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>> Commissioner Bit-Badal: Good evening. My name is Edesa Bit-Badal. I'm the vice chair of the Planning Commission, sitting in for Chairwoman Hope Cahan. On behalf of the entire Planning Commission, I would like to welcome you to the Planning Commission public hearing of Wednesday, October 12, 2011. 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 at the parking validation table at the back, and at the bottom of the stairs near the audiovisual technician. Deposit the completed card in the basket near the planning technician. Please include the agenda item number, not the file number, for reference. For example, 4A, not PD 06-023. The procedure for this hearing is as follows: After the staff report, applicants and appellants may make a five-minute presentation. The chair will call out names on the submitted speaker cards in the order received. As your name is called, line up in front of the microphone at front of the chambers. Each speaker will have up to two minutes. After 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 the commissioners' questions will not reduce the speaker's time allowance. The public hearing will then be closed, and the Planning Commission will take action on the item. The planning Commission may request staff to respond to 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 the issues you or someone else has raised at this public hearing or in written correspondence delivered to the city, at, or prior to, the public hearing. Threat record agenda order of business, roll call. Let the record show that all the members are present with the exception of chairwoman Cahan and Commissioner Platten. We still have a vacancy on the board so we are operating on a six-person commission. 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 wish 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. Do we have any -- actually we don't have any, no items for deferral. Let the record show we have no items on the consent calendar. Moving on to the public hearing. We have one item for the public hearing this evening which is, CPA05-013-01, conditional use permit amendment to modify an existing service station by removing the service bays, adding approximately 519 square feet, and converting the space to a retail use in the CP commercial pedestrian zoning district, located on the southeast

corner of Bascom Avenue and Hedding Street. The address location is 910 north Bascom avenue. Let the record show that Commissioner Platten is with us during this public hearing. Do we have the applicant? Staff, I'm sorry.

>> Thank you. As you stated this is a conditional use permit amendment to application to modify an existing service station by removing the service bays and adding approximately 519 square feet and then converting that space to a retail use, including a small take-out restaurant use. As well as considering an alternative onsite parking arrangement design, recognizing the mix of uses. Onsite. As we presented in our staff report again the proposal conforms with the general plan designation. The general plan in that this is an existing developed site of less than two acres. And it's been there for a number of years so it's deemed consistent with the general plan. As far as the overall project and its site design, it's primarily -- it is consistent with the commercial design guidelines, with the exception of the one area that we talked about. And that's the overall design of the canopy. One thing we do look to try and do when we get these service stations, conversions, upgrades, modifications is to really ensure that there's a strong architectural tie between the canopy design and the building design. The applicant's done a really nice job in upgrading the building design. I think one of our challenges has been what more can be done to integrate that canopy design with the building design? And I know that the applicant will present some discussion on that. The other area that the staff has a little bit of concern with is the locations of all the onsite parking spaces. You know, around the interior perimeter is real appropriate. It really gets those parking spaces situated such that you don't have a conflict between the vehicular circulation, related to the gas station service part, and people coming to the site strictly for the convenience store or take-out restaurant. There are four parking spaces located at the corner, which, you know, it's assumed that really it's people just going to the site to access the convenience market or takeout. And the placement of them raises some concerns relative to the conflict with the circulation of the cars accessing the pump islands and then you know exiting the site if there's a car parked at a pump island. As well as some pedestrians. When we looked at the parking requirements and then considering utilizing some of the spaces at the pump island to also count towards parking for the overall site, the convenience market and takeout, because we know that some people who are also accessing that use are pumping gas at the same time. We found that there really is fewer number of spaces required, so that there's the ability to not have all of those four parking spaces at the corner. So staff would recommend to really minimize those, and primarily to reduce the conflict between the vehicular circulation and the pedestrian. Some of these sites are very small. It's a

challenge to really accommodate the mix of uses. We see the benefits of these upgrades, and we're appreciative of the investment that the applicant is making in this site. Those are just kind of the two areas that you know it would be nice to see if we could take it one step further. But again, I think, you know, we presented it in the staff report and I'll leave it to the Planning Commission to ask any more questions or you know once they've heard the applicant see if there's any more that they'd like to know from staff. That concludes staff report.

