five?

ORATER: We tend to start looking at our closest match. And 10,000 square feet is the closest. R one is typically an 8000 square foot lot. So, all be it. We know, when we deal with properties with slopes greater than seven percent. They are handled by zoning. When we have significant side splits that exceed three feet and create a situation where you have two tall walls or a house ten feet away and perched up ten feet, that would be a huge issue. That would be a 35 foot house. But a 45 foot house if it was sending on a ten foot grade differential. The formula we have in place, when we have a grade differential, you really do need to spread those houses out. You could have 15 feet on one side, but five feet is okay on the other side. So, you know, i say that based on having personally worked on probably every hill side development in evergreen for the last 20 years that had a lot of grading. The standards we have in place for consistent with what we put in place with other projects. The save guards we have in place to deal with the significant grade differentials are going to carry out side setbacks in a great number of places. A third of the lots where setbacks are going to have to be greater than five feet.

ORATER: The flat land, there's grade differential.

ORATER: The property across the street is r 15. Those have the availability have five foot the setbacks.

ORATER: I appreciate the changes that were made. For, i'm just going to identify them for.

ORATER: Single-family. You show five food side interior lot setback with the new changes that you suggested was the whole slope issue. I appreciate that. But on the lands of pianca. 2.35 acres, you have set backs of 22 feet. So, it's, the facing page. Again, you've got these differentials. I think if you had like for instance 12 and a half minimum along with the slope, then, you would end up with greater spacing and that view put, the through put views and be more consistent. Again. Consistency. To me, it's not so much the number of the units. I'm more concerned about am clumping. The massing of the units together. I'm going to attempt to put together a motion mr. Chair. If i can. And just so you understand the purpose of my motion is to come up with additional development standards that would ease the burden on the community and the the planning and development to maximum number of units. Let me see, the original motion as suggested says, consider the mitigated south of prunetree lane with the following additions. One of which is, no property would have more than three properties abutting any existing home with no more than three properties abutting. Second site setbacks are a minimum of 12 feet including the slope. You show five foot and the slope and another five foot. I want to be sensitive to that. I realize that adds additional setbacks. Including your consideration for the slope. The other provision would be that trees, because this is not a development, it's just a lotting of the properties, you're not actually building any homes that there are 91 trees being suggested to be essentially taken out. 18 are

ordinance side. I identified 8 or 9 not within a roadway. I would say any trees that are wholly within a lot that they not be removed because it will be up to the whoever is going to develop the lot as to where they can place the home. If i'm not mistaken. Is that true?

ORATOR: Typically, we look at that when we get to the pd permit right. When you look at grading to try to get each lot to drain properly and work the street at the proper gradient. Involves some amount of cut or fill on every inch of the property. That makes it different to save trees in some cases. If you have an existing tree and modify the grade. Having the tree sitting on a plateau doesn't work very well. We would want to go back and look at that. We think it's difficult to tackle with zoning.

ORATOR: Let me say, planning staff and developer work diligently to save as many trees as possible

ORATOR: That's certainly something we could accommodate.

ORATOR: Trying to remember, the current proposal does have the ballard on cadwallader. That was the general consensus of the developer and the general community. We will leave that one alone. And let me see, i think that will pretty much accomplish most of what i hoped. My motion is staff recommendation with the addition of those 3 or 4.

ORATOR: Thank you Commissioner Zito. Is there a second? Commissioner Campos. Would you still like to make a comment?

ORATOR: Thank you mr. Chair. To the maker of the motion, the recommendations that you made, those are conditions?

ORATOR: Are those conditions or are those recommendations for staff and the applicant to continue working to reach your recommendation

ORATOR: The numbers would be part of hard structure. The limited number of lots abutting the current homes. Those would be the same way as he proposed, 110 feet. I'm taking that and moving it to the whole project. For the trees, obviously it's a working, it's a recommendation.

ORATOR: okay. Um, i would not be able to support that motion with hard conditions or with your recommendations being part of development standards for this reason, for these reasons. One, i think ms. Pianca has made a compelling argument in terms of how development came about and surrounded her property. I mean, i have no idea where she was or what position she took when all that happened. Whether or not she was in the audience speaking against the development that came up around her. I can imagine how she felt when this came up and now being given restrictions and possibly not being able to do what she wants with her property. I think those development, those additional development standards, if they, if they actually would be prohibitive of ultimately the property owners getting what they expected. I can't support that motion. If you're recommendations were not part of the development standard and if they were a direction to staff to continue to work with the applicant, in between now and when it finally goes to council. I could support language like that. But the way it's stated, i cannot support.

