

**CITY OF UNION CITY
MINUTES FOR THE REGULAR PLANNING COMMISSION MEETING
OF MARCH 3, 2005, 7:00 P.M.
IN THE COUNCIL CHAMBERS OF CITY HALL
34009 ALVARADO-NILES ROAD, UNION CITY, CALIFORNIA**

- I. ROLL CALL: Commissioners Lew, Sison, Sweeney and Chairperson Anderson**
ABSENT: Commissioner Savage

STAFF PRESENT: Mark Leonard (Director, Economic and Community Development); Joan Malloy (Planning Manager); Aki Honda (Associate Planner); Tina Gallegos (Assistant Planner); Carlos Jocson (City Engineer); Kris Fitzgerald (Administrative Assistant).

- II. APPROVAL OF MINUTES:** The minutes of the Regular Planning Commission Meeting of February 17, 2005 were approved as submitted.

III. ORAL COMMUNICATIONS:

Hugh McNamara, 32238 Mercury Way, stated that the RePAC Committee will be ending on March 28, 2005. He stated that some of the duties of the RePac will be passed on to the Planning Commission. He said that if any commissioners would like to attend the next meeting of RePAC it will be on March 14, 2005.

- IV. WRITTEN COMMUNICATIONS:** None.

V. PUBLIC HEARINGS:

A. CONTINUED HEARINGS:

- 1. CITY OF UNION CITY, TRANSPORTATION ELEMENT, SECTION C, PEDESTRIANS, BICYCLES AND TRAILS, General Plan Amendment AG-01-05;** The City is proposing to amend the General Plan to revise and expand the *Transportation Element, Section C, Pedestrians, Bicycles and Trails*. Proposed amendments would include six new goals and associated policies to address institutional framework; bicycle, pedestrian and trail networks; Safe Routes to School, and funding considerations. Two new figures, known as *Figure TR-5, Existing and Proposed Bicycle Network* and *Figure TR-6, Existing and Proposed Pedestrian Network* are proposed to replace the existing figure for bicycle, pedestrian and trail networks. The project is considered to be exempt from CEQA by Section 15061(b) (3) because there would be no specific project proposed or approved as part of the planning process.

Joan Malloy, Planning Manager, presented the staff report.

Chairperson Anderson opened the public hearing.

Chairperson Anderson closed the public hearing.

Commissioner Sweeney made a motion to recommend approval of General Plan Amendment AG-01-05 to the City Council, making findings 1 – 4 and incorporating ACTA comments 1 – 3 for the policies and comments 1 – 3 for Figure TR-5 and adopting a resolution confirming this action.

Commissioner Lew seconded the motion.

AYES	4 (Anderson, Lew, Sison, Sweeney)
NOES	0
ABSENT	1 (Savage)
ABSTAIN	0

B. NEW HEARINGS:

- SUMMERHILL HOMES, 4717 LOWRY RD., General Plan Amendment AG-04-04, Zoning Map Amendment A-07-04, Tentative Tract Map 7601, Site Development Review SD-14-04, and Use Permit UP-11-04;** Initiated by Adam Tennant of Summerhill Homes, the applicant is requesting a General Plan Amendment to redesignate eight (8) acres (floating) of the 40.3 +/- acre undeveloped Accinelli property, located at 4717 Lowry Road (APN:543-0201-004-02), from PI (Private Institutional) to four (4) acres of OS (Open Space) and four (4) acres to R 3-6 (Residential). The applicant is also requesting a Zoning Map Amendment to rezone four (4) acres to OS (Open Space), and four (4) acres to RS 6000 (Single family residential), to be consistent with the proposed General Plan Amendment. The applicant is also requesting approval of a Tentative Tract Map for the subdivision of the proposed site, into 180 single family home lots (with a mix of 5,000 and 6,000 square foot parcels) and 16 Below Market Rate duplex lots (consisting of 32 BMR Units). The project includes Site Development Review for the architectural design and site layout of five (5) separate home models for the 5,000 square foot lots; and three (3) separate models for the 6,000 square foot lots. A duplex model is also proposed to meet the affordable housing requirements. The project includes a Use Permit to establish a Planned Unit Development (PUD) on the property which would allow the applicant to average the yard setbacks of the homes and to provide lots smaller than the minimum required size per the RS 6000 District, but which are within the density prescribed by the General Plan of 3-6 dwelling units per acre. A Mitigated Negative Declaration has been prepared on the project and it has been determined that the project will not have a significant, adverse effect or impact on the environment with mitigation measures.

Tina Gallegos, Assistant Planner, presented the staff report.

Mark Leonard, Director, Economic and Community Development, stated that staff wants to add a condition to require tile roofs instead of composition shingle roofs.

Commissioner Sweeney asked what is the number of duplexes being proposed.

Ms. Gallegos stated that there will be 32 duplex units, of which 28 will be for below market rate units; and four units (or 2 duplex units) will be sold at market rate.

