

**CITY OF UNION CITY  
MINUTES FOR THE REGULAR PLANNING COMMISSION MEETING  
OF MAY 21, 2009, 7:00 P.M.  
IN THE COUNCIL CHAMBERS OF CITY HALL  
34009 ALVARADO-NILES ROAD, UNION CITY, CALIFORNIA**

**I. ROLL CALL: Commissioners Raymond Gonzales Jr., Jo Ann Lew, Froilan (Roy) Panlilio, Gurnam (Gary) Singh, and Chairperson Tikisa Anderson**

**STAFF:** Joan Malloy (Economic and Community Development Director); Carmela Campbell (Planning Manager); Avalon Schultz (Associate Planner); Farooq Azim (Principle Civil Engineer); Kit Faubion (Assistant City Attorney); Kris Fitzgerald (Administrative Assistant).

**II. APPROVAL OF MINUTES: The regular Planning Commission Minutes of April 16, 2009 were approved as submitted.**

**III. ORAL COMMUNICATIONS: None.**

**IV. WRITTEN COMMUNICATIONS: None.**

**V. PUBLIC HEARINGS:**

**A. CONTINUED HEARINGS: None.**

**B. NEW HEARINGS:**

- 1. MEXICO LINDO, 33306 ALVARADO-NILES RD., Use Permit UP-03-09; the applicants, Obed Ramos, Griselda Villa, Tony Victoria and Joey Paraqas are seeking Use Permit (UP-03-09) approval to add live entertainment and karaoke at Mexico Lindo restaurant. The subject property is located at 33306 Alvarado-Niles Road (APN: 475-0100-036-00) and is in the MS, Special Industrial, Zoning District. This project is considered categorically exempt under Section 15301, Class 1, Existing Facilities, of the California Environmental Quality Act (CEQA).**

Carmela Campbell, Planning Manager, presented the staff report.

Commissioner Panlilio asked what is the seating capacity of the restaurant and asked how would it be affected if this Use Permit is approved.

Ms. Campbell replied that there is no change to the allowed occupancy. Ms. Campbell stated that the Fire Marshall has stipulated that the information be posted on the door.

Commissioner Panlilio asked if there are any homes close to the business that might be affected by the noise from the live entertainment.

Ms. Campbell replied that the proposed use is surrounded on three sides by industrial and commercial uses and the nearest homes are across Alvarado-Niles Road, which is six-lanes wide, plus the setback areas.

Commissioner Singh asked who will handle the two consecutive calls issue.

Ms. Campbell replied that the Police Department will handle the initial calls and then report back to the Economic and Community Development Director.

Commissioner Singh asked what will the procedure be if there are two consecutive calls.

Ms. Campbell replied that the Use Permit will be brought back to the Planning Commission for a revocation hearing.

Commissioner Singh asked if there was any information about what the noise level would be with the entertainment.

Ms. Campbell replied that the doors to the restaurant will be closed and there are no sensitive receptors directly adjacent, so we are not as concerned about noise levels outside of the building.

Joan Malloy, Director, Economic and Community Development, stated that if the applicant is not noise compliant or if the City receives noise complaints that it would also qualify for a revocation hearing for the Use Permit.

Commissioner Singh asked if there is any information on the number of patrons this use will draw and how it will affect parking.

Ms. Campbell replied that staff has not anticipated a parking impact because the other uses in the center tend to be closed at the times that the restaurant would be the busiest and there should be a parking surplus on those evenings.

Commissioner Singh noted that there are many big rigs parked overnight behind the building and stated his concerns about the parking.

Commissioner Lew stated that she thought the conditions for this application were onerous and intrusive but she can understand that the source is the application itself and that staff is attempting to be consistent.

Commissioner Lew referred to condition #7 and asked what is meant by “entrance fee.”

Ms. Campbell replied that the intent was that the applicant would not be able to charge someone to walk through the door. Ms. Campbell stated that in order to maintain this as an accessory use it was also assumed that the restaurant would continue to serve the full dinner menu until closing. Ms. Campbell stated that there is nothing to say they cannot increase the prices. Ms. Campbell noted that the applicant suggested several of these conditions in trying to work with the City.

Ms. Malloy stated that the conditions are to maintain the primary use of the property as a restaurant with an entertainment component. Ms. Malloy stated that this is not night club and night clubs are not permitted and typically cover charges are related to those types of uses.