>> Commissioner Bit-Badal: Thank you. Is the applicant here? Actually, I do have his name as Mr. Jim Robnitz. Would you please step forward. You have five minutes to make a presentation, up to.

>> Jim Rubnitz the applicant. Thanks for Jeannie for pushing this over the finish line although we did start this process in January believe it or not and here we are almost November so it's frustrating none the least. We have whittled it down to two issues, without belaboring, the one is the canopy and the other is the parking issue that Jean mentioned. The canopy issue we have done substantial upgrades to the building and the canopy is somewhat limited in terms of upgrades available. This is a canopy I applied for five years ago and redid. So when you do that there are certain structural restrictions, certain fascia and column requirements. It is not just adding things to it. It is primarily wind loads and the like. If you look at the canopy I built by the Lowe's and Chevron at the airport, you need to do that from the ground up. When you're starting off with one in existence it's very difficult from a seismic and wind load standpoint. Our attack on this canopy was twofold, one was how can we minimize its size and integrate it into the building, and we did so by muting some of the white colors that are there now. And on the four columns that support the canopy typically there are Chevron 12-inch cylinders, cover if you will, we included the board and bat from the building itself, made them two foot by two foot square, incorporated it directly into the building. So we believe we did quite a bit in there. In addition probably the loan objection at our community meeting was the canopy increasing the size of that canopy. So the comments I've been getting from staff is they want to make that larger, put a roof on it and make that more of a presence. First of all that's inconsistent with what we can do physically and second, inconsistent with what the neighborhoods would want. We believe the claddings we did that nearly double it in size satisfies that. With respect to the parking issue, Jeannie wanted me to reevaluate that. There is one parking stall near the last pump, and Jeannie was concerned that that stall creates a conflict in terms of circulation. Well, when we went out there first of all that condition exists

now. The conflict isn't created by the parking stall at all. The conflict is only created when someone is pumping gas. So eliminating all the parking stalls on the entire site is not going to eliminate that issue of circulation. The circulation issue is created because of where someone's parking. So we believe we need that extra space for employee parking, for customer parking to encourage people to make sure they know there's plenty of parking at the site. So eliminating that one space isn't going to change circulation whatsoever. So I would be glad to respond to questions either to the canopy or to the parking issues. And I might add, this is condition 5, is really what we're talking about, with respect to this particular item.

>> Commissioner Bit-Badal: Thank you for your presentation. Actually we have several questions for you one is Commissioner Abelite.

>> Commissioner Abelite: Yes, Mr. Rubnitz, I did visit the site. There are two legs on the canopy.

>> There's four.

>> Commissioner Abelite: There's four. I knew there was a rub on the canopy issue. As soon as you touch the canopy it may trigger seismic retrofit issues down in the foundations and now you're tearing into the islands and the pumps and everything that goes with it, and I was trying to figure out is it really worth doing that?

>> Well, I'm not going to deny. I mean, that is -- we think we've softened it by doing things we're doing in terms of colors and cladding. Yeah, you're talking about tearing down the canopy effectively in order to satisfy that, and it's an item that can't be supported by this project.

>> Commissioner Abelite: Right, that's exactly what I was thinking before I even heard you speak, or even heard staff talk about it, I was thinking that's going to be a train wreck. As soon as the building department sees that canopy being touched they are going to demand seismic studies on it and costs are going to go through the roof.

>> That's correct.

>> Commissioner Abelite: I'm wondering is there anything you can do to the canopy that won't trigger that sort of thing?

>> Well, we're doing everything below the canopy which is cladding the columns and again dealing with colors. On the canopy typically Chevron has white with you know the stark white and then blue offset.

>> Commissioner Abelite: And the button and the chef rob name and that's it.

>> What we've agreed is put the blue behind the Chevron lettering and make the blue theoretically it goes away. That's why we added that one color elevation at the last minute here to try to give you an indication of what that looks like. If you look at that towards the end of the package there's the color which gives the indication of what the revised canopy would look like.

>> Commissioner Abelite: You're hoping --

>> It's more of a nutmeg is what it is. There are certain colors, to the extent I deal with the demands of city and the demands of Chevron.