Commissioner Sweeney asked why there are going to be off site below market rate units.

Mr. Leonard stated that there is an opportunity to buy a parcel of land in the Decoto area to provide affordable units. He said that by reducing the number of on-site units by four the applicant will make a cash contribution that will be applied to that purchase of a Housing Authority parcel. He said that the write down for affordable units on a project of this size is a huge subsidy so instead the applicant will be making a cash contribution and buy into a more affordable neighborhood. The applicant will also provide a four acre sports field with a full size soccer field with artificial turf and a two million dollar contribution to complete the City gymnasium.

Commissioner Sweeney asked if the off-site units will be constructed concurrent with the project.

Mr. Leonard stated that they would.

Commissioner Sweeney asked if the street names will conform to the existing naming program.

Ms. Gallegos stated that it would be.

Commissioner Sweeney asked if the entry road off of Lowry Road will have the project name "Talavera".

Mr. Leonard stated that there will be no houses on that street.

Commissioner Sweeney agreed but pointed out that there will be a monument with that name located there.

Commissioner Sweeney asked why the public right of way adjacent to the park shows only 4 ½ foot sidewalks rather than the standard five-foot sidewalks.

Carlos Jocson, City Engineer, stated that five foot sidewalks are standard with the curb included.

Commissioner Sweeney asked if the 4 ½ foot planting strip also includes the curb.

Mr. Jocson stated that they will ensure that all sidewalks are five-feet.

Commissioner Sweeney asked to add a condition to specify five-foot sidewalks.

Commissioner Sweeney asked if there will be a sidewalk provided along the length of street E and the embankment of the railroad.

Ms. Gallegos stated that there is one.

Commissioner Sweeney asked why there are no bike lanes shown along the street next to the park.

Mr. Jocson stated that normally the City does not put bike lanes in on residential streets.

Commissioner Sweeney stated that she thinks that considering the location and the size of this park that there should be a widening of the street or striped bike lanes on the streets that lead to this park, including Lowry Road.

Commissioner Sweeney asked if the 25 foot emergency vehicle access from Hanford Street to Niland Street will be dedicated to the City and if so shouldn't it be shown as a separate parcel.

Ms. Gallegos stated that it should be.

Commissioner Sweeney stated that the tract map needs to be amended to reflect that.

Mr. Jocson stated that they will require the applicant to show the dedication in the final tract map.

Commissioner Sweeney asked if there is a proposal for the emergency vehicle access gates.

Ms. Gallegos stated not at this time.

Commissioner Sweeney stated that she doesn't want gates that look like the ones in the Ponderosa Cove project.

Commissioner Sweeney asked what will the landscape strip along the railroad embankment look like and what is its size.

Ms. Gallegos stated that it will have two levels of trees and shrubs and be five-feet wide.

Commissioner Sweeney stated that the conditions do not show who is providing the improvements to the tot lot.

Ms. Gallegos stated that the applicant is responsible for the improvements.

Commissioner Sweeney stated that there should be a condition for that. The conditions cover the four-acre park.

Ms. Gallegos stated that it will be merged into the condition for the four acre park.

Commissioner Sweeney stated that in condition #7 there is a conflict between using all the units for below market rate units and using 28 units.

Mr. Leonard stated that the last sentence could be removed.

Commissioner Sweeney replied that it could just be amended to read 28 duplexes will be used for their on-site affordable housing.

Commissioner Sweeney asked if condition #13 should include maintenance for the landscaping, and what was intended by "natural" landscaping.

Ms. Gallegos stated that natural landscaping is everything other than the artificial turf.

Joan Malloy, Planning Manager, stated that they were trying to differentiate between the natural landscaping and the artificial turf.

Commissioner Sweeney asked to take out the word "natural" out of condition #27.

Commissioner Sweeney suggested adding to condition #21 that no two identical driveway finishes be next to each other.

Commissioner Sweeney asked that written notification similar to condition #19 be added to condition #21.

Commissioner Sweeney asked that condition #35, which requires a biological report per mitigation BR-1 of the Mitigated Negative Declaration, be required to be filed with the city prior to issuance of the grading permit.

Mr. Jocson stated that can be required.

Commissioner Sweeney stated that the mitigation measures in the noise section talks about two plans that are not before us tonight.

Mr. Leonard stated that staff will have to update the mitigation measures to reflect the current plan.

Commissioner Sweeney stated that she is not comfortable moving forward on a project that does not have accurate mitigation measures.

Mr. Leonard stated that our environmental consultant is here and we can work on it during the public hearing and come back to the commission with some appropriate amendments.

Commissioner Sweeney asked that condition #58 should require that the waiver be recorded on the deed of the property prior to final map recordation.

Commissioner Sweeney stated that condition #60 needs a "shall".

Commissioner Sweeney stated that a few of the conditions seem to be duplicate items from the Mitigated Negative Declaration. She gave conditions #79 and #35 as examples.