Commissioner Lew suggested that the applicant not charge any fees at all, not even an entrance fee. Commissioner Lew stated that if the applicant intends to not charge a fee for entertainment it needs to be clearer in the conditions.

Commissioner Lew asked if the parcel is part of a Property and Business Improvement District (PBID).

Ms. Malloy replied it is not.

Commissioner Lew asked if it was suggested that they form a PBID.

Ms. Campbell replied that it was not suggested.

Commissioner Lew asked if it is a relatively safe area.

Ms. Campbell stated that for the most part it is.

Commissioner Lew asked if the businesses located there had a merchant's association.

Ms. Campbell replied that there is not a merchant's association.

Commissioner Lew referred to condition #10 and asked if they are going to be armed security guards.

Ms. Campbell suggested referring the question to the Police representative.

Commissioner Lew referred to condition #11 and asked what type of service calls do they mean.

Ms. Campbell replied that it could be any two calls, including medical calls, noise, etc.

Commissioner Lew stated that there are some calls that shouldn't be counted.

Ms. Campbell replied that it can be at the discretion of the Police Department.

Ms. Malloy stated that the purpose of the calls for service is to consider whether or not the Use Permit should be revoked, it doesn't require it to be revoked. Ms. Malloy stated that the commission can consider the seriousness of the calls for service. Ms. Malloy pointed out that condition #3 already identifies that any failure of the applicant to adhere to any of the conditions is reason to consider revocation of the Use Permit.

Commissioner Lew stated that two calls for service is too general.

Ms. Campbell stated that they were trying to make the condition more flexible.

Commissioner Lew asked if perhaps the Director or the City should make a decision first before bringing it to the commission.

Ms. Malloy replied that she would be comfortable with that modification but would also like input from the Police Department.

Commissioner Lew referred to condition #16 and asked why only one rear door is being conditioned to have panic hardware installed.

Ms. Campbell replied that the other door already has panic hardware installed.

Commissioner Lew referred to Section II, required findings #1, and she thinks that there is a section missing from paragraph in italics. Commissioner Lew asked why "no nuisance characteristics" was left out. Commissioner Lew stated that how the entertainment component supports the surrounding

businesses. Commissioner Lew asked what is the relationship between this being an accessory use and supporting the manufacturing companies.

Ms. Campbell replied that part of the justification in the staff report is that it is a restaurant use and it will serve the surrounding community and this is just an accessory to that but it still doesn't change its main function as a restaurant use.

Commissioner Lew stated that it is not supporting the nearby businesses because when the entertainment starts the other businesses will be closed.

Ms. Campbell stated that is true unless they are planning to have a "Happy Hour" or something else.

Commissioner Lew stated but the entertainment is not going to start until 8:00 p.m. and if your conditions are going to be consistent with the application.

Ms. Malloy stated that she concurs with Ms. Campbell consideration which is to really support the restaurant which does support the businesses. Ms. Malloy stated that there is nothing inherent about the restaurant that would preclude people from the industrial area enjoying entertainment in the evening as well.

Commissioner Lew stated her concerns that the use should exhibit virtually no nuisance characteristics.

Commissioner Lew asked if traffic impacts were studied.

Ms. Campbell stated that with respect to traffic we look at impacts on a.m. and p.m. peak hour trips and because the accessory use will happen after peak hour demand we don't anticipate any impacts. Ms. Campbell stated that they don't anticipate any parking impact because most of the businesses will be closed and there should be surplus parking available.

Commissioner Lew stated that she did not get a copy of the original Use Permit. Commissioner Lew asked if it was checked that it did not preclude any accessory uses.

Ms. Campbell replied that she did check the original Use Permit and it did not preclude accessory uses.

Commissioner Lew asked why there is no condition addressing the Sunday events that will occur between 2:00 p.m. and midnight.

Ms. Campbell replied that staff did not see an issue with the Sunday events.

Commissioner Gonzales asked if there were any recent statistics about crimes occurring during entertainment events.

Ms. Campbell deferred the question to the Police Department representative.

Commissioner Gonzales asked what types of music will they be playing.

Commissioner Gonzales asked who will be paying for the security.

Ms. Campbell replied the applicant will be paying for security.

Commissioner Gonzales asked if it is customary for the City to require security guards at events of this type.

Ms. Campbell replied that is what the City intends.

