The following transcript is provided for your convenience, but does not represent the official record of this meeting. The transcript is provided by the firm that provides closed captioning services to the City. Because this service is created in real-time as the meeting progresses, it may contain errors and gaps, but is nevertheless very helpful in determining the gist of what occurred during this meeting.

>> commissioner jensen: good evening. My name is lisa jensen, and I am the chair of the planning commission. On behalf of the entire planning commission, I would like to welcome you to the planning commission public hearing of wednesday, november 17, 2010. 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, please fill out a speaker card located on the table by the door on the parking validation table at the back, and at the bottom of the stairs near the 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, 4.a, 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 then call out names on the submitted speaker card in the order received. As your name is called, please line up in front of the microphone at the front of chamber. 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 commissioner questions will not reduce the speaker's time allowance. The public hearing will then be closed, and the planning commission will take action on the item. The planning commission may request staff to respond to public testimony, ask staff questions, and discuss the item. If you challenge these land use decisions in court, you may be limited to raising only those issues you or someone else has raised at this public hearing or in written correspondence delivered to the city, at, or prior to, the public hearing. The planning commission's action on rezoning, prezonings, general plan amendments and code amendments is only advisory to the city council. The city council will hold public hearings on these items. Roll call. Let the record reflect that all commissioners are here with the exception of commissioner platten. Deferrals. Any item scheduled for deferral 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. To effectively manage the planning commission agenda, and to be sensitive to concerns regarding the length of public hearing, the planning commission may determine either to proceed with the remaining agendized items past 11:00 p.m, continue this hearing to a later date, or to defer remaining items to the next regularly scheduled planning commission meeting date. Decision on how to proceed will be heard by the planning commission no later than

11:00 p.m. there are two items scheduled for deferral. Cp10-015. Wireless conditional use permit. And cpa, 00-009-001. Conditional use amendment for the timely renewal of an asphalt. Staff.

>> actually item 1a, cp10-015 has -- is dropped, it was withdrawn by the applicant, and they were able to find an alternate location and we will go through the streamlined process, and item 1b is recommended deferral to december 1st, 2010. That concludes staff comments on deferral.

>> commissioner jensen: thank you staff.

>> move adoption.

>> commissioner jensen: all those in favor, please say aye. And welcome back, commissioner platten. Counsel.

>> thank you. In connection with cp 10-015, the commission had asked for an informational memorandum regarding the scope of the city's role in regulating these types of facilities. And although the item has been dropped, I would suggest that if the commission is interested in that item that possibly they schedule a study session and we can go over that and I can still provide that informational overview again if the commission is still interested in that.

>> commissioner jensen: I think you'll be interested in seeing the calendar later this evening. 2, consent calendar. The consent calendar items are considered to be routine and will be adopted by a single motion. There will be no separate discussion of these items unless a request is made by a member of the planning commission, staff, or public to have an item removed from the consent calendar and considered separately. Staff will provide an update on the consent calendar. If you wish to speak to one of these items individually, please come to the podium at this time. I see we do have speaker cards on item 2b. So we will pull that item from consent. I see that commissioner abelite --

>> commissioner abelite: I would have to recuse myself from the consent calendar because item 2d is a conflict for me.

>> commissioner jensen: okay, we could make a motion on that one separately. Commissioner bit-badal.

>> commissioner bit-badal: I would like to make a motion remove item 2d from the consent calendar.

>> commissioner jensen: okay, somebody else had their speaker -- and commissioner platten. There is a motion, is there a second. There is a motion and a second to adopt item 2a and 2c. All those in favor? Thank you, item 2d, is there a motion on 2d? There is a motion to accept item 2d. Is there a second? With the exception of commissioner abelite. All those in favor please say aye, those opposed and that passes unanimously with commissioner abelite recusing himself. On the item of 2b. Cp10-040. Conditional use permit to allow a drinking establishment and the addition of late night operating hours of 12:00 midnight to 2:00 a.m. at an existing pizza restaurant on .14 gross acre site in the d.c. downtown primary commercial zoning district located on southwest corner of east santa clara street and south fourth street. Staff.

>> thank you. This is a conditional use permit application to allow for a drinking establishment in conjunction with an eating establishment as well as late night hours of operation from midnight until 2:00 a.m. as I said, the drinking establishment will be in conjunction with the existing public eating establishment and as we've set forth in the resolution, we've conditioned noise, generation after midnight, that they'll be required to reduce it to a level such that it's not audible, in the residential units. Recognizing that this location is in a mixed use downtown area, there are going to be instances where you have the juxtaposition of residential with commercial. As you all are aware, we don't currently regulate entertainment, so the areas that we are able to deal with it are most relevant to drinking establishment and late night hours are the noise and the security areas. The one thing that I would like to point out, we did add a condition into the resolution related to security. So I unfortunately failed to make copies of it. But the resolution that is with council includes a condition related to security and it reads the permittee shall provide one state licensed onsite officer between the hours of midnight and 2:00 a.m. and while on duty the security person's name and the words either staff or security shall be exhibited in bold capital letters on the

person's clothing and shall be visible and easily read by any patron or other members of the public. That is kind of a standard condition and that's feedback we got from our police department. Given the occupancy of this restaurant of about 48 to 50, 48 or 49, they're only required to have the one security personnel. If they were to get up to 100 but I don't think the occupancy at this site can allow for that, they would need two. That's why we just have the one. Again, just a little more background information. The site is located in an area that does not have an undue concentration of liquor licenses or does not exceed the 20% crime rate. As far as onsale there is an undue concentration however they have an existing liquor license so they're not adding to the number of licenses. They will continue to operate under that existing license because abc you know allows for the sale much alcohol without the serving of food. But there does need to be that public eating establishment there. I did pass out one additional piece of correspondence that we received after the staff report was put together. There is one e-mail with the staff report and there is another one. Both of these raise a concern relative to the noise and issues with the existing tenant and whatnot so that concludes staff report.

>> commissioner jensen: thank you staff. Is the applicant here? Yeah, if you would like to come forward and speak you may have up to five minutes to speak to your application. You don't need to. It's up to you. Okay. We'll call the public speakers and then you'll have an additional five minutes after they've spoken in which to respond to anything that they may raise if you would like to do so at that time. We have two speakers. I'm going to call you both forward. Kathy johnson and darryl wagner.

>> fellow commissioners, I don't know if any of you recognize me, but i'm a commissioner on the advisory commission on rents. So now, for the legal disclaimer, I do not represent my commission in any way, shape or form tonight. This building is a historical building, and in the top floor it has quite a few residential tenants coming under the san josé rent control act. The noise from the pizza parlor can be quite disturbing to the tenants after hours. I realize we put some qualifications that's non-not on the cp and that's good. But we need a little bit more assurances that the late night noise will stop at a reasonable period of time on late night evenings because we have tenants, and that it will also stop on a reasonable time even on fridays and saturdays. And we want downtown retail to prosper but you know, this is a mixed use building and there's tenants there, tenants who are

kind of my constituents and i'm afraid that the existing noise is a bit too much for some of them and extending this until 2:00 at night from ostensible 10:00 hours will be unreasonable.

>> commissioner jensen: thank you sir. Ms. Johnson and if you would introduce yourself.

>> my name is kathy johanson. I am speaking for another tenant. She wanted me to point out that there are patrons that use the public alleyway as a urinal. I don't know if that's the e-mail you referred to or not. I stated several things including the fact that there is a problem with the bicycles, not just the noise but the bicycles impeding the sidewalk. The students are using that area they can be nice but they really don't recognize the fact that they don't own that corner. Even though I recognize that the use permit has been amended to cut the noise which I do appreciate at a certain time there is an issue with the sidewalk. The additional security is a good thing. I don't think it takes it far enough. In addition, i'm not really sure but it looks like there's some expansion going on in the property that's adjacent to the restaurant currently. And so I don't know if the pizza restaurant is going to be expanding into that area which would mean that their seating capacity would be quite larger. And there would create greater noise and impact on the units above. As well as on the city streets. So I do know there has been a problem with the bicyclists and the other pedestrians in that area and that corner because it's used a lot as access to the freeway. And so I notice quite frequently coming home late at night myself that there are cars that are having to be very careful not to hit a pedestrian as well as you know, danger to myself and other residents of the area not just my building. I think that's it.

>> commissioner jensen: thank you, ms. Johanson. We have a question for you from commissioner kamkar.