Mr. Leonard stated that they can rewrite CR-3 to reflect the terms of the condition itself.

Commissioner Sweeney stated that the condition can be left the same, but that it does cause a legal problem to the City.

Mr. Leonard stated that he would rather make them consistent.

Commissioner Sweeney pointed out that there are more that need to be changed to be consistent.

Mr. Leonard suggested adding a clause that the most restrictive condition will apply.

Commissioner Sweeney asked how do we assure that both owners of the duplex will maintain the exterior of the unit.

Mr. Leonard stated that this is a good point as they are running into this problem in other parts of the community. He said that the City needs to come up with a mechanism to avoid problems like that.

Chairperson Anderson asked if the City Council had changed its vision regarding the 8 acres that were zoned Private Institutional.

Mr. Leonard stated that the City Council's message to property owner was to maintain opportunities to build faith-based institutions. In preparation for this project meetings were held with the Union City Pastor's Alliance in an effort to contact faith based organizations that would be interested in all or part of the eight acres. He said that no one came forward and he feels that adequate notice was given to the faith based organizations.

Chairperson Anderson stated that he disagrees with that reasoning and is not comfortable with the General Plan Amendment and the Zoning Map Amendment.

Chairperson Anderson asked if Hanford Street is allowing pedestrian and emergency vehicle access how lot D#16 would be affected.

Mr. Leonard stated that there will be a driveway provided at the end of the cul de sac bulb to access the rear unit. He stated that one of the units is directly off the front of the cul de sac and the other unit will be accessed by a U-shaped driveway in the back.

Chairperson Anderson asked then if lot D#16 will be a flag lot.

Mr. Leonard stated that it could be considered a flag lot although it is more of a U-shaped driveway. He said that the design of the duplex units will look like single-family homes because they will have entrances off of different streets.

Chairperson Anderson asked how the emergency vehicle gets from Hanford Street into the site.

Mr. Leonard stated that there would be provisions for removing bollards or opening a decorative gate. He said that the Fire Department would just roll up over the tapered curb and then slide along the easement to Hanford Street.

Chairperson Anderson asked why can't the cul de sac connect up with a regular street and provide an alternative access to the project.

Mr. Leonard replied that it could and that option was evaluated. He stated that staff thought the cul de sac was a better option to create a better neighborhood and possibly provide additional parking spaces for the park.

Chairperson Anderson stated that he did not like that option.

Mr. Leonard stated that the cul de sac also provides additional parking for the park. He stated that they could eliminate the flag lot by putting the entries to the duplexes in line but he feels that they do not have the quality that we are looking for.

Commissioner Sweeney asked if the large area between the driveways is going to be the front yard for the back unit and cannot be fenced with a six-foot fence. She stated that this is creating a problem for the back unit because they will have to cross the other unit's front yard to access their property driveway. She feels that this will create maintenance issues for the property.

Chairperson Anderson stated that there should be more access for bicycles to this site.

Chairperson Anderson stated that in the staff report it talks about the project sponsor providing curb radii and land widths to allow moving trucks to enter and exit and he wants to know what "project sponsor" means and their does not seem to be a corresponding condition for those specific improvements.

Commissioner Sweeney stated that condition #35 appears to cover this.

Chairperson Anderson asked to have "project sponsor" instead of "the applicant" wherever it appears in the staff report.

Chairperson Anderson stated that condition #5 does not seem to require the applicant to do anything.

Mr. Leonard replied that the Tentative Tract Map cannot be approved unless the General Plan Amendment and the Zoning Map Amendment are approved.

Chairperson Anderson pointed out that condition #12 is less restrictive than the condition from the Mitigated Negative Declaration. He would like the more restrictive condition to be used.

Chairperson Anderson asked why the applicant in condition #14 is being required to pay for the environmental consultant before building permits are issued, when the environmental report for CEQA has already been prepared.

Mr. Leonard stated that condition #14 can be removed.

Chairperson Anderson asked that the word “approximate” be changed to “approximately” in condition #33.

Commissioner Lew asked if the bulleted item on page 7 should be condition #83 not #84.

Commissioner Lew stated that in condition #25 the reference should be changed to SBC.

Commissioner Lew asked if condition #56 could add painting curb addresses in front of the homes.

Commissioner Lew asked if the streets perpendicular to Lowry Road would have street names.

Ms. Gallegos stated that they would.

Commissioner Lew asked if there would be pedestrian and bike access from Hanford Street through the emergency vehicle access.

Mr. Leonard stated that there would.

Commissioner Lew stated that though changes are asked for in the conditions they are not reflected in exhibit. A, such as access to Alameda Creek and improvements to the tot lot.

Ms. Gallegos stated that there are conditions of approval for the tot lot and access to Alameda Creek.

Commissioner Lew stated that they are not shown on the drawings.

Ms. Gallegos stated that it is covered.

Commissioner Lew asked if there will be a condition for the properties to have CC&R's.