>> Commissioner Abelite: You're trying to stick with at the same time, you're trying to avoid seismic. Thank you.

>> You're welcome.

>> Commissioner Bit-Badal: We also have Commissioner Kamkar.

>> Commissioner Kamkar: Thank you, Madam Chair. I'm a structural engineer I understand the issues you're talking about. Do you know why staff wants a bigger canopy?

>> Staff doesn't necessarily want I don't think a bigger canopy. What they want is to integrate better into the building design itself. And I think the belief is that it becomes more residential with some kind of pitched roof to the top of it when in fact to my mind the things we're doing I mean it's still a commercial site. We still need customers to see it. We still need people to understand this is Chevron, it's not something else so that's my understanding.

>> Commissioner Kamkar: Okay, second question is, when you talk about circulation, well, let me ask that last. My second question is, when you double the size of the column I'm sure you've had some kind of an engineering or study done. You didn't just go out and say, I think I'm just going to double that column.

>> It's just a facade. It's not -- the fundamental column stays the same. We're just building effectively a facade around the 12 inch circular columns.

>> Commissioner Kamkar: So structurally, you're not strengthening it, you're just esthetically you're --

>> Exactly, and sits on top of the POS container and everything else.

>> Commissioner Kamkar: Got it. And then you talked about circulation. If you're going to improve something this is the time to do it, right? So since you are touching a few things how can you improve the circulation in the site? I was looking at the picture that's provided on page 2 and looks like when you are replenishing the fuel with those you know truck deliveries some the site is pretty much shut down, right, or do you do the delivery at like at the middle of the night or something or --

>> I'm sorry?

>> Commissioner Kamkar: Do you do the fuel delivery in the middle of the night or at all hours?

>> Well you can see the path of the tanker if you look on this. It comes in between the building and first side of the canopy and we close down that side of service for the 15 minutes that they're there, to dump their load.

>> Commissioner Kamkar: Okay so the delivery is done at any hour of the day?

>> Typically we try to get it at night after 5:00. Sometimes we can control it. Sometimes -- but we ask for night, p.m. deliveries.

>> Commissioner Kamkar: Okay and then as far as the circulation, if those parkings were not an issue and the canopy was not an issue how could you improve the circulation? Is this one way out, the other way in or is it, they can come in both ways?

>> One of the things we did as a concession we closed one of the driveway cuts that were closest to Bascom because candidly it was not used and it makes for a better site, additional landscaping. As Jeannie said, these sites are tight. When you start from what you have, there is nothing I can do with the circulation on the site. Actually the site gets worse the larger you increase the buffer of landscaping, candidly. But the thing that controls that is the car at the pump, not the amount of space because existing landscaping on the perimeter is already there.

>> Commissioner Kamkar: Well I'm glad to hear that you are closing one of the driveways close to Bascom. That at least helps with the circulation or the traffic outside the site.

>> And also landscaping. You know --

>> Commissioner Kamkar: To me that is an improvement.

>> I'm not that benevolent. It wasn't helping me actually.

>> Commissioner Kamkar: Thank you.

>> You're welcome.

>> Commissioner Bit-Badal: That concludes our questions. We have no more speakers. I will entertain a motion to close the public hearing.

>> So move.

>> Second.

>> Commissioner Bit-Badal: Public hearing is closed. Go to staff.

>> Staff isn't asking for a bigger canopy. It's what can you do with that canopy to better architecturally integrate it with the building. Understand the purpose behind the council's intention to allow these gas station conversions they were allowed for a number of years, to get significant upgrades for them. And to the extent that we're able to accomplish that, that's really our charge from the council. The closing of that driveway that's a standard requirement regardless of what you're doing because gas stations way back when all had four curb cuts. We all know that that's not necessary, and for a traffic operations standpoint, it's much safer. So conversion or not, when a gas station comes in for an upgrade even for gas station purposes in our zoning code that's the first thing we look to do. And again, one of the things that we can take advantage of with that is to integrate additional landscaping. They are doing that, however if they didn't have that parking at least one of the parking spaces there we could even increase that landscaping. So again, you know, to the extent that you know the parking isn't absolutely needed, it can be given up to additional landscaping. And so with crediting rightfully spaces at the pumps, because people do go there and use two uses at once, so we don't need to double-count for that parking, then they're not having to put more parking than is really necessary on the site. So that's a lot. And again, you know, you pull more cars up there, they're going to have to wait till the person at the fuel pump leaves as opposed to if you lost some of those, somebody in that space could go out. We can't control who parks there. We can't mandate that that be employee parking only. That's why we're not doing that because that is really not an option on our part. So with that I'm available for any questions.