>> commissioner kamkar: thank you, madam chair. A lot of things you talked about are true during the regular or the existing hours also. But if you were to advise us or suggest to us, what would you suggest would be a proper compromise or proper way to do this, you know, I mean we do like to you know help retail expanding downtown, you know. So if you know when I was reading your letter you -- some of the noise is from the outside, so if they keep some of the patrons inside you know, is that something that would satisfy?

>> I don't know that that would satisfy me in particular. I do know that it probably could make a difference. Certainly we are impacted by the other drinking establishments across the street. I was surprised to learn in the details that there isn't really a heavier concentration. I come down off 87 all the time on santa clara. Coming home i'm impeded going that way because of all the traffic that's created by the other drinking establishments that are down there. I do respect the right of the retail to grow and I do appreciate the noise is going to be cut at a certain time. I did speak to the restaurant owner itself, and I am pleased it was included. I really feel that you know the sidewalk being impeded is a real problem. And it also creates a lot of other impact on those city services that I mentioned in my e-mail, because there's considerable cleanup which happens seven days a week. So not everyone in the building is working monday through friday. I do not. I know the other tenant i'm speaking for does not. So really we have a lot of retail workers that live above the restaurant. I'm not really sure at this juncture how to give you a better recommendation. I can see that you've made recommendations already, and I really appreciate that.

>> commissioner kamkar: thank you very much.

>> I would like to --

>> commissioner jensen: sorry we don't have any further questions, thank you very much. Right, no further questions, okay, thank you. Would the applicant like to come? You have up to five minutes to respond to anything you have heard this evening. And as you come forward if you would introduce yourself mop.

>> this is my partner josh up there. Just in regard to some of the things that they mentioned, I mean we obviously you know do the best we can to run an upstanding business in the area and serve downtown the best that we can. We've never had any issues with the city with the police department since we've been.open in four and a half years so I think that's pretty good. As for the noise, the bicyclists, I don't know if you guys have ever seen them they patronize our place and many other places downtown. I think they're on a circuit, they go different places. I can understand, we have the sidewalk cafe that's outside, they do sit out there because they have their bikes. I never noticed if that is a problem or it can be controlled differently. I can definitely try if we decide that's an issue

but I don't know if you have ever seen them before. The guys are downtown all over on their bikes, there must be a club or something. They're there probably a couple nights a week but in regards to that they're just paying customers. If there's something we need to do to better that but I don't know if that's in my control. I mean they're just like I said out on the sidewalks and stuff like that not even -- they just kind of collaborate on corners and different things. So I don't know if that's in our control but within our area or our sidewalk cafe permit area you know we can try and control that or do something in regards to that. As for the late night hours, you know, we're not a night club or a lounge or anything like that nor do we intend to be. We do think there's more business to be had, to boost retail and boost sales and everything for us at nighttime. We'd like the option to do that. Other than that -- that's about it. I don't know if there's any questions or anything.

>> commissioner jensen: we have a question for you from commissioner kamkar.

>> commissioner kamkar: thank you, madam chair. So two other items was the urination in the back alley. Is there something that you can do to control that if that's the case?

>> i've never -- been brought to my attention once. And I guess I had never -- I guess she said she spoke to the owner. Nothing has been brought to our attention. We will try to address the issue. I'm never in the alley. I've never seen -- i've seen a lot of things in downtown but we don't tend to have that type of customer base but it could happen you know.

>> commissioner kamkar: so as a good neighbor it would be you know not as you've heard of it maybe you can be checking and if it's something that's attributable to your patrons you can address it. You mentioned you had the sidewalk permit that's great. So again as a good neighbor you can you know, one of the employees I guess can go out there and police that every once in a while.

>> most definitely. And in the future if it sounds like we're going to be required to have a security person or anything like that I think that we'll better contain it but we'll manage it better our selves also.

>> commissioner jensen: and may I ask you do you have bike parking either on santa clara or fourth?

>> bike parking?

>> commissioner jensen: bike racks for a place to put the --

>> I don't think there is, not that i've noticed.

>> commissioner jensen: I don't know exactly how it works and I can ask staff later but if it were up to you would you be able to assist in providing bike parking so there was kind of a consolidated place to put bicycles?

>> assist financially? I don't know what that would entail.

>> commissioner jensen: maybe take a collection from the clubs. I'll ask staff.

>> we're open to try to make it better.

>> commissioner jensen: thank you. Thank you very much. We have no further questions. Motion to close public hearing?

>> so move.

>> commissioner jensen: is there a second? All those in favor? Thank you. Staff?

>> thank you. Again, I just wanted to clarify, a couple things. This use permit covers the existing restaurant. And there's no expansion beyond the existing tenant space. So I just wanted to let the speaker know that. If in the future they wanted to expand the restaurant area, they would have to come and amend the c.u.p. because the drinking establishment portion of it would need to be considered in that. And we -- it's not typical that you'd have

you know double size restaurant but unless it was a physical way to cordon off the bar area, no expansion is included. And they do have that existing sidewalk cafe permit. We have conditioned that that only operate until midnight, so even when we're expanding the hours of operation for the restaurant and proposed drinking establishment the sidewalk cafe has to come in at midnight so that should help with any noise. As far as the ability to require any bicycle parking there is no physical expansion of this and this is an existing restaurant. The restaurant went in and didn't require approval so i'm not sure if there is any ability to you know, just with the drinking establishment. Six there's no expansion of physical space or seating that there would be any ability to require them to install bicycle parking. If they did it would have to be on the public right-of-way and then that would involve our department of transportation or public works personnel and whether or not there is sufficient area around there. At a -- unless there is any other questions from the commission, again, we're recommending approval as presented in the staff report, with that additional condition, that they have the one security personnel from midnight to 2:00 a.m. thank you.

>> commissioner jensen: thank you, staff. Commissioners? Commissioner bit-badal.

>> commissioner bit-badal: I would like to place a motion to approve as staff has recommended.

>> second.

>> commissioner jensen: there is a motion and second. Is there any discussion? Okay, i'd just like to say, i'm delighted to hear that the problem is bicycles. And if your patrons are open to the possibility of bringing in bike racks, I know that we've had a struggle in downtown finding adequate bicycle parking. But that might be something you could explore with the park department of transportation, and i'm sure the city would be happy to help find alternative ways of parking bicycles rather than chaining them to light posts and parking meters and whatnot. I'm glad that's the problem. Thank you. No further discussion, all those in favor, please say aye. Opposed. That passes unanimously. Thank you. Public hearing. Generally, the public hearing items are considered by the planning commission in the order which they appear on the agenda. However, please be advised that the commission may take items out of order to facilitate the agenda such as to accommodate

significant public testimony or may defer discussion of items to later agendas for public hearing time management purposes. 3a. Ordinance amendment. An ordinance of the city of san josé amending title 20 of the san josé municipal code to add a new chapter 20.75 entitled pedestrian oriented zoning districts and establishing the main street districts within that chapter, to modify chapter 20.90 to provide parking and loading requirements for the main street districts, and to -- other related modifications, or regarding the main street issues. So staff.

>> thank you. Carol hamilton, senior planner, department of planning, building, and code enforcement, and with me is walter rath, a principal architect of the redevelopment agency who will be assisting in responding to your questions. This proposed ordinance was drafted originally to be -- to limit the main street zoning districts in their application to main street neighborhood business districts in general, in san josé. After transmittal of your packet we received considerable input from our community that additional outreach was needed before these districts were considered for citywide application. And so at this time, as we've indicated in our supplemental staff report, we are recommending that the ordinance be revised so that it is limited only to the alum rock neighborhood business district. And it is our intention to conduct additional community-wide, citywide outreach regarding the main street districts to determine if it would be appropriate to allow those districts to be applied elsewhere in the city. I got ahead of myself. The main street zoning districts are intended to establish a vision for really vibrant commercial street. And to provide very clear development standards that would help us to implement that vision, and to streamline the process, for a new development. And I should point out that by streamlining the process, we mean there will not be a need for planned development zoning with this zoning district, but does not mean that there will not be development permits. New developments will continue to require development permits and there will be public hearings for those new developments. That was a question that has come up from the community. The eviction for the main street is to take a street, alum rock in particular, to take a street that has a discontinuous pattern of development where we have a lot of development that looks similar to this, in a fashion that has been very common in the last 50 years where the building is setback from the street with parking in front. And overtime as new development occurs to change the pattern of development to something that is more consistent and more pedestrian and transit oriented. The brt along this stretch of alum rock is expected to be in place by 2013, and here you see a bus stop in the center of the street as is planned for the stretch. Over time as development occurs we hope to see in this zoning district more intense development, development that is