Mr. Leonard replied that we don't condition it to have CC&R's.

Commissioner Lew noted that several units have three-car garages and wondered if they could be converted into living space.

Mr. Leonard stated that the code requires to two covered and enclosed parking spaces. He said that it is possible but building codes would have to be met.

Commissioner Lew asked if the third garage could be converted to a secondary unit.

Mr. Leonard replied that there are other requirements that must be met for secondary units.

Commissioner Lew asked where the underground tank is located and whether it is going to remain in place.

Mr. Leonard stated that they will add a condition that no underground tanks will remain on the property.

Commissioner Lew asked if the homeowners would be able to open the windows that are being put in for noise reduction.

Mr. Leonard replied that the windows will not be sealed and the HVAC system will vent air.

Commissioner Lew asked what kind of changes are being required on Lowry Road.

Mr. Leonard stated that the new entrance to this project will be signalized and the City Engineer has conditioned the project to require signals at Lowry Road and Regents Boulevard, at Lowry Road and Brockway Street, and at Lowry Road and the project entrance.

Mr. Jocson stated that in the case of Lowry Road and Brockway, the City is conditioning a cash deposit from the applicant that if in five years traffic analysis shows that a signal is not needed at that intersection then the money deposited will be returned to the applicant.

Commissioner Lew stated her concerns about the odd shaped lots with extended driveways.

Commissioner Sison stated his concerns about the size of the side yards which would be allowed by the Use Permit. He feels that ten feet would not be adequate.

Ms. Gallegos stated that the R 5000 zoning district allows a five foot side yard separation between units and that these lots are of similar size, and propose similar side yard setbacks.

Mr. Leonard stated that the 511 zoning standard have been applied to this area. He said that many of the new homes on the west side of the City have this size side yard.

Commissioner Sison asked how the City enforces the restriction on widening driveways.

Mr. Jocson stated that they would have to get a permit to widen the driveway cut itself because it is in the public right of way. He said that Neighborhood Preservation can site owners that illegally widen their driveways.

Commissioner Sison asked if the restriction can be removed from the deed.

Mr. Leonard stated that it could not be removed unless the City agrees to remove it.

Adam Tennant, Summerhill Homes, 5000 Executive Parkway, San Ramon, 94583, stated that they are not planning to use composition shingle roofing. He said that they planned to remove the tank with the guidance of the Environmental Programs Department. He said that the duplex lots are sited the way they are to try to stay out of the 150-foot acoustic buffer. Mr. Tennant stated that it does make a nice buffer

and that maybe a split rail fence to frame the drive might make it look better. Mr. Tennant stated that initially they had designed a through connection from Hanford Street but the community did not like it. Mr. Tennant stated that Summerhill retained an outside broker and contacted 32 groups, including assisted care groups, but due to the financial consideration no was interested in the eight acres of PI. He said that Summerhill did meet with the groups from Pastor's Alliance but still received no interest. Mr. Tennant stated that they had meetings with the community. Mr. Tennant stated that in condition #83 the study stated that the project did not have a significant impact and signals were not needed. He feels that paying 70% share for one light and 50% for another is excessive and that a pro-rata share of 4% and 8% is more equitable. Mr. Tennant asked to put time limit on doing sidewalk down Lowry Road to Fremont in condition #13. He wants to cap moneys at \$30,000 for the sidewalk. He is worried about the Union Pacific abutments. Mr. Tennant stated that they want to build a community that the customer will enjoy.

Commissioner Lew voiced her concerns over the plainness of the left elevations of the homes and asked if that was what they were going to build.

Mr. Tennant stated that was the plan.

Commissioner Sweeney stated that on the rear beneath the gable there is a trim and could it be duplicated on the side elevations.

Mark Rutherford, Summerhill homes, stated that the gable siding element is on the front and the rear but it could be duplicated on the side elevations. He stated that they generally don't put windows on the sides of the garage.

Commissioner Lew asked what is the clearance from the fence to the side of the home.

Mr. Rutherford stated that it is five feet.

Commissioner Sweeney asked if the 5,000 square foot lots include a five feet side yard setback on both sides.

Mr. Rutherford stated that they do.

Commissioner Lew asked if the design on drawing L 1 will reflect the actual mailbox.

Mr. Tennant stated that they preferred individual boxes but have been encouraged to use cluster boxes. He said that it doesn't have to be that particular style.

Ms. Malloy stated that the United States Postal Service requires this type of box in new residential developments. She stated that the style may be changed.

Commissioner Lew asked where they were going to be located.

Ms. Malloy stated that the developer proposes sites and confirms with the Post Office.

Commissioner Lew asked on drawing L2 if the lots in the upper left hand corner will have a side access.

Mr. Tennant stated that they each have a gate on one side.

Commissioner Lew asked who is responsible for maintaining the landscaping strip.

Mr. Tennant stated that he believes that the City is responsible.