>> Commissioner Bit-Badal: Thank you for your report. And we have a commissioner who has a question, Mr. Kamkar.

>> Commissioner Kamkar: Thank you, Madam Chair. I want to understand your meaning by double, not double-counting the parking statement. So I understand the carry-away business you were talking about is a subway, that's a subway sandwich, right, so if someone's gassing up, is there a likelihood it would also after gassing up go to subway and order a sandwich after their car is parked at the bump?

>> There's a great likelihood when somebody's gassing up making a purchase at the convenience market, whether it's a food item or Deli counter, the generic for subway, that's why we don't have to have those two separate parking spaces, when you combined and go to two or three of the places, here they're going to the gas station so not only are they doing that, they're also shopping at the convenience market and maybe even getting a sandwich. That's kind of the rationale behind kind of counting some of the slots at the service pump. Because the car is stationed there, and parked there while it's being fueled.

>> Commissioner Kamkar: I understand the explanation. It's just that I think there's a distinction between ordering food at the subway counter and buying something at convenience store. I don't think time-wise you can equate them, you know.

>> Again that's why we're only counting four of the eight spots at the service -- at the fuel pumps. Because those can accommodate for the people picking up a bag of chips or picking up the milk or picking up the whatever, while they're also paying and their car gassing up, and stuff. Those are the quicker ones. I mean whichever ones you want to count. So there is -- I don't know, experience and a sense of understanding that people who do fuel their cars, also make a purchase at the retail that's there. So we're not looking to credit all of the eight spaces at the fuel pumps but only 50% of them, to count towards the overall parking requirement for the location.

>> Commissioner Kamkar: Has this been tried anywhere else or is this sort of the first one?

>> No, we've done some.

>> Commissioner Kamkar: Okay.

>> And again City of San José, you know, they have -- the predominance of our service station sites are anywhere from a third to a half an acre. We have very few that are an acre in size. So there is a challenge but there is a desire and a need and to the extent that we can accommodate that with, again, getting the site upgrades that the council envisioned by you know offering up this opportunity to the service station operators or owners, that's what we're really looking to do.

>> Commissioner Kamkar: And then, an the restaurant or the subway restaurant does not have any sit-down places, just carry away?

>> Correct, this is limited to take-out only and if you look in the resolution, this is the only sort of restaurant use allowed. And if this were to go away they would have to come back through. So they can't put in tables for sit-down or they can't have McDonald's come in or they can't have Joe's Philly steakhouse come in. It's limited to that takeout.

>> Commissioner Kamkar: Okay, thank you.

>> Commissioner Bit-Badal: Commissioner Abelite.

>> Commissioner Abelite: I want to continue on the take-out. I don't get what the rub is on the staff. I see four parking stalls on the lower left of that. Is staff trying to get rid of some of those and the applicant is trying to keep four? Is that --

>> Correct. Because currently there is a driveway cut. So all of those four do not exist in that configuration. By closing the driveway cut we have an opportunity to increase landscaping, that's true, and they are doing it. But also we could increase it a little more and if you look at, at least parking space, I don't know if there's a number there, looks like a 4 or 8.

>> Commissioner Abelite: Well the person --

>> Anyway, that person does not have an opportunity to swing out and go out the other way or swing out and go out around. They are -- they are basically locked in as those pump islands are being used so again really just trying to balance you know everything. They don't need that parking space, the way we're supporting parking, the parking requirement on site. So it's kind of like you know what would be the best use of that area.