designed to attract people to the street and to promote a vibrant commercial district where people walk and shop. The proposed main street districts, there are two of them. The msg and the msc. And the development regulations for these two districts are exactly the same, but they do allow different uses. The msg is a district that requires ground floor commercial but allows commercial or residential on upper floors or behind the ground floor commercial. The msc is a district that requires commercial, it focuses primarily on commercial and residential is only allowed in a mixed use configuration on a large site through a single development permit. The development regulations really place an emphasis on a relationship of the new development to the public street. And so there are four street decisions that will be applied to wherever this zoning district is applied to help to guide the development regulations for each type of street. The goal is to provide wide pedestrian sidewalks that accommodate a number of active uses to provide a continuous pattern of well-designed development, active commercial space. There are requirements that a percentage of each lot be devoted to active ground floor uses. This picture shows a continuous 100% commercial frontage and that would be lovely, but we recognize that in some cases we may need to break that frontage to allow vehicular frontage to an interior parcel. There may need to be residential lobbies, so we are proposing a percentage of commercial frontage that will push developers to really maximize the amount of commercial but won't be impossible to meet. A goal is also high quality commercial space. We're looking for tall ceilings at the ground floor and big store front windows. We are looking for versatile space. We don't want to see space that's so shallow that it can only accommodate a narrow range of commercial businesses, and is difficult to lease. We are looking for an intensity of development that supports transit and pedestrian activities, and brings retail customers to the ground floor. We are looking for development that will be compatible with the neighborhoods that surround the commercial street. In the case of a single family neighborhood next door, these development regulations require that the building be stepped down to a height of 35 feet close to the residential property line. In the case of a higher density residential zoning district that allows between 9 and 30 units, we are suggesting that the building be stepped down to a height of 45 feet, close to the residential property line. Another goal is to emphasize transit, bicycle and pedestrian activity rather than automobiles. And for that reason, the automobiles are not a focus at the front of the property. They're set, the car parking is required to be either setback behind the building or enclosed in a building that meets the commercial frontage requirements. There is a requirement for offstreet parking lots as an interim use, in case we need some parking as the business districts develop. The goal is to begin to shift from auto to transit in bicycle and pedestrian

modes of travel and for that reason we're recommending reduced parking requirements, vehicle parking requirements. In the goal of promoting bicycles, bicycling, we're proposing to enhance the requirements for bicycle parking for residential units. So the requirement in this zoning district is a little bit higher than it is elsewhere in the city. And we are seeking to achieve livable housing and for that reason we have specific open space requirements that are included in the zoning. This ordinance actually creates the zoning districts but it does not apply them. And there are a couple of -- several different steps that are needed in order to get to that, to the next step. And that is, the alum rock study area needs to be designated as a place where these zoning districts can be applied. That will take an additional ordinance, an additional outreach. We'll be actually designating which of these street types apply to which of the streets in the alum rock study area through an ordinance and that will take an additional ordinance. And then, finally, there will be ordinances that will actually rezone the property and we'll need to be talking to individual property owners before we make a recommendation on which districts are applied where. And we anticipate that these actions will happen sometime toward the end of this calendar year, or excuse me, towards the end of this fiscal year. And we hope to come back to you with an ordinance, should the council approve these zoning districts. We do anticipate that we will have additional outreach with the greater community, as well, and possibly be able to inform you of the response that we get when we come back in the summer. This completes the staff presentation. Staff's available to respond to questions and we are recommending that the planning commission recommend approval of the proposed ordinance with the revision as described by staff.

>> commissioner jensen: thank you, staff. We have two speaker cards. I'll call you both forward. Terry bellandra and jean dresden. And if you would introduce yourself and you may have up to two minutes.

>> terry bellandra. I would like to thank joe horwedel and planning staff for revising the original main street zoning to only pertain to the alum rock area. Since the public outreach seems to have only been conducted in the alum rock area, it is only fitting that other main street neighborhood business districts have that same opportunity to weigh in, as each of our neighborhood business districts are unique and special. In this new alum rock main street proposal it appears that the new development that backs into a residential neighborhood will have a 20 foot setback from the existing residential property line. And my setback behind my home is 17 feet. I wanted you to

understand what it looks like and the building there right at the point over the garage is 35 feet high. The same as at the siesta lanes town homes behind my fence. This is what the setback looks like. In our area we have very shallow lots on this part of sierra, only 87 feet deep, whereas the lots on our adjoining streets are 135 feet deep yet all are faced on the street front with the same front setbacks. If they had put the back townhomes of one of those adjoining streets instead of ours there would have been roughly 46 more setback feet to back fence before you started counting off the 17 feet. My back door frame of my home is 41 feet from the back fence. With the 17 foot setback, my home is 58 feet from the corner of the town home wall. I believe this transition setback needs to be the length of feet from permitted residential living space to the wall of the new building. Not simply from the back residential property line to be equitable, and that that length of transition setback needs to have further discussion. One size lot does not fit all. And we also need some safeguards built in to protect the community against broken promises and things that are stuck in the planning pipeline for years so that we really get the kind of development that we're promised instead of the pretty pictures. Thank you.

>> commissioner jensen: thank you, ms. Bellandra. Ms. Dresden.

>> good evening, my name is jean dresden. Tonight I represent the bluett avenue neighbors, a neighborhood business district. We are active, we enjoy our neighborhood business district and we appreciate that tension and balance between single family residences, adjacent to a neighborhood business district. And that means that we have to be aware of the changes that are coming. One of our active members of our group is a planner in another city. And so we do take care, and were aware of this effort in the alum rock neighborhood, knowing that there may subsequently be potential activities for us to be aware of in our neighborhood business district, as well as elsewhere. We thank the planning department for being receptive to the comments that that outreach was done in alum rock, for alum rock neighbors, and this may be the right zoning district for them. But we didn't have the opportunity to review and give comprehensive input from our perspective that we wish to do. But I also wish to thank the planning department, particularly carol hamilton, who went to some specific initiative to track down some of my e-mails with comments and questions, and we have already begun a dialogue. And it has followed through with improving some clarity in the current ordinance you have in front of you is a result of one of the questions that we asked. We have many other questions. We're going to have lots of other opinions, and I

promise you that when this comes back around threw citywide outreach, whether it's exactly in this form, or another form, I personally will make sure that outreach going to everyone on my street and on the other streets that are adjacent to my neighborhood business district, coolidge avenue, iris court, brace, ramona and another street whose name escapes me at the moment. Thank you.

>> commissioner jensen: thank you. Motion to close public hearing?

>> so moved.

>> commissioner jensen: there's a motion and second. All those in favor? Thank you. Staff. Do you have anything to follow up with?

>> I could clarify that ms. Dresden had read the ordinance to require that there is a exception in the proposed language that allows a reduction in the height or a relaxing of the height restrictions next to residential if the property is not zoned, if it's zoned for residential but it is not developed with a residential use. And that was not -- it was not clear to her from reading the ordinance that it meant the property had -- the actual adjacent property had a nonresidential use and we are -- we agree that it is not clear and I have revised that language so it is very clear that what we are talking about is a property that may be developed with a school or a flood control channel or a library or a church. And there may not be a reason to step down to a single family residential house. So we have noted that comment and we'll be clarifying the ordinance accordingly.

>> commissioner jensen: thank you, staff. I see somebody has put on a speaker light but I don't know -- okay. Commissioner kamkar.

>> commissioner kamkar: thank you, madam chair. A question regarding your msg zoning, I understand that's residential or commercial. So the question is, can the units be convertible? So when economy asks for more residential, they can be converted to residential use, when economy asks for more commercial spaces or the landlord says, I need more commercial, it can be put that flexibility in there?

>> um that might be possible. We have specific open space, and parking requirements, that are unique to residential. So you have to have some way of dealing with that around there are building code requirements that are different. It seems possible that someone could do it. Whether it would be practical or not, i'm not sure. Certainly it would be easy to come back with a permit and convert at least from -- it's possible that it could be done. There's flog in the ordinance that exactly either prohibits or allows that. Not sure whether there'd be a great interest in doing that. But it's something that if there ever were we could -- explore it.

>> commissioner kamkar: if the developer, whoever is developing this type of project, cheese for it to be convertible they would probably have to comply with a more restricted, you know, requirement. And then they have the option, you know. But I just want to make sure that we allow for that flexibility so you know as the market demands you know we can play along.

>> it is probably something that could be achieved if it's important to a developer.

>> commissioner jensen: director.