ORATOR: Thank you, commissioner Jensen.

ORATOR: Staff would be the affected outcome if we were to impose the conditions recommended by commissioner Zito?

ORATOR: Well, it would take a little while to determine the outcome. That would add essentially, seven and a half feet times two. 15 feet of separation between units than what is proposed. On a given run. That would amount to 140 feet. Which would be a little more than a lot's width. Approximately one unit within a longer run. I'm not prepared to give a solid answer on what that looks like. My rough estimate would be that would probably be taken out somewhere in the neighborhood of 6 or 7 units.

ORATOR: I would not be able to support that. It feels like an attempt to modify the total number of houses output. While stating that's not the actual attempt. I won't be able to support the motion.

ORATOR: Thank you commissioner Jensen.

ORATOR: There are several speaker lights. I would like to make a comment. I will also not support the motion. I don't think it's good practice for the commissioners, for this commission to get so specific on details. I think staff, developers and the community spend months working out these details and these are complicated issues. You have density and all of that. I think it's not a good idea for us to sit here and specify to them very specifically the setback needs to be this and no more than that. So on and so forth. And without an opportunity to understand the full implication of this decision. I think staff has said. They can't fully brief commission on the implications. For this reason, i will not support either. Commissioner Kamkar.

ORATOR: If i understand correctly. One was 110 feet. I believe what staff recommended at the beginning of the presentation. So, do i understand that correctly?

ORATOR: Um, thank you. Mr. Chair, the way i have understood the motion is that it doesn't specifically address that, well i guess it does identify that as the minimum setback. I did want to get a point of clarification. We did decide it to be 25 feet. So, i just want to get a point of clarification. I suspect that wasn't the case on the neman side

ORATOR: If it allows the developer to spread out the homes to allow better views. My purpose, isn't to reduce the number of home in this development. It's to spread them out so they don't have the visual imcasion onnan r 18. Again, my purpose is not to necessarily reduce. As we saw already. The developer was able to take homes from one side of the street and move them to the other side of the street in order to make that. I assume from what staff is recommending. He's going to have to do that again. So.

ORATOR: I'm sorry. Commissioner Kamkar. You had the floor before.

ORATOR: So the answer was, it wasn't the 110 feet. It was to minimize the number of homes

ORATOR: The way the motion read, as recommended by staff. At the beginning of their recommendation. It was 110 feet. It would limit to no more than three. Back of the existing homes. I understood it to mean that. That's how i understood your second statement. I think i heard you to say that included the slope portion.

ORATOR: correct. Where the slope was involved, you get credit

ORATOR: Where the slope is involved, additional.

ORATOR: okay. So i want to be clear when staff answered commissioner Jensen, that's going to you know, add 70 feet and take away a few homes, did you have the same understanding that included the slope?

ORATOR: yeah. Thank you mr. Chair. They are always measured to property line. In accordance with our original recommendation. There's a slope as part of the recommendation. There has to be a minimum of five. There may be circumstances that you have to increase beyond that.

ORATOR: okay. I was referring to the drawing you showed us in your presentation. You showed the slope and the five foot to the retaining wall. That's why, it seemed like, he was, he was proposing was pretty close to at least the picture you were showing us. The third item, i believe was the trees that was brought up. You know, did the third item get, i guess recalled. I just want to be clear on the motion on the floor.

ORATOR: the commissioner made the third item a recommendation rather than action.

ORATOR: okay. I just wanted to be clear of the items we're discussing.

ORATOR: thank you. Commissioner Zito.