Commissioner Gonzales asked if it is only karaoke would the City still require the security guards.

Ms. Campbell replied that the City would.

Commissioner Gonzales stated his concern that the two calls for service minimum might be unreasonable.

Ms. Campbell stated that the condition could be modified to address those concerns.

Commissioner Singh commented that condition #11 is too general.

Ms. Malloy suggested changing condition #11 to read "In consultation with the Police Department, the Economic and Community Director may call for a Use Permit revocation hearing. . ."

Chairperson Anderson opened the public hearing.

Tony Victoria, entertainment manager, Mexico Lindo, 33303 Alvarado-Niles Road, Union City,

Commissioner Lew asked what rules, policies and procedures do they have for dealing with unruly customers.

Mr. Victoria replied that they are still developing the rules, policies and procedures.

Commissioner Lew asked if they had any procedures now to handle problem customers.

Mr. Victoria replied that there will be two security guards.

Commissioner Lew asked if they will consult with the Union City Police Department.

Mr. Victoria replied that they would.

Commissioner Lew asked how they are going to advertise the entertainment.

Mr. Victoria replied that he would use available media.

Commissioner Gonzales asked if they have chosen a security company and if they will be armed or unarmed.

Mr. Victoria replied that they have spoken with a company and the guards could be either armed or unarmed.

Commissioner Gonzales asked what kind of live entertainment will they have.

Mr. Victoria replied that it will be live bands playing 50's, 60's and 70's music and they are hoping to attract the baby boomers. Mr. Victoria stated that they will only have karaoke music on Sundays.

Commissioner Panlilio asked if they will limit the amount of alcohol served.

Mr. Victoria replied they have experience in serving or not serving someone who has had too much to drink.

Commissioner Panlilio stated his concerns about the safety of the residents with regards to their patrons who might have had too much to drink.

Commissioner Singh asked what would happen if they have two consecutive calls for service.

Mr. Victoria stated that are trying to prevent that from happening.

Lt. Kelly Musgrove, Union City Police Department, stated that they understand the commission's concerns about the calls for service and they will evaluate each call on its own merit. Lt. Musgrove stated that if this comes back to the commission then it will be for serious events. Lt. Musgrove stated that he understood that the security guards are to be unarmed. Lt. Musgrove stated that they would not recommend armed security guards.

Commissioner Gonzales asked if he was recommending unarmed security guards.

Lt. Musgrove replied that they don't see a need for armed security guards; the security guards should be the eyes and ears for management to point out situations before they get out of hand.

Commissioner Gonzales asked if they can work with the management on what to do in case of emergency.

Lt. Musgrove replied that the Police Department would be willing to meet with the restaurant management and work out the rules and policies.

Chairperson Anderson closed the public hearing.

Ms. Campbell read back the changes to the conditions of approval:

- Change condition #7 to read "the applicant shall not charge an entrance fee for the provision of entertainment."

Chairperson Anderson stated that it needs to be more general otherwise you will have to list everything they cannot charge a fee for.

Ms. Campbell replied that it is a good point.

Ms. Malloy suggested "the applicant shall not charge an entrance fee or increase prices for the provision of entertainment.

Chairperson Anderson agreed with that change.

Ms. Malloy read back the next change:

- Change condition #11 to read "In consultation with the Police Department, the Economic and Community Development Director may call for a Use Permit revocation hearing to be held to consider revocation of the Use Permit. . ."

Ms. Campbell read back the next change:

- Change condition #8 to read “the entertainment component shall be managed by designated managers. Entertainment shall be limited to live music and karaoke”. “Entertainment shall target on the baby boomer demographic focusing on music from the 1950’s through the 1980’s.” “If there are any changes to the event management, staff or format, the restaurant managers shall provide the new managers with a copy of this Use Permit and shall provide evidence of such compliance to the Economic and Community Development Department within two months of any such change.” “For any changes in format, a modification of this Use Permit shall be required.”
- Change condition #4 to read “12:00 a.m. instead of 12:00 p.m.”

Commissioner Lew suggested the following change:

- Change condition #10 to add “two uniformed, unarmed and licensed”

Commissioner Lew asked to add virtually no nuisance characteristics to the finding.

Ms. Campbell stated she would revise the purpose sentence to include.

Chairperson Anderson stated that there is already a condition dealing with nuisances.