Mr. Jocson stated that the planting strips along the frontage of each residence will be maintained by that property owner.

Commissioner Lew asked who would maintain the landscaping strip along the park and along the extension of Novato Street and the fence line towards the park.

Mr. Jocson stated that the City would maintain those areas after the two years that the developer maintains it.

Commissioner Lew asked what a "Talavera" is.

Mr. Tennant believes it is a community in Spain.

Commissioner Lew asked to have the name of the community be changed.

Mr. Tennant stated that they could do that.

Commissioner Sweeney asked why the extension of Orick Street narrows when it enters the new development.

Mr. Tennant stated that he did not know why they did not line up and that it should.

Commissioner Sweeney asked why there is no mix of the 5,000 and 6,000 square foot lots instead of being in clusters as they are now.

Mr. Tennant stated that they were trying to keep the 6,000 square foot lots closer to the existing development.

Commissioner Sweeney stated that she has concerns over the long block of homes. She also wants to eliminate the odd shaped duplex lots. She would like to see the long block broken up and move some of the duplexes from where they are.

Commissioner Sweeney stated that she cannot vote for the Tentative Map as it stands now. She noted that the duplex lots that have a side yard bisected by the neighbor's driveway is untenable. She stated her concerns over the extremely long driveways.

Commissioner Sweeney was concerned about how they are going to fence areas that are oddly shaped.

Commissioner Sweeney stated her dislike of the home elevation designs.

Commissioner Sweeney stated that she was concerned about the reduction in the size of the side yards.

Chairperson Anderson asked if the developer has done other developments that included mixed use commercial.

Mr. Tennant stated that they have.

Chairperson Anderson asked how they find tenants for those developments.

Mr. Tennant stated that usually they develop around an existing commercial development.

Chairperson Anderson asked how they did the outreach for the PI parcel.

Mr. Tennant stated that they looked within the Tri-City area and did meet with the Pastor's Alliance.

Chairperson Anderson stated that he would not vote for flag lots or the General Plan Amendment or the Zoning Map Amendment.

Commissioner Lew asked how the new houses that will back up to existing houses will handle the fencing.

Ms. Malloy stated that usually the developer builds new fences.

Mr. Jocson stated that in California Rosecrest they put in new fences.

Mr. Tennant stated that they would prefer to work with the homeowners to put in new fences.

Commissioner Lew asked to have a condition that would have the developer put in new fencing in those areas.

Mr. Leonard stated that the applicant shall work with the existing homeowners on Oakdale Street and Palmdale Street to replace the rear yard fences with a new fence.

Commissioner Lew asked why they did not include ground cover or flowering plants in the landscape plan for the common areas of the park and along the street where the railroad is.

Mr. Tennant stated that in drawing L 3 it does mention shrubs and ground covers.

Commissioner Lew would also like to see some flowering annuals around the park area.

Commissioner Lew asked where the driveway and parking area for the park will be.

Ms. Malloy stated that parking areas for the park have not been designed at this time.

Commissioner Sison stated that some homeowners might have vines on their existing fence. He stated his concern that there is not a hodgepodge of fences.

Mr. Leonard stated that they will work with the homeowners.

Chairperson Anderson opened the public hearing.

Myrla Raimundo, 3107 San Ramon Ct., stated that there is a practice to have the streets named after elected and appointed city officials. She asked if the two million dollar donation to gym will be made before or after the project is completed. She stated that cul de sacs are no longer permitted because they want to make use of the space more efficiently.

Atul Mitra, 3060 Belize Way, stated his concerns about parking space for the park and that it should be defined now. He also believes that the design is very bland for such an upscale community. He wants to see a site layout.

ABSTAIN 0

Chairperson Anderson called for a short recess at 9:55 p.m.

Chairperson Anderson called the meeting to order at 10:05 p.m.

2. **VINCENT C. WONG AND PARTNERS, FLORENCE ST., Tentative Tract Map TTM 7114, Use Permit UP-01-05;** Vincent Wong and Partners request to subdivide a 6.01 acre site located at the end of Florence Street (APN 087-0034-002-07) into six (6) single-family residential lots within the RS 6000-H (Hillside Combining) zoning district. The applicant is also requesting a Use Permit as required for projects in the Hillside Combining district (-H) and to establish a Planned Unit Development (PUD) on the property. The City has prepared a Mitigated Negative Declaration on the project and has determined that the project will not have a significant, adverse effect or impact on the environment with mitigation measures.

Mr. Leonard presented a short history of the Hillside Area Plan and Measure B.

Aki Honda, Associate Planner, presented the staff report.

Commissioner Lew asked if the property is 5.93 or 6.01 acres in size.

Ms. Honda stated that is 6.01 acres.

Commissioner Lew said that if Tentative Tract Map Exhibit A refers to seven lots instead of six and needs to be corrected, and asked if the map reflects the 6.01 acreage.

Ms. Honda referred the question to the applicant's engineer.

Commissioner Lew asked how the annexation process would work.