ORATOR: I want to redress some of the items. As i said before. It's not an overt view to diminish the amount of homes. We don't talk about the gables look like. We said we would try to get that right. When it got to the director's. The developer went in the opposite direction. Because of the fact it was totally within the bounds of what was approved. They couldn't not approve. They actually reduced it and it was legal for them to do so because it was only a recommendation. That's why it's important to be specific in the case where we need to be specific is. Things like massing and the number of stories that a property has is important to be specific about it. So that's why i'm being specific. I think it meets primarily with what the developer is trying to meet. Think as far as the owners are concerned yes, they had opportunities to be a part of silver creek development at that time. I would suggest that probably since then, property values have changed. A lot of things have changed. They still have an opportunity to sell their land and make a profit. That's not the issue. The issue is what is the impact of that development zoned as it's proposed on the existing neighborhoods. You're talking about an average of 17,000 square foot lots and 70 percent are not even close. It's a fallacy to say it's 2.5 units per acre because it's not for the most part. That's what we need to preserve here.

[applause]

ORATOR: so that's where i'm coming from. I would like to correct my fellow commissioners, i'm trying to reduce the number of lots. I'm just trying to make it amicable to the surrounding neighborhoods.

ORATOR: I would like to mention. It was to point out he put fewer houses on the one property we discussed. I have a question for staff, are we, first of all. I agree with the chair. It's challenging for us to come in and put restrictions on something that has been in the process of four years of the making. I have reservations about the motions and the specifics. I do understand that specifics are what we're talking about. So, is it possible for, in this area with the sloping for the number, for 35 homes in addition to the six existing to actually be put in this area with the restrictions that this motion would put on it?

ORATOR: It doesn't change the number of lots. The bigger affect is how big the house would be on the lot. Assuming each lot is the same under the original proposal. It would have had five foot setbacks. They will have seven and a half and the house will be 12 feet narrower. If the development's desire is to have the same amount of lots. That would have an impact on units. It's really going to be on the size of the house rather than the number of the houses

ORATOR: it's my understanding that towards the neman side, the reason why the lot sizes are so large. To try to make that area more compatible with those houses. Is that correct?

ORATOR: primarily, the reason the lots were bigger is because the property is steeper. Drops down from the top and goes down towards neman. Because of the fact we anticipate there would be a lot of grade difference between the different pads. It was important to have wider lots. That was the primary driving force. The lots that directly abut the ones in question on the south side where we looked at doing 110 wide lot. There's not that much slope. I don't think that's a particularly steep in that area.

ORATOR: so in that area, could a couple more houses go in there or with the sloping does that prevent that?

ORATOR: from my discussions with the applicant, probably what could happen, by staff's proposal, by widening out the lots, adjacent to the south. That would either one of two things happen. They lose a lot altogether or find a new home for that lot. The new home would probably want to be closer to neman boulevard on the north side of new street. Again, that's subject to how the grading is going to work. That's a fairly steep lot. There will need to be a lot of room for the grade created between the two lots. I'm fair to comment probably one could fit. It would take a fairly creative house design to get that to work

ORATOR: thank you,

ORATOR: thank you commissioner cahan.

ORATOR: we have a motion. Perhaps after that, we could take a vote. I do want to make one comment briefly. Which is to go back to what commissioner Jensen said earlier. I strongly support her view regarding the cul-de-sac. We have had quite a few developments that have come before this commission. Each time. Staff tries to do a way with cul-de-sacs in the city. If future developments and all of that. There's always a reason to not do away with a cul-de-sac. From my perspective. Eliminating cul-de-sacs is an important issue for the city as a whole. In terms of looking in a larger view. I completely understand that neighbors along a cul-de-sac street don't like it. They want to preserve privacy. But i think to the detriment to the city as a whole. I do want to make that point. I strongly support what commissioner Jensen said before in terms of maintaining connectivity with the city. With that, commissioner Kamkar.

ORATOR: thank you mr. Chair. You just brought up one point i want to address. First of all. I want to say, i did meet with Mr. Lazerili. I am 100 percent for keeping the maximum number at 41. I'm not interested in lowering either. But as a civil engineer and someone who does this type of design, grading designs, i can tell you, you can fit 41 homes based on available land. Yes, you might need a few more retaining walls. That's quite a few that's already here. The other issue is, you mentioned cul-de-sac. I think the applicant has the best of both worlds. They have cul-de-sac to have privacy and right-of-way for emergency vehicles. They have taken the problem by allowing the neighborhood connectivity. I like the design and all i'm saying, we can have a win-win situation by spreading the lots a little more. What's an average frontage for lots on the long court? Let's say units number 16 or 17. Isn't that lot 60, 70 feet? The frontage?