>> joe horwedel: the one kind of caveat i'll put on it is one of the major discussions we're having with the envision 2040 general plan update is our penchant to put housing in all kinds of places. And that is not helping the city from a fiscal standpoint from being a balanced community standpoint, and that one of the things the task force spent a great amount of time, in fact that's where I was at until 6:30 tonight was about that problem that we need to be much more diligent about ensuring that the jobs happen. One thing you will notice in the code is that mixed residential multiple dwelling are a conditional use and so one of the things I would envision in a conditional use permit for one of those buildings is a provision or requirement that says this use permit allows residential in certain places and does not in others. You would have to come back with the use permit process which would require consistency through the general plan process. Our goal is to not lose retail to put housing. Office space on the second floor and you could do residential there, the building code really would be more operative. But even that we would want to be more deliberate about when we're allowing flexibility to move away from employment to

residential. It has other consequences on a citywide basis that we're not going to necessarily be concerned about that developer's interest that year.

>> commissioner kamkar: that makes perfect sense. And my suggestion would be not to zone it as residential and maybe call it commercial like a hotel but allow for residential you know use without having to lose the flexibility we're talking about. Thank you.

>> commissioner jensen: thank you. Commissioner cahan.

>> commissioner cahan: thank you, madam chair. I noticed, on page 6, of a memorandum that we received under active commercial frontage requirements, that it states that there would not be workout facilities on the lower level. And I wanted clarification on that.

>> the intent is to ensure that the frontage, along the street, is active commercial uses. So if your workout facility was a gym where the public came to exercise, that would be allowed. If it were a gym that was devoted to the residential use, then it needs to be setback behind the commercial, or on another floor. It's not that it isn't allowed, it's just, if you do put it at the front, it's part -- it would take up part of your frontage that you can devote to something other than active frontage. So if you had some room left over, you might be able to squeeze in a workout facility up front. But it would be very limited in the area because that is not the intent of the frontage. It's for commercial retail uses, really.

>> commissioner cahan: thank you. I was hoping that we could have a commercial type of workout like the one in downtown, which I think is very successful. And i'm wondering if maybe it needs clarification in the wording.

>> we can look at that, sure.

>> commissioner cahan: surely i'm not the only one who would be confused by that. Thank you.

>> thank you, we'll make that a little more precise.

>> commissioner jensen: commissioner kline.

>> commissioner kline: pretty excited about this. I do have some questions, one specifically. We need active commercial on the front, would that include and I presume that concludes legal, real estate, insurance, brokerage, that would be allowed in the first in the second floor?

>> yes, the really desirable uses are more retail oriented but we have not limited the ground floor to use retail uses because we would rather -- we want to make sure that those buildings are occupied.

>> commissioner kline: right.

>> if at some point the market really results in retail, that would be great. But until that time we're -- there's a broad range of commercial uses that are allowed at the ground level.

>> commissioner kline: clearly most successful downtowns of downtowns have a wide range of commercial, including the law and et cetera, we recognize that. The 15 feet foot minimum is preferred but any exceptions to that where you can make a case for a lower than 15 fema feet? The reason i'm asking for that is the cuteness of a great downtown neighborhood is not uniformity at all. The facts that it can be kind of un-uniform, what we're looking at is the first discovery adobe, that would probably not be a very attractive downtown. Variations, is that allowed at all in this?

>> I think i'm going to allow walter rask to respond to that.

>> the design of the commercial ground floor was a very important component of this deliberation. At the same time as we were drafting this we were working on the guidelines for north san josé as well. And the intent is to ensure that the commercial space has adequate ceiling heights and depths to meet the standards of national

credit tenants, chains, in other words, because we have instances in san josé of space that has ceilings that are too low, such as the example on the left there. That's on jackson street. The ceiling there is the finished ceiling height is about seven feet. It's quite low and doesn't meet retail standards. And then we have the other situation on the other side of that street where, do you have that slide, carol? Where the space is extremely shallow. It's 18 feet deep. And the space has never been leased. So we have two sets of numbers with reference to the height. For smaller spaces that are less than 8,000 square feet contiguous, minimum floor to floor dimension of 15 feet and for spaces that are greater than 8,000 square feet in contiguous area minimum of 18 feet floor to floor. Our model for this are the two avalon projects on the alameda. One is shown on the right here and that does have a minimum of floor to floor ever 15 feet. So that's the reason for that standard. We consulted with brokers on these dimensions. And they assured us that these were the minimums necessary in order to attract the kind of substantiates that will contribute to the vitality of the area.

>> commissioner kline: thank you, for answering the question in great detail. The concern I had with that, a serious concern, is what we're trying to replicate are things that we know are successful and they don't tend to be uniform heights, they tend to be up and down and around, if you walk down i'm sure you have palo alto, willow glen, los altos, carmel. They are very, very successful without 15-foot ceilings, and not uniform ceilings. So I just was wanting to make sure there's some flexibility. Seven feet is an awfully extreme example, but 12 feet, 13 feet, where we don't have a case where everything looks like avalon, which would be not good, or everything looks like adobe's first floor, which would not be good. So there would be some variations, and to leave it to if we're going to put retail in there if that's standard for retail, then they're going to put in to make business to make money. So there's absolutely no flexibility beyond that 15 feet basically?

>> no, these are minimums. One thing I would say, there are certainly plenty of examples of successful business districts that wouldn't meet these standards. New york city has plenty of them and you know it's not unusual to go into a supermarket that you feel like you almost have to stoop in order to get in. But that's where you have a very strong market. And where vendors can really succeed under any circumstance. We don't have the luxury of those strong markets and to make sure that projects are designed in a way that we can meet the needs of a full range of tenants because we don't want to scare them off.

>> commissioner kline: and I appreciate that, as a matter of fact I agree with you, the issue is if we start applying this to other neighborhoods, and remodeling or changing of buildings forces them to go to a uniform height and again, I realize we've taken that off of tonight's discussion but that is a major concern. And I would understand those other neighborhoods and business districts having that concern of frankly first rule is do no harm, you have successful business districts, don't try to make them something they're not. But I think you've answered my question which is no. Thank you.

>> commissioner jensen: thank you, commissioner kline. Commissioner abelite.

>> commissioner abelite: yes, I want to continue along with walter rask a little bit on some number questions. The first one's pretty easy. I think there's just a typo in the ordinance, but i'm going to refer you to the -- there's a table just below section 20-75.140. Again, 20-75.140. Tell me when you're there.

>> would that be table 20-152?

>> commissioner abelite: yes. In the minimum glazing section, in the last line in the right-hand column, there is a conflict, it says 12 inches, the number says 18 in my packet.

>> it should say 18 in both cases.

>> commissioner abelite: so your glazing line is 18 inches? Okay fine.

>> that relates to a provision in the building code. If it was less, they'd have trouble with the safety code.

>> commissioner abelite: i'm trying figure out what the driver is with respect to the minimum depths on the commercial spaces. What i'm really looking at is the 60 foot depth for the 8,000 foot column.

>> yes.

>> commissioner abelite: so that's a minimum. So did not that number come from a national credit tenant type approach?

>> yes, in fact we have been advised that the standard is 65 feet, not 60 feet. And whether we became aware of that, we discussed whether we should increase this but we decided for some flexibility that five feet probably would not make a difference.

>> commissioner abelite: and the reason I mentioned that, there's two issues. So from personal experience when I -- if I have 55 foot depths they're a little bit easier to rent for me, number one. But when you have a residential unit stacked above it the deeper you get the more longer and narrow your residential units are going to be above. They are making them 1200 footers, 1400 footers. When you stretch those deeper the residential units tend to get narrower. I'm okay with 60 feet but i'm curious what the driver was.

>> actually, the avalon projects are good example. Those have double-loaded corridors in them which typically fit within a 60 to 65 foot dimension. So there's actually a good match in most substances.

>> commissioner abelite: that's all, thank you.

>> commissioner jensen: thank you, commissioner abelite. Okay. So I have a few questions as well. And i'll just start at the beginning and work my way back. First is the -- I want to thank you, because I think this is really exciting in helping to redevelop our main streets so they look more like what we have in willow glen and downtown san josé on santa clara street which are pedestrian friendly and many more shop fronts and more interesting and more exciting. So one question is with respect to driveways, is the goal to ensure that our street frontages look more like downtown along santa clara street where there are very few curb cuts and driveways or to look more like lincoln avenue in willow glen with intermittent driveways between buildings?

>> well, the existing lotting pattern is as it is. So each property will either need to have its own access, or it will need to take access from -- through another property. We have included some provisions in this ordinance that try to incentivize people, actually taking access off the side street so you don't have a driveway at all across the front, or sharing access with a neighboring property, or we have a lot of really small lots in some area of this alum rock study area. So it might be possible that someone would combine lots to reduce the number of driveways. But that is a very great concern, because if you have a driveway every 50 feet, it isn't a very comfortable pedestrian environment. So we have done everything we can to encourage people to have the vehicular access as limited as possible across that sidewalk.