Mr. Leonard stated that an application is made to the Union Sanitary District and also to the Alameda County Water Department and it would be acted on by their respective boards to bring this land into their service area.

Commissioner Lew asked how long does the process take.

Mr. Leonard replied that Union Sanitary District takes about 6–12 months.

Commissioner Lew asked if the annexation would have to take place prior to approval of the Tentative Tract Map.

Mr. Leonard stated that the commission can act tonight but prior to the final map, which goes directly to the City Council, the applicant would have to start the process.

Ms. Honda stated that the applicant has already started the process.

Commissioner Lew stated that findings required in zoning code section 18.56 do not match the ones in the report.

Ms. Honda stated that these findings were tailored to this project.

Commissioner Lew asked if the findings from zoning code section 18.44 should be included in this report because it deals with the planned unit development.

Mr. Leonard replied that as part of the Use Permit we should address these required findings that are in section 18.44.060 c. of the zoning code.

Commissioner Lew asked if the application should be continued so that staff could add these findings to the report.

Mr. Leonard stated that the application can be acted on tonight because these findings could be duplicated.

Commissioner Sweeney stated that the commission doesn't have information relating to these Planned Unit Development findings because they refer to structure height, site coverage, yard spaces, etc.

Mr. Leonard stated that some of the findings don't apply because we don't have a Site Development Review before us tonight, however, findings 1 and 2 would be applicable.

Commissioner Lew asked if the commission can defer the Use Permit to the time when the applicant brings up a Site Development Review application.

Mr. Leonard stated that they can.

Commissioner Lew asked to defer the Use Permit until there is a Site Development Plan.

Mr. Leonard stated that he believes that the Use Permit is required with the Tentative Tract Map, but the PUD would not necessarily be required. He stated that some of the conditions here are the same as in the Use Permit.

Commissioner Lew stated that there is a street name on the court and it should be removed as it is the prerogative of the City to name the street.

Mr. Leonard believes that it may be more logical to make it an extension of Florence Street.

Commissioner Lew wants a condition that the street name be removed from the map before approval.

Commissioner Lew asked if the City would be liable if flooding or landslides cause damage to surrounding neighborhoods or the park.

Mr. Jocson replied that we can require the applicant to submit hydraulic calculations to verify and determine surface run off and the measures by which this would be collected and require the homeowners to maintain them.

Commissioner Lew asked if it is mud or rock at the site.

Mr. Jocson stated that they are requiring a very extensive soils report for this site. He said that normally the report would contain recommendations on how to stabilize the slope if needed.

Commissioner Lew asked if a soils report could contain a recommendation to not build on the site.

Mr. Jocson stated that he has not seen one like that. He said that the recommendations contain such items as retaining walls. He suggested asking the civil engineer.

Commissioner Lew suggested that conditions #11 and #12 could be combined.

Commissioner Lew stated that Exhibit A refers to seven lots and should be corrected to read six lots.

Commissioner Lew stated that she sees some opportunities for public access such as hiking trails and a vista point.

Mr. Leonard stated that the higher peak is behind this property and is under separate ownership and can be accessed through Appian Way. He said that this public access would have to be dedicated by the developer and but this property doesn't go anywhere. He said that if you want a hiking trail it would be better to start it at Appian Way.

Commissioner Sweeney stated that there was another desk item, a letter from Mr. and Mrs. Rossman that addresses the issues they have with this project.

Commissioner Sweeney stated that the diagram included in the package has been reduced too much and she can't read what they are doing. She asked if they are taking the top off the knoll, how are the homes going to be situated, where will the driveways be, etc.

Ms. Honda deferred the question to the applicant's engineer.

Chairman Anderson stated that a Use Permit is required in the Hillside Combining District and the Use Permit for the PUD should not be associated with this application. He said that that the Use Permit should be associated with the Site Development Review.

Ms. Honda replied that was correct and it could be deferred to the Site Development Review.

Commissioner Sweeney stated that could be accomplished by changing condition #6 and striking the last part of the sentence about the establishment of a PUD.

Commissioner Sweeney stated that condition #6 should end after "combining district".

Chairman Anderson agreed with that change.

Chairman Anderson asked what is being done about the impact of additional parking.

Ms. Honda stated that the longer driveways will allow more vehicles to park off the road and parking will be allowed on the north side of street.

Chairman Anderson suggested adding a condition that incorporates finding number seven from the staff report.

Mr. Leonard stated that they would make that finding as part of the action on the project with a motion as opposed to making it a condition of approval.

Chairman Anderson stated that they are required to make a finding in order to approve the project but he cannot because there is nothing in the staff report to support the finding. He suggested that there are other findings, # 8 and #9, that would need new conditions so he could support them.

Commissioner Lew asked if these finding are made based on the Initial Study attached to the City staff report.

Ms. Honda stated that is correct.

Commissioner Lew pointed out that the findings are covered in the Initial Study.