Commissioner Lew stated that the finding is incomplete and should have that phrase added.

Ms. Campbell stated that that is only the background to help make the finding. Ms. Campbell stated that that it will be part of the record.

Commissioner Panlilio made a motion to approve Use Permit UP-03-09, making findings 1 – 4, with the amended conditions of approval and adopt a resolution confirming this action.

Commissioner Singh seconded.

AYES	5 (Anderson, Gonzales, Lew, Panlilio, Singh)
NOES	0
ABSTAIN	0
ABSENT	0

2. **MASONIC HOMES, INC. 34400 MISSION BLVD, Tentative Parcel Map (TPM 9858)** – the applicant is seeking Tentative Parcel Map approval for the Masonic Homes property located at 34400 Mission Blvd. (APNs: 087-0031-002-05, 087-0031-002-06, and 087-0031-003-03) to subdivide an existing 271 acre parcel into one parcel measuring 10.2 acres and a designated remainder of 260.5 acres. The creation of the 10.2 acre parcel will enable the Acacia Creek Development to be annexed into the City’s Community Facilities District as required by condition of approval. Pursuant to Section 15070 of the California Environmental Quality Act (CEQA) Guidelines, the City Council adopted a Mitigated Negative Declaration (MND) on July 10, 2007 for the original Acacia Creek project, which determined that, with the incorporation of mitigation measures, the project will not have a significant effect on the environment (City Council Resolution No. 3401-07). The proposed Tentative Parcel Map (TPM 9858) will not result in additional development beyond that analyzed in the MND and would not result in additional impacts or mitigations. No further environmental review is required.

Avalon Schultz, Associate Planner, presented the staff report.

Commissioner Gonzales asked why they would want to deny the parcel map.

Joan Malloy, Economic and Community Development Director, stated that he was referring to the standard alternatives that are provided with every report. Ms. Malloy stated that if the commission felt that the parcel map was inappropriate, they could deny the application and they would have to state their reasons for denying it.

Commissioner Lew referred to the Title 17 requirements and noted that it did not appear that the commission received all the information required and asked if the staff received and reviewed the information.

Ms. Schultz replied that the City engineering staff had reviewed all the information and was deemed satisfactory and the project engineer has received the final project checklist.

Commissioner Lew asked if the tanks are marked on the map.

Ms. Schultz referred to page 2 and pointed them out.

Commissioner Lew noted that there is a requirement for dedicated land and there is no corresponding condition of approval.

Ms. Schultz replied that there will not be. Ms. Schultz stated that when there is a designated remainder conditions are not imposed until the property is developed.

Commissioner Lew asked if the soils and geological investigation been completed.

Ms. Schultz replied that we have the geotechnical and soils reports on file.

Commissioner Lew asked to see those reports when they are referred to.

Commissioner Singh asked where the second tank is located.

Ms. Schultz replied that it is next to the existing tank.

Commissioner Singh asked if the Fire Department was notified.

Ms. Schultz stated that the Fire Department signed off on the design.

Chairperson Anderson referred to the two water tanks and condition #6 and asked who has to do what.

Ms. Schultz replied that Parcel 1 cannot be conveyed to a separate entity unless separate public water service is provided to Parcel 1.

Ms. Malloy stated that Alameda County Water District would be the authorizing agency providing water service. Ms. Malloy stated that they would have to apply to them for water service.

Chairperson Anderson asked to change condition #6 so that it says what the applicant needs to do.

Ms. Malloy suggested “In the event that Parcel 1 is ever conveyed to a separate ownership than the designated remainder, Parcel 1 shall receive independent water service directly from public water system.”

Ms. Schultz stated that this is an informational condition of approval and is included for that reason. Ms. Schultz stated that Alameda County Water District has a standard that says that Parcel 1 cannot be owned separately without getting a district permit.

Ms. Schultz suggested “The owner of Parcel 1 shall obtain . . . prior to the sale. . .”

Commissioner Gonzales asked about the easements for the utilities, emergency vehicle access, etc.

Ms. Schultz replied that they are proposed easements. Ms. Schultz stated that the easements will be recorded under a separate document that is being prepared by the title company that will state the exact locations of the easements and will be recorded at the County Assessor’s Office.

Ms. Malloy stated that Parcel 1 will have easements across the larger parcel.

Chairperson Anderson opened the public hearing.

Chairperson Anderson closed the public hearing.