>> commissioner jensen: thank you. On section part 1c.2, which is roughly page 3, towards the bottom, underneath two, street hierarchy, it says for a parcel with two or more street frontages, the higher priority street shall be considered the primary street and those regulations shall govern. Can you clarify now? I know that it says in here that there are no residential streets that touch or cross the main streets in the alum rock area. But I know that is not the case throughout most of the rest of san josé residential streets come in. And so i'm trying to understand what that means if you live on a residential street that crosses a main street.

>> by definition there are no residential streets in this designation a residential street can't cross a main street. That means when we look at the -- walter, can you find that slide with the street designations? We do have two types of streets that cross the main street and one is the major cross street which are streets like jackson and king that are really -- they're clearly commercial on their own and they will have commercial businesses fronting on them. And then there are the secondary streets, the minor cross-streets that may be residential streets farther outside of the business district. But within the business district, the area is commercial. And those streets are treated different. The requirement for commercial frontage is very small and it's possible that someone could put parking at the back of a lot, along that street, they could put housing back there. But there isn't a real push for commercial. But those streets differ from the residential streets which really have no commercial component at all. The residential streets are just streets where, on one side of the street, you have residential living units. And on the other, you have the back of these deep lots. And so, we felt that you definitely needed a residential interface on that street and not commercial. So we've distinguished in these designations between a street that

may have a residential character, but is crossing the main street, and a street that is clearly just a separate residential street. And we probably will not find a lot of streets like that in other neighborhood business districts. I've looked at some of the maps, and some of them have none. But we wanted to provide for that in case there were. And if we encounter, in the future, a street situation that doesn't fit one of these categories, if this is applied more widely, we will have to -- we'll have to deal with that at the time that we encountered it. But we think that these four street designations deal pretty well with the issues that we would encounter in most neighborhood business districts.

>> commissioner jensen: okay, so by definition, a residential street does not cross a main street?

>> that's correct.

>> commissioner jensen: and i'd just like to point out east santa clara avenue between here and beginning of alum rock, which is a heavy commercial district, there are numerous streets that the people living on them, that cross santa clara, think they're living on a residential street. There is no commercial on their street, it isn't until they get to santa clara that there's any commercial, and their next door neighbor happens to be a business that fronts onto santa clara. So I beg to differ that a residential street doesn't cross.

>> could I ask whether those properties that you're speaking of are within the neighborhood business district?

>> commissioner jensen: that I don't know. I don't know what the linear designation is. But when you say a minor cross-street, crosses the main street, and in residential street, by definition does not cross, if you go onto east 24th, for example, east 24th crosses into santa clara, it's very, very commercial along santa clara at that point and extremely residential along east 24th.

>> well, I think we would have to look at that carefully when we considered applying these districts to any other area. But the designations that we've provided here I believe address all of the issues within this neighborhood business district. And really when you're dealing with a neighborhood business district with the few exceptions,

most of the properties are designated on the general plan for commercial use. So it's possible, we have -- we do have some residences actually facing alum rock on this street within this study area. But the general plan in the future for those properties is not residential. So your point is well taken and we will take that into consideration in the future.

>> commissioner jensen: just something to keep in mind. Okay, part 4, section 20.75.320. Outdoor uses. Under what I see here is that for -- a shop may not have racks outside, you know, they might not have a sale rack if they're a hardware store or a clothing store or a shoe store, they're not able to put a rack outside saying, we're having a sale today, but they can put a fast food vending machine. And we're not allowed to have food carts. So I would like to see that modified and recommend that the vending machines be stricken which is item number c, and that additions be made to allow retail sales to include racks, and to allow the inclusion of push carts, food carts, you know, a hotdog stand or a little small tamale stand or something that wants to walk up and down. Those are really nice additions to any vibrant downtown community. And I would argue that a coin operated automatic vending machine near a neighborhood would be a lot more disruptive because it's a 24/7 than the occasional sales rack or a vending cart that operates only during the day.

>> i'm sorry, i'm not seeing the sales rack reference.

>> commissioner jensen: okay. My reference is to no use in whole or in part, blah blah blah, of any of the following things with the exception of. So I do not see included in those exceptions, sales racks, food carts, I do see an exception that allows vending machines, and what i'm suggesting is that allowing you know, in other words, putting into the exceptions retail sales racks and food carts and striking item c would be very useful here. And I hope the maker of whatever motion would consider including that. I also would like to under item e number 3 where it says outdoor dining does not operate between the hours of 10:00 and 6:00 and have that stricken as well, and have that midnight. We are trying to strife for a 24-hour city. It's very nice to have a coffee or a short meal somewhere. We just did one earlier this evening where we did a restaurant. I think we should consider outdoor seating later hours. I'm going to move on to the next one which is table 20-190. And i'm

specifically looking at the residential area on this. This is parking space is required by land use. I know it's kind of back there, so let me know when you get there.

>> you're referring to the actual table, 21.90?

>> commissioner jensen: correct.

>> okay.

>> commissioner jensen: and so my focus is going to be on bicycle parking. And so for the first one, emergency residential shelter, i'd suggest that changing it from one bicycle parking space per 5,000 square feet of floor area to one to four beds. I'd suggest that for guest houses it be changed to one per five guest rooms. On the next page, for live-work, and living quarters, i'd suggest that it be changed to one per living unit. Again, we're trying to encourage bicycle and pedestrian-friendly and saying one per 5,000 feet on a live-work loft, i'm pretty sure a live-work loft is not going to be 5,000 square feet. So that's going to be multiple units. On residential care, 1 per 4 beds to allow employees to ride their bicycles, under servants' quarters, anybody who has servant's quarters, thank you, and bless you. Here in san josé, if we could have one per three full-time servants, allow the servants to ride their bicycles to the mansions. And on the following page for sros, I think that -- I appreciate that you have already included one for sro units. Under sororities, fraternities and dormitories, where it says sororities, fraternities and dormitories, occupied, please strike "occupied exclusively by students attending college or other educational institution." it's a sorority, fraternity or dormitory. I'm not sure why you would have to specify that they're being occupied by students. And I appreciate that you already have one per guest room. And one per ten employees. Where travel trailer parks, i'd suggest one per 5 employees rather than one per 10, for -- and then onto, for the same area, onto table 2--- i'm sorry, 20-200, two family dwellings within the main street area, because this is what we're discussing, inclusion of bicycle parking at one per unit for a studio, a one-bedroom, a two-bedroom and for a three-bedroom two bicycle parking spaces, and each additional bedroom, a half a bicycle parking space. Or the multifamily dwelling units, again within the main street area, change it from one per 4 living units to one per living unit. On table 20-215 on the opposite page, change that from -- i'm just going to read

straight down, going from the top to the bottom. Change it to 1, 2, 3, 6, 10, 12, 16, and 10%. On table 20-211 which is immediately above that, change minimum required space for bicycle parking spaces to, 1 to 1. On the following page, item c, in the main street districts, the following additional provisions shall apply. Where it says, at grade parking is not fully enclosed with the building -- within the building shall be setback a minimum of 50 feed or more from the main street. I again just want to clarify on this one. Is this -- intends to be behind the building and not that -- do this have to be behind the building or above the building or below the building? It's not visible from the street, there is nothing between the parking and the street?

>> this is intended to deem with at-grade surface parking and it is not required to be behind the building since we have a requirement of 45 feet of street frontage. It is probably going to be behind the building. We took that into consideration. You could have a deeper building along the side of the building at the back, but the intent is to prevent it from being at the front of the site. We picked 50 feet because it nested well with a 45-foot retail depth and the depth of a sidewalk that might be adjacent to that retail.

>> commissioner jensen: okay, but this is always going to be obscured by a building. Is there a circumstance where the building could be -- where the parking could be between the street and the building?

>> no. I mean, it might be possible -- well, if you redeveloped, you are going to have to meet the build-to line requirements, which requires you to put your building at a certain place.

>> commissioner jensen: okay, I ask because it's oddly worded.

>> laurel prevetti: we will look at the wording.

>> commissioner jensen: thank you, I appreciate that. I appreciate you're trying to hide parking, and put it either below grade or behind buildings or within buildings, wrapping it, I think that's wonderful. On the following page, 20.90.130, driveways. Item e where it says primary vehicular access for a corner lot shall not be, and I would suggest that you add main street establishment. I think you should -- it would be really good to encourage all

parking access to take place off of a side street or a single driveway in the middle of the main street area to try and eliminate as many driveway cuts, curb cuts as humanly possible. We're talking about redevelopment agency here, just taking things the way they are.