Chairman Anderson stated that then the additional conditions would not be needed.

Commissioner Sison asked what is involved in the storm water agreement between the property owner and the City.

Mr. Jocson replied that the Regional Water Quality Control Board has imposed many strict requirements that pertain to the Clean Water program. He said that this agreement requires the property owners to make reports to the Board about how they have been maintaining the site.

Commissioner Lew stated that references to the PUD on page #13 of the City staff report need to be removed.

Vincent Wong, Architect, 1548 Hollenbeck Ave., Sunnyvale, CA 94087, stated that it is an exciting site. He said that they made an effort to keep the front setback at 20 feet. He said that they want to avoid too much parking in the street. Mr. Wong said that they made the long driveways so that 3 cars could park off-street. He said that parking is located where there is minimal grading. He said that he wants to make the houses hug the ground but take advantage of the view and give each property owner privacy.

Commissioner Sweeney asked for an explanation of what grading will be done to put in the street.

Al Pascuale, Civil Engineer, 841 Montevino Dr., Pleasanton, CA 94566, stated that they are just proposing to build the street at this time and they are trying to minimize the grading.

Commissioner Sweeney asked what is the current slope at the end of the cul de sac.

Mr. Pascuale stated that it is two to one or four to one going up hill. He said that they are proposing to match the existing grade for the road.

Commissioner Sweeney stated that in the grading guidelines it says that no artificial slope shall exceed the naturally occurring slope in the immediate vicinity or a slope of three to one, whichever is greater. She asked if what he is proposing is a much steeper slope than those guidelines.

Mr. Pascuale stated that the plan shows a two to one slope.

Commissioner Sweeney asked how tall is that two to one slope area or how deep is the cut.

Mr. Pascuale replied that it would be 35 feet tall for lot #3.

Commissioner Sweeney asked where will the driveway and garage be located for this property.

Mr. Pascuale stated that the driveway would curve up the slope and there will be some retaining walls.

Commissioner Sweeney asked if the driveway will be cut through the two to one slope.

Mr. Pascuale stated that is correct.

Commissioner Sweeney asked if there would be additional grading in order to create the driveway.

Mr. Pascuale yes and there will be retaining walls.

Commissioner Sweeney stated that is a really big gash in the hillside.

Commissioner Sweeney asked how much grading will be needed at the point where Florence goes up into the new property.

Mr. Pascuale replied that the grade of the street will be 15 percent and then turns into 8 percent going up hill. He said that there will be retaining walls on both sides of the street.

Commissioner Sweeney asked how high the retaining wall will be on the high side.

Mr. Pascuale stated that it would be six feet high.

Commissioner Sweeney asked how access will be done for lot #5 after the road is put in.

Mr. Pascuale stated that there will be a retaining wall and the garage will be sitting on a platform and the rest will just contour into the hillside.

Commissioner Sweeney asked how lot #6 will be accessed.

Mr. Pascuale stated that the driveway will be on the west side and the garage will be down below.

Commissioner Sweeney confirmed that the garage and driveway will face the existing access to the park.

Commissioner Sweeney asked whether the trees that line the park belong to the City or on the applicant's property.

Mr. Pascuale stated that they are City property.

Commissioner Sweeney stated that there is a requirement for a drainage system at the back of each lot and asked how the drainage system would be accomplished on the uphill lots.

Mr. Pascuale stated that on the uphill lots they provided some concrete ditches to intercept the majority of the runoff which will be collected and run to the street.

Commissioner Sweeney asked where those facilities would be located on lots #2, 3, and 4.

Mr. Pascuale stated that lot #3 drains towards lot #2 and then into the street drainage.

Commissioner Sweeney asked where the drainage is located for lots #5 and #6.

Mr. Pascuale stated that they drain to a V ditch and then into the existing storm drainage in the park.

Commissioner Sweeney asked how many on street parking spaces are being provided.

Mr. Pascuale stated that there are about 13 spaces.

Commissioner Sweeney stated her concerns about the open drainage ditch that goes across the cut for lot #3. She asked where the house will be located on that lot so that it doesn't impact.

Mr. Pascuale stated that the house will be on the cut.

Commissioner Sweeney confirmed that they would have an open ditch in lot #3's backyard.

Mr. Pascuale stated yes.

Commissioner Lew asked if there will be unbuildable areas on lots #2 and #3.

Mr. Pascuale stated that anything above the drainage ditch would be unbuildable.

Commissioner Lew stated that there is a section of the Hillside Combining Code that unbuildable areas are to be retained as open space and there are requirements in the code to dedicate open space to public agencies.

Mr. Pascuale stated that they have no problem with that.

Chairperson Anderson opened the public hearing.