>> Commissioner Abelite: Okay. And then let's go back to the canopy issue too. Because I am sympathetic to the applicant. I mean I am worrisome that if you start putting too much facade on the top the wind load is going to trigger something, it's going to trigger a design issue Earthquake and wind calculations in what could be a fairly inexpensive job is going to go skyrocket in cost. So that's you know I'm just trying to figure out how strong of a position this is, for staff.

>> Well, again, you know we're -- you know we don't ask for the pro formas, we're not supposed to really take into account economics because otherwise you know I'd be scared at what we'd be seeing coming through because they could really -- you know we do understand that. I know at some point you know as suggested, staff said well could you do this, you could do that. I think our real goal is to not make it look residential. You could have flat designs integrated with others. So again it's have we really done everything we can? I mean I know they've clad the posts, and you know, is that enough? I don't know. If the color, if we can ensure that that color remain the same. Again, we're kind of in a position where once we start regulating color that's all fine and dandy but we can say the color has to be consistent with the color of the building. But again to the extent that I mandate a certain color, you know down the road if they decide to paint it purple, I mean I have a really hard time enforcing against that because it's not necessarily, unless I have a real reason why that color should be that certain color, and a lot

of times it has to be related to an historic or an environmental issue, it's really tough when we start thinking that we can tell people what color to paint a building. So and I know that sounds odd. But -- because some people think we do it all the time. But quite honestly we get color boards and we get that and we just hope for the best. Unless color is an integral part of the design, and is used to pop certain things out, we can regulate that it be used in that manner. But the precise color, it's --

>> Commissioner Abelite: Right.

>> So we're kind of in this awkward position.

>> Commissioner Abelite: I wouldn't if I could get discretion from staff, if a motion is made on this issue, so long as it doesn't trigger an issue with the building department downstairs, is there some wording that we could put together in the motion that might help that happen and still give you some latitude for design and yet keep him out of the first floor? Anybody?

>> Laurel Prevetti: Thank you, Madam Chair. If you turn to the draft resolution page 7, condition 5A is the language that's proposed by staff to revise the canopy. It's essentially requiring that the applicant address this concern by coming back through the permit center for what's called a major permit adjustment and in that adjustment to revise the cap by design of the service station to be more compatible with the architecture of the primary building and the adjacent to residential nature of the neighborhood. By using more compatible building forms materials and colors. So I think staff has tried to draft a condition for your consideration that provides some flexibility so that the applicant can choose how to address it. But also, acknowledging that what we have so far doesn't quite meet our mark. So we are looking for something a little bit more than what's been provided so far. So this is probably the part of the draft permit where you might want to consider some language both on the parking issue as well as the canopy design. So we've tried to articulate what we're looking for, and you know we'd certainly appreciate the commission's input on this as well.

>> Commissioner Bit-Badal: Commissioner Kline.

>> Commissioner Kline: Yes I need clarification on that too. I use this gas station twice a week and I'm familiar with the driveways and congestion. The more parking the better. It is a congested site. People are parking there, there's always a convenience store, people park there all the time, run in and run out. There's sometimes a backup spills over to Bascom because not enough parking currently and people back up especially during busy traffic commute times it becomes an issue. It's not a major issue. If there's more parking it would be a plus. As far as the color and the craftsman style, it's a big improvement. I'm not sure what he can do with the canopy. I think he's done pretty much all he can without replacing it. I read in here if we are basically going to give this over to staff to revise the canopy, it sounds like replacement. I don't know if there's any other way of doing it and I think that's a killer for the project. That's my impression right now. So I think he's done quite a bit by putting the cladding on top of it to make it match with the craftsman style of the structure itself. I understand totally with the colors, I mean, this could be brought out by British petroleum down the road, and they have a different color scheme, et cetera, but I think the best attempt right now is to match the canopy with the building itself, it's a craftsman building, I guess craftsman could be pure white or pure red but I think that won't happen. I think he's done a pretty good job here of addressing, I like to go with the extra parking and the canopy as it is in the design. And if we want to basically say you got stick with the colors, I'm okay with that. It's better that we do that in a public forum here, I think it's more reasonable than giving over to staff and not knowing what's going to happen.

>> Commissioner Bit-Badal: Commissioner Abelite.