>> i'm not sure, can you repeat the phrase please?

>> adding the words, main street between access 4 and a. So it would read four main street establishments -- i'm sorry. The four main street establishments at corner lots -- i'm sorry, i'm not wording it any better. I'm informed I have a newer section. It's section e.

>> your intent is to ensure that the access to what the access is to? Is it -- would it work to say that access to the parcel? We can --

>> commissioner jensen: access to the parking.

>> access to the parking, okay. All right. We'll look at that.

>> commissioner jensen: okay, great. Then on 20.200.35, active commercial building frontage. It talks about building space adjacent to commercial at parking level, utility facilities, residential uses or residential support. When it says shall not include vehicle parking, I just want to be clear, you're not talking about street parking? You're talk strictly about parking smack in front of the building off the street?

>> that's correct. These regulations apply to private property.

>> commissioner jensen: okay. All right. I think that's all my comments. Thank you. And again I want to thank you very much. I know that this has been a challenge to put together. And I think it's very exciting what we're doing and i'm really delighted that we are going to have a steady location out in alum rock and I see commissioner cahan.

>> madam chair, could I make one clarification before you move forward? The parking chapter that we just discussed is a chapter that applies to all of the zoning districts in the city. And the city council has recently approved new parking standards which are included in your draft ordinance but they are not yet effective. I just wanted to make it clear that you were proposing changes to the bicycle parking requirements that the city council approved a few weeks ago.

>> commissioner jensen: and my recommendations are for main street locations. We are doing special -- trying to drive our main streets into pedestrian-oriented and pedestrian-friendly. And so I think it behooves us to have additional parking requirements for our main street.

>> thanks for the clarification.

>> commissioner jensen: commissioner cahan.

>> commissioner cahan: thank you, madam chair. We received an e-mail with the question about grass areas being included. And i'm --

>> commissioner jensen: correct, yes.

>> commissioner cahan: thank you. So someone was discussing chicago streets and how they have a grassy area sometimes with a gate in between pedestrian walking and the grass. And that person wondered if it could be incorporated into our plans here. And I wanted to get feedback from staff on that.

>> well, staff was very excited when they received that e-mail because the landscaping in the streets in chicago is wonderful. There are probably maintenance issues associated with that. We do have street trees in our public sidewalks. The property owners are responsible for maintaining those. If we had more landscaping that required more maintenance, there would be an issue of how it would be maintained and whether it would be

maintained. And probably, that type of landscaping would require a wider sidewalk than proposed in this ordinance. So it's really a wonderful thing. Whether that's something that san josé is ready to embark on is a -- that whether we have the resources to do that at this point is a question, I guess.

>> joe horwedel: one last comment i'd put on that is in our water conservation ordinances in the city of san josé, we have prohibitions on spray irrigation for lawn areas in small areas. And that's the one challenge, is that putting turf in a park strip typically means you have spray irrigation. And as a part of that balancing we've moved away from that as we've done development over the years because of that problem. Chicago benefits from more rain in their climate, things are greener than here. I certainly agree it's a nice look so how do we go through and do something that is not as water consuming that provides that softer look that they get in chicago I think is a good goal for us to think about.

>> commissioner cahan: so I would appreciate if staff could try to think of ways that we can incorporate native plants and things that require low water and maintenance so that we can increase that feeling of being outdoors, actually in greenery, versus just outdoors in the concrete jungle.

>> commissioner jensen: thank you, commissioner cahan. And thank you, director. And I think those are great ideas. And I see another -- commissioner kline.

>> commissioner kline: just real quick follow-up question. It's more of a technical question of you know we've got this new chapter,27.5, we might approve it tonight, it goes in, and how does it limit itself to this particular neighborhood district? What kind of motion would that be? We're approving something, we're approving chapter 20.75 but it can only apply to the alum rock district? How legally is that -- if it's going to be approved it's approved for the entire city and then you're just approving the application for that particular district but it will be for the entire city.

>> commissioner jensen: commissioner kline if I could ask counsel to weigh in on that.

>> thank you, madam chair. So just as we have chapters in the zoning code that set forth, these are what residential districts look like, these are what commercial districts look like, these are what industrial districts look like, that doesn't actually go in and apply it to particular properties. So as the director and the staff were noting at the outset, while this will set it up that these are what the pedestrian-oriented zoning districts will look like, those are the regulations in terms of setting forth the parameters. But it in no way applies them to particular sites. So additional actions would be brought forward to say this is an area that we now want to apply pedestrian oriented zoning districts. And so another ordinance will come forward, since it is a land use ordinance, it probably will come before the commission for report and recommendation. And maybe we'll do an overlay that says you know, in this area this is going to be a pedestrian-oriented zoning district and here are the streets because if you recall in the ordinance, the development regulations vary depending upon the type of street. Are you a main street? Are you a cross street? Do you come up against residential? So the street designations will be placed on the zoning map is what we were thinking. Again that still will not go through and rezone those properties. It will say you are now an area that is eligible and then staff will do you outreach to actually go out and identify properties, key properties and we'll start rezoning those properties.

>> commissioner kline: I appreciate that clarification. That gives me great concern here because what we are really doing is creating a citywide zoning district that's not applied to anything at the moment but if it does get applied, other neighborhoods would have to actually have special use permits or exemptions from this if we actually applied them to these neighborhoods. It appears that we are doing a citywide zoning district, period, with very little outreach.

>> joe horwedel: let me clear the record.

>> I wouldn't say it's a district. It's setting forth regulations.

>> joe horwedel: let me be really, really clear here that chapter 20.75020 is applicability. It only applies to areas of general plan designation, main street per the general plan. Same thing we do in downtown, our downtown zoning district says it can only be used in properties that are in a discretely defined boundary. And every time if

we want to go in another area we first have to amend the zoning code of that section that says where that zoning district may be allowed. So what we are proposing is going back to the original wording which says this can only be used in the alum rock district. Ultimately after going and doing the citywide outreach I anticipate we'll come back and modify that. It may be that we go through and start listing other business districts there or that we kind of work through that there are maybe two or three business district zonings that get created and they are available to be used citywide. That part we haven't figured out ultimately where that goes but that's the first next step that would happen assuming that gets approved by the city council. The next step would be, we actually goes out and start zoning properties, approved by the community. First thing we set was we'll go back to say just alum rock only, that way there's confidence that they're going to rezone lincoln avenue or 13th street.

>> commissioner kline: thank you.

>> commissioner jensen: thank you, commissioner kline. Commissioner bit-badal.

>> commissioner bit-badal: thank you, madam chair. I like the direction it's going as well, the concept of villages. I have a question for you about outreach. You did talk about having depth and also height for commercial spaces which i'm really supportive of. And I know that we have had projects in japantown as you have spoke about before. Another question is this area is known as portuguese area. And I don't know if there's a portuguese chamber. I know there's an hispanic chamber, have you done outreach to those, if not, then are you planning to do so in the future for your other projects?

>> the redevelopment agency has coordinated outreach with organizations in the area. Unfortunately, the only regularly constituted organization is the alum rock business district. But almost all of their membership, I think all of their membership is in the alum rock village area of white road. So there is in fact not an organization that represent the businesses within this study area. So instead we've contacted businesses individually.

>> commissioner jensen: thank you, commissioner bit-badal. And my apologies. I have one more comment specific to outdoor cafes. I didn't see it in here. When we have outdoor cafes, if we could limit the barrier between

the cafe and the outside, to no more than 12 feet. We've had instances of rather tall barriers and encourage the use of planter boxes similar to what is currently in the temporary sidewalk extension on south first street. That would be my only other comment.

>> joe horwedel: yeah, the one comment that i'd add is usually where the high barriers is the relationship of alcohol being served and the concern of the police department that patrons would be passing offer alcohol to passers-by. It is a policy issued outside of the land use piece. I think we would agree that lower barriers are better.

>> commissioner jensen: they certainly are more attractive. And we do have restaurants that have open windows, that have no barriers. And so if you're going to hand beer out the window, you can hand it out the window at a restaurant like that. Any other comments from the commission? Is somebody prepared to make a motion? Hopefully with my suggestions? Commissioner platten.

>> commissioner platten: I move that we have considered the negative declaration and addenda, find it in accordance with ceqa. We recommend to the city council approval of the ordinance as modified by comments from the chair and other members of the commission.