John Haley, 328 Monte Carlo, Union City, commented that this meeting has gone very late and there were many people here that would have liked to have spoken about this project but have left because of the lateness of the hour. He said that was not fair. He said when the voters approved Measure B it was to stop development east of Mission Boulevard. He said that he doesn't think that this original property was zoned R 3 -6 or part of the original plan when Seven Hills was developed. Mr. Haley stated that the slope of property exceeds 15%. Mr. Haley pointed out that there are 66 conditions that relate just to fire prevention, water drainage, and geology. Mr. Haley pointed out what is happening in Los Angeles to homes that are built on slopes. Mr. Haley suggested that the commissioners go the end of Riviera Drive and look up at Monaco and you can already see three or four slumps that are already occurring. He said that those houses are going to find there homes full of mud. He said that the size of the lots sends a message that most of the lot is undevelopable. He said that he has a drainage ditch in his backyard and he keeps it cleaned out, however, his neighbor has filled the drainage ditch in and Mr. Haley has had to reroute his backyard drainage to keep the water from flooding his backyard. Mr. Haley feels that this project is opening up a Pandora's Box of development east of Mission Boulevard. Mr. Haley is strictly against this project.

Cathy Norvell, 375 Riviera Drive, Union City, stated that she lives right below proposed lot one. She stated that only a few residents were notified of the proposal to build these homes. She said that a measure was passed by the voters not to build in Seven Hills east of Mission Boulevard. Mrs. Norvell said that the new construction would destroy habitat for wildlife and would destroy the view for existing homes. She was told that Seven Hills was exempt from Measure B but could not find any supporting information in the Municipal Code. Mrs. Norvell stated that the reports submitted to the Planning Commission for soils and geological investigations are from 1987. She does not believe that the reports are accurate. She stated that there had been a lot of flooding in Seven Hills. She said that her home and the home next to her have artesian wells. They hired a geological engineer to do a study and had to spend

several thousand dollars to put in swales to protect the foundations. She doesn't believe that there can be a "no impact" finding based on these old reports without testing being done. She asked how it can be determined that there is no impact from the traffic when residents were not aware of the new project. She said that there will be dirt haulers going up very narrow roads. She said that the turn from Appian onto Riviera is a blind turn and is very dangerous. Mrs. Norvell stated that the turn from Riviera onto Florence is also very dangerous. Mrs. Norvell stated that many families use Seven Hills Park and any more traffic in Seven Hills would be very dangerous. Mrs. Norvell noted that there are several trees on the subject property that have grown onto her property and she does not want them removed as they are stabilizing the soil.

Chuck Eberhardt, 355 Appian Way, Union City, suggested that the commissioners go up and look at the site. He said that if they go up Florence to the entrance to the park and look down towards the base of that big mound that they want to build on you will find houses down there. Mr. Eberhardt stated that several houses already have to have much stronger foundations. He said that the hills are not of even strata and that behind his house they found an earthquake trace. Mr. Eberhardt stated that because of the they took down one house, and gave two lots to two homeowners to make double lots instead of building houses on them.

John Petrocelli, 446 Monaco Ave., Union City, thanked Commissioner Sweeney for questions about the grading. He stated that he is a contractor and built a house up Riviera Drive. He said that he had to build a massive retaining wall. Mr. Petrocelli stated that there is supposed to be a concrete V ditch behind all these houses and the water is supposed to drain down the hill, but many neighbors have not maintained the ditch which has resulted in flooding and mudslides. Mr. Petrocelli thinks that the new development would be a hazard to the kids and families that use Seven Hills Park.

Paul Sunnergren, 387 Riviera Drive, Union City, stated that he has been flooded twice. He said that the City doesn't maintain the ditch and he has had water almost come into his house. He was able to save his house but his neighbor had extensive damage. He said that there is sliding on the second knoll up from his property. Mr. Sunnergren asked what happens when the new owners put in unapproved terracing. He asked who is going to be liable for the damage.

JaNet Hancock, 613 Appian Way, Union City, would like a copy of map that shows the undevelopable area because they can be seen from below. Mrs. Hancock said that the City told her that there were five lots above her that are zoned residential but they have not been developed. She said she calls every year to check on those lots. Mrs. Hancock feels that every resident in Seven Hills should be notified when there is any potential project in the Seven Hills area. She asked what kind of views will the new residents have. Mrs. Hancock asked when is Seven Hills going to get new landscaping, new trees in the median.

Mr. Wong stated that if it is engineered and graded properly there will be minimal erosion problems.

Chairperson Anderson closed the public hearing.

Commissioner Lew stated she is uncomfortable because there is no Site Development Review application. She would like to see what they are planning to do with the homes.

Commissioner Sweeney has a problem with the steepness of the grading because it does not meet the zoning code standard. She is not happy that staff is relying on an old soils report to make the findings. She doesn't think she can support the Tentative Tract Map because she is uncomfortable with what is proposed for the street and the drainage without updated information on what the soil and geological situation is.

IX. ADJOURNMENT: 12:10 a.m.

APPROVED:

TIKISA ANDERSON, CHAIRPERSON

ATTEST:

MARK LEONARD, SECRETARY