>> Commissioner Abelite: And along the canopy, one alternative I was thinking about putting in the words in condition 5 so long as lab staff and the applicant try to work out a better design, so long as it does not trigger a seismic retrofit in the eyes of the building department downstairs. Because that's the key. So maybe there is some work that could be done back and forth, and maybe staff can get a better design and yet it does not trigger a seismic retrofit downstairs. So that's kind of where I think it might go or the color alternative is fine, too.

>> Commissioner Bit-Badal: Do we have a motion on this item? Commissioner Kline.

>> Commissioner Kline: More clarification on that last comment. Trigger a seismic retrofit. I'm not sure what that means. I'm not that technical. If he is talking about PHP programming, I can get into an argument with the state with you. But when it comes to seismic retrofits, I'm at a complete loss. Where is that line drawn? If it -- if we're talking about a brand-new top to it, which probably is a reasonable degree here, that to me is the real common sense approach is this has to match the building basically and can you only do that if you replace the top. So to me that's kind of no-go.

>> Commissioner Abelite: I agree. I was trying to make it have a little more design flexibility there but I'm fine with the canopy as proposed by the applicant.

>> Commissioner Kline: I'd like to make the motion to the effect with the additional one space parking.

>> Commissioner Bit-Badal: Would you mind restating your motion?

>> Commissioner Kline: Sure, as staff's recommended with the elimination of 5A and the addition of that one parking space instead of landscaping.

>> Commissioner Abelite: Second.

>> The parking exists. The addition of one more space?

>> Commissioner Kline: I show that you want more landscaping.

>> They are showing four parking spaces already. What I'm saying is more parking as proposed by applicant.

>> Commissioner Kline: Perfect.

>> Laurel Prevetti: Madam Chair, what that effectively that does is remove condition 5B. Is that correct?

>> Commissioner Kline: That's correct.

>> That is how I was interpreting that motion as well.

>> Commissioner Bit-Badal: Does this motion have a second?

>> Second.

>> Commissioner Bit-Badal: We have a second. We're ready to vote on this item.

>> Commissioner Abelite: Just to clarify, I think, so I think 5A and B are gone, basically, right? Okay, thank you.

>> Commissioner Bit-Badal: So with that we're ready for a vote, thank you. The motion passes five and 1 is not in. Moving forward. With petitions and communications. Public comments to the planning commission on nonagendized items. Please fill out a speaker's card and give it to the technician. Each member of the public may address the commission for up to three minutes. The commission cannot take any formal action without the item being properly noticed or placed on the agenda. In response to public comment, the commission is limited to the following options: Responding to statements made or questions posed by members of the public or requesting staff to report back on a matter at a subsequent meeting, or directing staff to place the item on a future agenda. Do we have any -- we do not have any petitions or request for communication. Item 5. Referrals from city council, boards commissions or other agencies. Staff?

>> Laurel Prevetti: We have none, thank you.

>> Commissioner Bit-Badal: Thank you. Good and welfare, report from the council.

>> Laurel Prevetti: We have no report.

>> Commissioner Bit-Badal: Thank you. Item B, commissioners report from committees. 1 some Norman Y. Mineta San José International airport noise advisory committee. Commissioner Cahan. Is not here. She will probably give us a report in two weeks. Review and synopsis of 9-28-11.

>> Commissioner Kline: So move.

>> Commissioner Bit-Badal: Commissioner Platten has abstained. Motion carries. 6 D subcommittee formation reports on outstanding business. Do we have any reports?

>> Commissioner Kline: Yes I'd like to raise one issue not a report. Could we have staff give us an update on the status of the best practices for the environmental reports recommendation? Just to kind of like the -- it can be next meeting just time frames and we know staff is under enormous amount of pressure staffing wise. Is this something that will be presented to the city council sometime in the future or not?

>> Commissioner Bit-Badal: Staff.

>> Laurel Prevetti: We can discuss that at the next meeting.

>> Commissioner Bit-Badal: Item E, commission calendar and study session. Any reports on that, I see none. At this time we adjourn the Planning Commission meeting. Thank you for your time. Do we have a motion to adjourn? Second? Say aye, commission is adjourned, thank you.