>> commissioner jensen: is there a second? There is a second. Would you like to speak to your motion?

>> commissioner platten: I think we've chewed the worm to death. I'm ready to vote.

>> commissioner jensen: thank you. Commissioner kline?

>> commissioner kline: this is a very, very big deal. This is bigger than the a's. This is massive. This basically changes the nature of, if successful, and I hope it is, of the major business districts, all of them, all successful ones will look like this. So that is a great thing. The bad thing is that we haven't had that much public outreach on it, and i'm afraid that is going to bite us in the long term. I'm raising a lot of caution to this. This looks different than

successful business districts that i'm familiar with which I think we're trying to do. Variances, changes, there's a great japanese word for it, which I can't think right now, means beauty isn't ugly, hard to define a quaintness in business districts and build it from scratch. We have examples that can do it, like when you tear down the entire shopping center town and country shopping center and build santana row. But we're not looking to build santana row here. These are all individual pieces of property that will take years if not decades to actually rebuild into this metaphor. This is going to be a long process, and it's nice to get started. But at the same time this is a big deal and people have to be educated and be brought on board of this. I'm very, very supportive of this, but i'm going to vote no. I don't think we've done the homework, I don't think we've done the outreach. I think we're putting in a district, zoning district, in this city that hasn't had the proper outreach and it is fundamentally wrong.

>> commissioner jensen: thank you, commissioner kline. I see no further requests. Counsel.

>> just wanted to make sure since the motion included all of the commission's changes, that the planning staff felt they caught all of them. The chair the willing to provide her draft of the markup so that you can be sure that you've captured at least her itemized changes this evening.

>> thank you.

>> commissioner jensen: thank you, and -- okay. No further comments. All those in favor please say aye? Opposed?

>> commissioner kline: no.

>> commissioner jensen: the vote is 6 to 1 with commissioner kline voting no and other than that it passes. Thank you very much. Moving on to item 3b. Certification of final environmental impact report for proposed single use carryout bag ordinance, pp 09-193. The feir evaluates the following proposed project: the city of san josé is proposing to adopt an ordinance that consists of revisions to chapter 9.10 of title 9 of the city's municipal code to prohibit the free distribution of single use carryout paper and plastic bags at the point of sale for

all commercial retail businesses in san josé except restaurants and nonprofit charitable reuse organizations. An exception is proposed for paper bags containing at least 40% recycled content which can be provided to customers for a minimum store charge of 10 cents upon adoption of the ordinance with an automatic increase to 25 cents two years after adoption of the ordinance. And please keep in mind commission and public, this is the -- the commission's action this evening is limited to consideration of certification of the final eir which action does not constitute approval of the project for which it was prepared. The decision to approve or deny the project will be made separately by the city council as required by the san josé municipal code. Staff.

>> thank you, madam chair. So staff has distributed two additional comment letters on the final eir from the american chemistry council and save the plastic bag coalition. One ceqa concept that i'd like to get across here is the idea of project baseline. At this point in time, approximately 500 million plastic bags are distributed in the city of san josé each year. That's the baseline. Impacts in the eir are analyzed in relation to that baseline. So the project, the proposed project would reduce the use of single use carryout bags by approximately 95%. The impact that were analyzed relate to the reduction is in the use of single use plastic bags. The increase of reusable plastic bags -- or reusable bags and the temporary increase of single use paper bags will be part of the store charge. The areas identified in the eir were land use, biology, hydrology, air quality and energy. There were no significant impacts identified as a part of the eir and therefore no mitigation for the project is required. In addition to the no project alternative, three other alternatives were analyzed. A ban, a landfill ban on single use bags, increased recycled content and single use paper bags and a ban on all single use carryout bags. The overall ban was considered the environmentally superior alternative. With that, staff is recommending to that the planning commission certify the eir and we're available for questions. Thank you.

>> commissioner jensen: thank you, staff. We do have a number of speaker cards so i'll call you up three at a time and if you would come to the bottom of the stairs and stand in line in the order in which you are called. And my apologies in advance for goofing up people's names. Heidi iosis and if you would come forward and introduce yourself so I can attempt not to bungle your name later. Sue verrig, and stephen joseph.

>> hi, my name is heidi isis, thank you, chair jensen, director horwedel and all the commissioners. I represent the jewish community relations council of silicon valley. We're a board of 23 people representing all the synagogs, jewish agencies, community centers and senior facilities and college hilels. We unanimously voted to support this issue. I'm also a resident of san josé and I think as you can see the eir demonstrates enormous costs that these bags are costing our community. In california, 19 billion bags are used per year. That accounts for 552 bags per person approximately and 147,000 tons of waste which would wrap the globe 250 times. That's just california. It also amounts to 600 bags per second. Bags are made from fossil fuels. They are filling our landfills our environment our creeks and our waterways and ultimately the ocean. Obviously there's huge cost in hauling the bags. Some say it's 17 cents a bag and the cleanup costs are enormous. According to jewish beliefs as stewards of our environment, banning these bags is the right thing to do, the moral thing to do. To quote amy smart an environmentalist who spoke in l.a., nothing we use for five minutes should last for 500 years. I believe this ban will also create green jobs. California has more reusable bag companies than any other state and it's in line with our san josé green vision. We have a commitment to the city to be a leader not only in california but in the country. I urge the commission to certify this eir and if council to adopt the ban. Thank you.

>> commissioner jensen: thank you very much. Ms. Verig.

>> hi, my name is sue vains and i'm with the environmental group californians against waste. We strongly support the county's efforts to reduce single use plastic carryout bags. Together the city of san josé and other local governments stayed wide spend more than $25 million each year to clean up plastic bags from public places the storm drains. In these economic times it's also worth noting that shifting from single use bags to reusables would result in lower grocery costs for consumers. The estimated 500 million single-use plastic bags provided to san josé city shoppers every year are of course not free, but rather add more than $8.5 million to local consumer shopping bills. We have analyzed environmental impacts, of single use plastic bags and their alternatives. The plastics industry's own life cycle analysis concludes that greenhouse gas emissions associated with plastic bag production exceeds that of plastic bag reduction. Less than significant impacts associated with this ordinance. Ciw supports the contents of this eir and we believe it is a sound document written in complete compliance with ceqa. Thus, we strongly urge the planning commission to certify this eir. L.a. county stood firm against arguments

and threats from the plastics industry when the board of supervisors banned plastic bags yesterday and we hope that the city of san josé will provide another example of strong local leadership. Thank you.

>> commissioner jensen: thank you. Mr. Joseph and as you come forward i'm going to call the next three speakers. Emily udder, marian gordon and stephen bantia. Thank you.

>> good evening, commissioners, my name is stephen joseph i'm counsel to the save the plastic bag coalition. The coalition observe to the final eir of the project. We have submitted written objections to the draft eir and the final eir. I just want to confirm that mr. Davidson received both and circulated them to the commissioners. Is that correct?

>> commissioner jensen: mr. Davidson is acknowledging yes they have received it.

>> in addition I would like to ask the commissioners to accept into the record at this time another document which was prepared only a couple of days ago, it is entitled statement of stephen joseph, counsel. November 16th, 2010. While it's not addressed to the planning commission or the city of san josé nevertheless it contains important material for the planning commission's and the council's consideration. So i'd like to hand it to mr. Davidson and have it entered into the record.

>> commissioner jensen: please.

>> I don't have anything else to add unless the commissioners have any questions.

>> commissioner jensen: I see no questions from the commission, thank you.

>> thank you.

>> good evening, commissioners, chair jensen, thank you for the opportunity to provide comment on the eir. My name is emily udder and I represent save the bay, 25,000 members and supporters statewide. I'm here to support a ban on the free distribution of single-use bags and urge the planning commission to certify the eir without delay. The san josé eir was an exhaustive process that proved unequivocally that reusable bags provide far superior from single-use bags. Despite significant investment from cities, counties and the state of california, plastic bag recycling has failed, with just 5% of bags being recycled statewide. Plastic bags are flimsy, light weight, designed to be used and discarded, and can easily become airborne even when disposed of properly. A million bags end up in san francisco bay each year and thousands more are choking our waterways in some cases contributing to such high levels of trash toxicity that waterways are deemed to violate the federal clean water act. Meanwhile the american chemistry council casts about desperately for a way to delay or postpone ordinances. The eir rebuts all of their arguments, including their recent bacteria scare tactic. Their newest diversion raises question about lead levels in reuse bags, yet the state of california already regulates lead in packaging including bags. Yesterday l.a. county voted yes on a similar ordinance and it's time for san josé to do the same. Let's move forward and stop wasting city resources on these irrelevant distractions. The eir is sound and save the bay urges the planning commission to certify without further delay. Thank you.