ORATOR: um, i guess i just don't have frontaged identified. I do know from point of reference. The five lots in the area. Those lots were 84 feet wide.

ORATOR: so if the street 84, the 1 across the street is close to 70 to be on the conservative side. When you are saying, each lot gets seven foot wider, even if ten of them get seven foot wider. That's 70 feet. That means only one lot has to move over to make up for the extra width that commissioner Zito is requesting. The applicant has acquired enough land to make this work. And so, why don't we have a compromise. So both the neighborhood is happy and the applicant is happy. They get number of units. They are not building. The neighborhood gets separation to conserve the view. I think you have a win-win compromise in front of you. I hope you take advantage of that. Thank you. Commissioner Zito

ORATOR: just one clarification. This zoning is different. The applicant is not building a single house. The setbacks affects somebody coming in would have a specific set the guidelines they would have to follow. Is that not correct?

ORATOR: yes. If the applicant decides they want to maintain the same size of house, they would have to widen lots. Mr. Zito is correct. Just the mere increase in setbacks doesn't change the lots. You could go the way it's laid out currently by the applicant. I'm not trying to make an opinion. You could still provide the same number of lots. The only implication is the size of the lot.

ORATOR: the i want to clarify something. I meant on any one side. I didn't mean, there are a couple of lots that have lots that actually go around to two sides or three sides. That would be absurd to get three lots. I meant on any one side. If that wasn't clear.

ORATOR: or perhaps on a straight property line. I just want to bring one other thing. If the planning commission didn't know about the evergreen policy. It's a set of design guidelines that are applicable to this area. While it's more restrictive than the regular general plan, it was meant to be so. Staff has been working on this since 2002. A lot of work went for the sole purpose of trying to keep the feel of the neighborhood. That's why i feel my motion is consistent with the evergreen policy and it's our job to uphold that policy. That's what we're here for.

ORATOR: thank you. Commissioner zito. Let's vote by light.

ORATOR: i'm sorry. I'm sorry. Commissioner cahan.

ORATOR: thank you mr. Chair. I'm now going to support the motion with the clarification on three on one side. It's important we allow space to give more of an open feel to that area.

ORATOR: okay. Thank you. Let's vote by light.

ORATOR: okay. So the motion is not approved opposed commissioner do, commissioner campos and commissioner platten. So, may i entertain another motion from a commissioner.

ORATOR: commissioner campos.

ORATOR: thank you mr. Chair. I move that we consider the mitigated negative declaration in accordance with ceqa. Recommend approval of the planned development rezoning to allow up to 41 single-family detached residential units on a 18.49 gross acre site located on the west side of cadwallader avenue, approximately 500 feet south of prunetree lane, for staff to continue to work with the applicant to see if some of the staff recommendations that were provided to us this afternoon actually work out without being detrimental to the overall unit count. Thank you.

ORATOR: thank you. commissioner campos. Let's see. Is there a second? Okay. There's a motion and second. commissioner kamkar.

ORATOR: again. I just want to be clear as to the motion. When you say as recommended by staff. Is the staff's presentation included part of the motion or not included part of the motion.

ORATOR: the staff's recommendation goes for a recommendation for staff and the applicant to Continue working out the new details of what was presented today. What was in the staff report over the weekend that we read, that's what i'm making a recommendation on.

ORATOR: okay. Thank you.

ORATOR: thank you commissioner kamkar

ORATOR: commissioner zito

ORATOR: i want to understand that we're actually going backwards here. We're not incorporating what staff presented and maybe part of that is the confusion of what is will do. We don't know what the impact is. If that's the case. Maybe a should make a motion to defer. We should get staff to calculate what impact it will have and take it up at the next meeting. We have drawings that were not consistent. It's got a lot of mixed stories. I'm going to make an alternative motion to defer this to get clarification of staff's proposal on this site. Whether or not it's going to reduce or how it will set the stage. If they would at the same time, look at my proposal as well and see if there's any reduction. Part of the problem is we don't know what the impacts are. I make a motion to defer to the next meeting

ORATOR: so, the honest truth is, i don't know the rules.

ORATOR: the motion to defer takes precedence over existing motion

ORATOR: has to be seconded.

ORATOR: it's just a motion and needs to be seconded.