Ms. Schultz read back the change to condition #6

- “Per Alameda County Water District requirements in the event that Parcel 1 is ever conveyed to a separate ownership than the designated remainder, the owner of Parcel 1 shall obtain independent water services directly from the public water system prior to the sale such that no service serves more than one parcel.”

Commissioner Lew made a motion to approve Tentative Parcel Map TPM 9858, making findings 1 – 3, with the amended conditions of approval and adopt a resolution confirming this action.

Commissioner Panlilio seconded.

AYES	5 (Anderson, Gonzales, Lew, Panlilio, Singh)
NOES	0
ABSTAIN	0
ABSENT	0

- 3. MASONIC HOMES, INC. 34400 MISSION BLVD, Modified Site Development Review (MOD-SD-09-06), Modified Use Permit (MOD-UP-08-06), Modified Variance (MOD-V-06-06), and Modified Development Agreement (MOD-DA-02-08)** - the applicant is requesting modification of the above approvals to allow removal of Condition of Approval No. 111 for the Acacia Creek Project, which requires modification of the median on Mission Boulevard to restrict left turns into and out of the Masonic Homes campus. The Masonic Homes property is located at 34400 Mission Blvd. (APNs: 087-0031-002-05, 087-0031-002-06, and 087-0031-003-03). Pursuant to Section 15070 of the California Environmental Quality Act

(CEQA) Guidelines, the City Council adopted a Mitigated Negative Declaration (MND) on July 10, 2007 for the original Acacia Creek project, which determined that, with the incorporation of mitigation measures, the project will not have a significant effect on the environment (City Council Resolution No. 3401-07). The proposed removal of Condition of Approval No. 111 will not result in additional development beyond that analyzed in the MND and would not result in additional impacts or mitigations. No further environmental review is required.

Avalon Schultz, Associate Planner, presented the staff report.

Commissioner Panlilio asked if there is a possibility of putting in a traffic signal.

Ms. Schultz replied that the traffic analysis showed that a traffic signal was not required.

Commissioner Panlilio asked what happens in the future when there are more residents living on the campus.

Joan Malloy, Economic and Community Development Director, replied that as the Masonic Homes flatlands project moves forward there will be an Environmental Impact Report with a traffic study put together. At this time the request is very simple and straightforward and staff would recommend the deletion of condition #111 as opposed to applying new conditions to the project. Ms. Malloy stated that as the flatlands project moves forward, if a light is warranted by that development, then it will come out through the environmental review process.

Commissioner Singh asked if there will be a four way signal approved when the flatlands project is approved.

Ms. Malloy replied that will be determined through the environmental process.

Kit Faubion, City Attorney, stated that one of the purposes of the designated remainder is to make sure that development gets conditioned at the appropriate time.

Commissioner Gonzales asked to make sure that the lines on Mission Boulevard are painted so that drivers' can see them.

Commissioner Panlilio recommended a "Slow" sign in that area.

Ms. Malloy reminded the commission that Mission Boulevard is a CalTrans roadway and all modifications must go through their process, which condition #110 addresses.

Chairperson Anderson stated that he completely disagrees with the staff report.

Chairperson Anderson stated that the issue of turning left and having a median to prevent turning left was not because of traffic, although Mission Boulevard has high speed traffic going north and south, but because they did not want elderly people to drive out of Masonic Homes and cross traffic to make a left turn. Chairperson Anderson stated that the problem is the same for southbound drivers on Mission Boulevard making a left turn into the Masonic property. Chairperson Anderson stated that he does not want to see condition #111 removed because it would create a possibly dangerous situation. Chairperson Anderson stated that he wants to see either a signal at that location or creating another entrance into the Masonic Homes property.

Ms. Schultz stated that condition #110 would not allow left turns out of Masonic Home property.

Chairperson Anderson stated that the direction doesn't matter; it is high-speed traffic on Mission Boulevard.

Chairperson Anderson stated that he wants to see either a signal at that location or creating another entrance into the Masonic Homes property. Chairperson Anderson stated that he does not support the removal of Condition #111. Chairperson Anderson stated that there should be another traffic study.

Ms. Malloy replied that a traffic study was prepared and a Mitigated Negative Declaration was adopted when this project was originally approved.

Chairperson Anderson stated that the traffic study did not address this issue.

Ms. Malloy replied that it did address this issue.

Chairperson Anderson stated that the reason the City Council added condition #111 was to address the other side. Chairperson Anderson stated that taking away this condition was against the wisdom of the City Council.

Ms. Schultz stated that the Planning Commission's recommendation would be going to the City Council.

Commissioner Lew suggested modifying condition #111 and changing it to ask for a sign to be posted reading "Emergency vehicles left turn only".

Ms. Schultz stated that the traffic study noted that there had been no accidents in that area.

Chairperson Anderson stated that you cannot look at the past and apply that logic to something that is going to happen tomorrow and expect it to work, it just won't work.

Commissioner Panlilio agreed with Commissioner Lew's suggestion.

Chairperson Anderson opened the public hearing.

Joel Roos, Masonic Homes, 34400 Mission Boulevard, Union City, thanked staff for their efforts. Mr. Roos stated that the traffic analysis did not suggest a no left turn in scenario. Mr. Roos stated that most of their new population does not drive and Masonic Homes provides bus service and transportation for the residents. Mr. Roos stated that they did check out the length of time it would take an emergency vehicle to go to O'Connell Lane and then turn around in the limited area and it was a significant delay.

Chairperson Anderson closed the public hearing.

Commissioner Singh stated that he feels that having the left turn be for emergency vehicles only would be the better solution.

Chairperson Anderson agreed.

Commissioner Singh stated that it could be some time before the study is completed and the intersection at Daggett Avenue is signalized.

Commissioner Gonzales suggested that this might be a temporary situation.

Chairperson Anderson asked how valuable is a life and how many lives do you have to lose before it becomes important. Chairperson Anderson stated that he feels the left turn lane should be signalized or restrict the left turns to emergency vehicles. Chairperson Anderson stated that he would not support this application unless there is a signal at that light.

Commissioner Singh noted that if the flatlands project is approved, then there would be a new signal light about a block away and it would not make sense to have another signal light so close.

Chairperson Anderson asked how does he know that those projects will be approved.

Commissioner Panlilio asked if this application is approved when will the divider be built.

Ms. Schultz replied that they would need to get CalTrans approval and then construct the improvement before the building may be finalized.

Mr. Azim stated that it could take three to six months.

Commissioner Panlilio asked when the study will be done.

Ms. Schultz replied that the environmental review for the Acacia Creek project was adopted by the City Council and that condition #110 was sufficient to be safe but then at the last minute the City Council added condition #111.

Ms. Schultz stated that it is important to keep the future flatlands development separate from this discussion.

Ms. Schultz stated that removal of condition #111 and maintaining condition #110 is in full compliance with the Mitigated Negative Declaration and the traffic analysis that was a part of that study.

Commissioner Lew asked if condition #110 had been implemented.

Ms. Schultz replied that as a part of condition #110 they are also trying to implement the public art requirement and some additional landscaping improvements and staff is currently reviewing that. Ms. Schultz stated that condition #110 would need to be completed before the project could be occupied.

Commissioner Lew asked if there is a timeline.

Ms. Schultz replied that they are looking to final the project at the end of this year so it would be done prior to that.

Mr. Roos replied that they are looking to final the building around January 15, 2010 and they have made several contacts with CalTrans and it will probably take six months to a year to get a light. Mr. Roos stated that he thought they would need a full traffic study to look at signalizing the intersection. Mr. Roos stated that the Mayor was interested in the Daggett intersection as the four way intersection. Mr. Roos stated that in that case the old entrance might be closed or made into a park. Mr. Roos stated that if the entrance was moved to Daggett then it would be an exclusive right turn out. Mr. Roos suggested waiting for the EIR process for the flatlands before choosing to put in a traffic light. Mr. Roos stated that he preferred to do the striping to preclude left turn out.

Commissioner Lew asked if they are doing anything to implement a right turn only out from the driveway onto Mission Boulevard.

Mr. Roos replied that they would be removing the left turn lane and keeping the right turn lane by restriping the driveway and putting in some bollards and appropriate signage.

Chairperson Anderson asked if there would be a conflict between driver's turning left from southbound Mission Boulevard into Masonic Homes and drivers turning right leaving Masonic Homes.

Mr. Roos replied that it is a very wide throat there and there is enough room for two-way traffic.

Chairperson Anderson asked if Mr. Roos was opposed to removing condition #111.

Mr. Roos stated that the solution presented tonight was a good solution.