ORATOR: is there a second? So. That motion is not a life motion. We go back to the motion that was seconded by commissioner campos. There are no other speaker lights. So let's vote by light. So the motion is approved with commissioner zito and commissioner cahan amotion. Moving on to item number three. Planned development rezoning to allow for the development of a 100% affordable multi-family residential development of up to 102 attached units on a 2.8 gross acres site, located on the east side of monterey road, approximately 700 feet north of tully road

ORATOR: i'm sorry. Commissioner jensen

ORATOR: thank you. I want you know, i will be withdrawing on this motion. I work on the emergency preparedness commission.

ORATOR: thank you. This is a rezoning of apd to 100 percent on a 2.8 acre site to accommodate detached units. The city council acted on aproved in december. This proposal consistent with that amendment and staff is recommending approval.

ORATOR: thank you. Is the applicant here? Please if you wish to make a statement to the commission. Please come down to the podium. Please state your name

ORATOR: good evening. My name is jonathan noble on charities housing with over 15 years experience of owning, developing and manages properties in santa clara county. Jenny wishes she would be here. Unfortunately, the cold weather is impacting many of the homeless families and her presence is needed at the gilroy shelter. We want to thank you for your support of general plan amendment just last month and ask for your support of rezoning tonight. As you recall, this zoning is a key step in the purchase of this from a delapidated to a new 1 hundred percent affordable family community. We respect the high density along monterey road and create a wonderful environment for families liveing on site. We use structured parking to create two areas for recreation and relaxation. A portion of the space is designed to recreate the dry stream bed area

that currently exists and combine with lawn spaces. We will create a wonderful lawn area and really hope these areas serve as a gathering space for the entire community. Consistent with our desire to create a wonderful environment for our residents, we have been incorporating a range of green features and will exceed the green building standards as required by the city. I want to thank you for your past support and i'm available for questions. Thank you.

ORATOR: if there are no questions. Okay. Okay. Thank you. Motion to close public hearing. All in favor.

[aye]

ORATOR: staff

ORATOR: staff has nothing to add at this time. Unless you have questions.

ORATOR: are there any questions from commissioners? commissioner zito.

ORATOR: no questions, just a motion.

ORATOR: please do so. If i can find that magical piece of paper.

ORATOR: open to the right page. Consider the mitigated negative declaration in accordance with CEQA. Recommend approval of the planned development rezoning to allow for a 100% affordable, multi-family attached residential development of up to 102 units on a 2.8 gross acres site located on the east side of monterey road, approximately 700 feet northerly of tully road, as recommended by staff.

ORATOR: second. And i would like to say, i'm really glad to see this was able to go forward and we were able to help the eac and allow them to focus on what they do best and allow the applicant to do what they do best. I think it was the right decision and provide these services to our, to our constituency or the residents of san jose who need it the most.

ORATOR: thank you. Commissioner zito. There are no speaker lights. Let's vote by light. The motion is passed with all commissioners voting in support. Commissioner jensen, absent. So that takes us to the next item, we do not have any. We will go to the next one. Referrals to city council director.

ORATOR: there are none

ORATOR: thank you. Item six. Good and welfare report from city council.

ORATOR: no new report.

ORATOR: reports from committees.

ORATOR: thank you mr. Chair. We haven't met yet. There is a meeting on monday. However i will not be able to attend

ORATOR: thank you. Commissioner kamkar. Envision san jose.

ORATOR: there's a meeting that's going to be this monday the 14th. And review of december 2nd. Motion to adopt.

ORATOR: second.

ORATOR: is there a second?

ORATOR: second.

ORATOR: okay. all in favor.

[aye]

ORATOR: okay. schedule and approve a study session on may third 2010. staff.

ORATOR: yes. This is the annual study session to review capital improvement. This commission has a tight time line to provide comments to city council. We are asking respectfully you add this to your calendar.

ORATOR: subcommittee reports?

ORATOR: i just have a question. The director is correct. We have been crushed on this. Will you do your best to try to get a draft to us.

ORATOR: as soon as we get it from the city manager. The publication date is may first

ORATOR: thank you. Commissioner platten and director

ORATOR: you want a motion for that?

ORATOR: on the study session? so move. second? all in favor

[aye]

ORATOR: With that, we adjourn the meeting. Thank you.