Commissioner Gonzales asked if he has considered putting in a control to keep traffic from turning left out of the Masonic Homes.

Mr. Roos stated that he has no problem completely restricting left turns out of the Masonic Home property. Mr. Roos stated that he is looking to retain the ability to turn left from Mission Boulevard into the Masonic Homes.

Commissioner Panlilio stated that he would support removing condition #111 so that emergency vehicles and large trucks can continue to get access to the Masonic Homes property.

Commissioner Singh stated that they should wait for the signal light on Daggett Avenue and Mission Boulevard and then go forward from there.

Commissioner Singh stated that he is in favor of removing condition #111.

Commissioner Lew stated that she feels that the commission is treading on very dangerous ground with the rationale that we support this based on the potential that there is going to be a flat lands development. Commissioner Lew stated that if there is any hindrance for emergency vehicles to make a timely response to the Masonic Homes property then we need to mitigate that situation. Commissioner Lew stated that she agrees with deleting condition #111 or modifying the condition by asking CalTrans to put up a sign and stripe it accordingly saying "No left turn except for emergency vehicles (citing the appropriate vehicle code)". Commissioner Lew stated that the Union City Police Department would then watch the intersection and write tickets for those that make the left turn. Commissioner Lew asked how long would it take to get such a sign put up.

Mr. Azim stated that the applicant would have to prepare a traffic study or report and request that left turns be prohibited. Mr. Azim stated that the CalTrans would then evaluate the application and it could take up to one year. Mr. Azim stated that this area is CalTrans right of way and Union City Police would not have any jurisdiction, it would be the California Highway Patrol's responsibility.

Commissioner Lew stated that she thought this was an onerous process if there is no track record of serious accidents at this intersection and CalTrans might not approve the sign and striping.

Mr. Azim stated that he is not sure of their process and as far as he knows there is nothing showing that this is a hazardous intersection.

Commissioner Lew stated that she would not anticipate any flatlands development and she is very concerned about the timing of emergency vehicles responding to the Masonic Homes and so she would vote to remove condition #111.

Commissioner Gonzales stated that he is concerned for the safety and lives of everyone at Masonic Homes as well as the drivers on Mission Boulevard. Commissioner Gonzales stated that it is very important to maintain a fast way for emergency vehicles to get to Masonic Homes. Commissioner Gonzales stated that he would be in favor of removing condition #111 and this is not based on any future flatlands development.

Commissioner Lew made a motion to recommend to the City Council approval of Modified Site Development Review (MOD-SD-09-06), Modified Use Permit (MOD-UP-08-06), Modified Variance (MOD-V-06-06), and Modified Development Agreement (MOD-DA-02-08), making findings 1 – 19, with the amended conditions of approval and adopt a resolution confirming this action.

Commissioner Panlilio seconded.

AYES	3 (Gonzales, Lew, Panlilio)
NOES	2 (Anderson, Singh)
ABSTAIN	0
ABSENT	0

**VI. SUPPLEMENTAL STAFF REPORTS:**

**A. CONTINUED REPORTS:** None.

**B. NEW REPORTS:**

- 1. NASREEN KERAWALA, 4935 CASPAR STREET, Administrative Use Permit AUP-01-09** – the applicant is seeking approval of Administrative Use Permit (AUP-01-09) to operate a Large Family Day care for up to 14 children at property located at 4935 Caspar Street (APN: 543-0426-014-00). This project is considered categorically exempt under Section 15301, Existing Facilities, Class 1 (e) (2), of the California Environmental Quality Act (CEQA).  
**(APPLICATION WAS WITHDRAWN BY THE APPLICANT)**

**VII. REDEVELOPMENT AND ECONOMIC DEVELOPMENT REPORTS:**

**VIII. COMMISSION MATTERS:**

- A.** Follow-up on Planning Commission referrals to the City Council.
- B.** Upcoming applications for the Planning Commission meeting for June 4, 2009.

**IX. GOOD OF THE ORDER:**

Commissioner Gonzales stated that there is a community garden next to the Youth Center on Mission Boulevard and that anyone can go in and pick fruits and vegetables for their own use.

**X. ADJOURNMENT:** 9:17 p.m.

APPROVED:

  
TIKISA ANDERSON, CHAIRPERSON

ATTEST:

  
JOAN MALLOY, SECRETARY