>> commissioner jensen: thank you.

>> good evening, chair jensen and members of the plannings. Thank you for this opportunity. My name is mariam gordon, and i'm the state director of clean water action, which is a national nonprofit organization. We have 60,000 members in california and thousands of them are in the city of san josé. I want to commend the city for a thorough and conclusive environmental impact report and urge the commission to certify the report and allow the city to move ahead with the bag ban. Clean water action commends local jurisdictions for taking action while the state legislature has failed to allow us to move away from our throw-away society. Disposable products use tremendous amounts of water, energy, create waste, and consume natural resources. All studies in the environmental impact report concluded that comparing reusable bags to disposable bags results in -- show that reusable bags are clear winners when it comes to saving money and saving the planet. According to the eir the city would have to spend $40 million on trash control measures to comply to the storm water permit that requires

euro-trash discharge to the bay by 2022. Considerable cost can be achieved, cost savings can be achieved by preventing these disposable bags. Fees also work to achieve the same result as demonstrated in washington, d.c. when they imposed a 5 cent fee on bags they achieved a 50 to 80% reduction in disposable bag usage and similarly in ireland they achieved a 90% reduction with fees. With disposable bags being 10% of the city of san josé's litter problem, the potential cost savings are enormous. Clean water actions working with the city's environmental services program on a pilot program to identify sources of trash and demonstrate that prevention measures work.

>> commissioner jensen: thank you ms. Gordon.

>> we urge you to take action now and move this forward. Thank you very much.

>> commissioner jensen: thank you.

>> good evening, madam chair, members of the commission, steven bantill, i'm the executive director of the california resource recovery association, we're the largest and oldest state recycling organization in the nation. We represent almost every county in california as well as ten other states. Our current focus is producer responsibility and zero waste. We support certification of the final eir for proposed bag ordinance. Prior to my work with cra I was appointed by the governor to oversee the state's california beverage container recycling and litter reduction act with the department of conservation. Part of my action was to report to the california oops all evidence indicate they'd plastic bags are a major contributor to marine debris. Local government spends millions of dollars every year, the number of 19 million bags per year mentioned by the previous speaker was also in the report that we had provided. Before working with the state, I was also working with the city of san josé environmental services department for about 17 years, so i'm quite familiar with the federal and state regulatory structure that they must comply with. And it's very stringent particularly related to point and nonpoint source pollution. So any program or policy that will reduce litter and storm drain maintenance will result in significant cost savings to the city. The city has achieved great success in conjunction with its residential and business community and san josé's received national recognition for their programs. They typically follow the process of

education and outreach and financial incentives for the environmental programs where those programs have not been successful or not as successful as three could have been policy is necessary to resolve issues where balancing the public environment and economic interests is critical. San josé has a legacy of environmental leadership and the final eir to support the bag ordinance does just that. As a 49 year resident of san josé and the executive director for the california resource recovery association I implore you to support and the sophistication of the eir. Thank you.

>> commissioner jensen: no further questions, is there a motion to close public hearing?

>> so moved.

>> commissioner jensen: all those in favor? Staff?

>> no additional comments, thank you.

>> commissioner jensen: thank you. Commission, questions or comments for staff? Okay. Would somebody like to make a motion? Commissioner platten.

>> commissioner platten: thank you, madam chair. I move that we adopt a resolution that the planning commission has considered the final environmental impact report prepared for the single use carryout back ordinance and finds that it is complete and prepared in compliance with the requirements of ceqa.

>> commissioner kline: second.

>> commissioner jensen: there is a motion and second, multiple seconds. Would you like to speak to your motion?

>> commissioner platten: no, I think the report -- i've read the objections. Clearly, I received a copy of the letters this afternoon. I think the report is adequate under ceqa.

>> commissioner jensen: thank you. Other commissioners interested in making a comment? Okay i'll just add in that it is a pleasure to read an eir in which the end result is the elimination of environmental impacts. And it's really nice to have an eir where everything is actually helping to move the process forward, instead of trying to find a mitigation to a problem. So this was the most pleasurable eir i've ever read. All those in favor please say aye. Opposed, and that motion passes unanimously. 3c. Pdc 07-010. A planned development rezoning from ip industrial park and hi heavy industrial zoning districts to the a(pd) planned development zoning district to allow for the development of up to 650 multifamily residential units and up to 150,000 square feet of commercial uses or up to 300,000 square feet of office/r&d uses on a 29.9 gross acre site located at the southwest corner of east brokaw and old oakland road. Staff.

>> thank you, madam chair. Where to start? One thing that I wanted to elaborate on a little more is our recommendation, you know we are recommending approval of this, and when we state that it's consistent with the goals and policies of the san josé 2020 general plan, I failed to indicate that with respect to the vertical mixed use development, on the general commercial portion of the site, we found it in conformance with the san josé 2020 general plan through the discretionary alternate use policy on commercially designated parcels. This allows for mixed use commercial residential to occur under a planned development zoning if such development is designed to facilitate transit ridership and pedestrian activity, if it is compatible well integrated and part of an appropriate residential or mixed use environment and if the site and architectural design is of exceptional quality and exceeds the city's minimum design standards. So we wanted to add that into our recommendation for approval just to really cover the full breadth of why we're recommending support. The project meets the standards as discussed in the staff report in that the project is a well-connected mixed-use property that includes a retail shopping center, residential town home development, podium residential development, with vertical mixed use development and a public park. Proposed planned development zoning for a mixed use project is consistent with the goals and policies of the general plan, and that it's fully compliant with the riparian corridor policy study, as the riparian setback meets the standard of 100 feet. And it's also consistent with the residential design guidelines that are

appropriate for mixed use town home and podium development and the commercial design guidelines that are appropriate for our neighborhood shopping centers. Again planning staff recommends the commission forward approval of this zoning. If you look in the plan set you will see that we do have kind of two options for the internal street circulation for the project. We put it out there as the conceptual, and I just wanted to point out that as we are kind of reviewing it and moving toward ultimate permitting of this, staff did want to point out and for the applicant's sake we are leaning towards our what we call option b, or the straight street design that separates the residential from the rear of the shopping center. And again -- but that's an issue that we can deal with at the permit stage and we aren't locking in one or the other necessarily through the zoning. So again planning staff is just recommending to the commission that they forward a recommendation on to the city council approval of this zoning as the mixed use project will facilitate economic development and development of infill housing that's compatible with the uses surrounding the site. This concludes staff report.

>> commissioner jensen: thank you staff. Is the applicant here? You would have up to five minutes. Please introduce yourself.

>> commissioners, my name is sean morley, with the morley brothers. We're the development consultants for markovits & fox, inc. Who are the owners of the property. It's good to see you again. The fox family is very appreciative of all of staff's hard work to get this to hearing and for their recommendation of approval. However, there were a few last minute changes made to the project which give us some concern and we'd like to address with you but first a little bit of background. The pd rezoning master plan which you see before you was designed by very renowned architect and land planner ken rodriguez. It moves to a 13.7 or so acre site for rate retail and commercial uses and creates a balanced project that will fit very well we believe into the thriving neighborhood as a part of the range and intensity of development. Allowed within the zoning envelope strikes a balance between good economic development opportunity, progressive mixed use planning, as well as economic development reality -- or development reality. The concept plans are good ones and very feasible but not the only options as the zoning maintains flexibility to respond to the market in these volatile economic times. We've provided each of you a handout which includes a few pages from the development regulations that are black lined and highlighted to show the handful of changes we'd like the commission to consider. They are marked by number that i'll cover in

a second and summarized on the first page as well. Number 1 as currently presented the mixed use development would be limited to what is shown on the conceptual plan. We don't believe this is what staff intended, that mix of uses should be allowed to occur up to the maximum limitation of the commercial area so as not to foreclose the opportunity for true vertical mixed use should there be a market for that and that's consistent we believe with the guidelines and principles of the 2040 general plan. 2a we'd like to reuse the existing office buildings if there is a better market opportunity for that. And we don't want to have to preclude commercial support uses which are allowed by right in the ip zoning district today that apply to the site. This would severely limit the interim job producing potential for the site and is counter to what we believe are the city's economic development objectives for the project. In fact, we would also like to include some medical office uses as a use by right, if possible. 2b if you're following along they're market ton sheets, I believe that's sheet 2 or 3 on our example or on our had a handout to you in red and highlighted, as currently presented the commercial development with the office building option which is shown here would be limited as shown again on the conceptual plan. We believe this limited flexibility in an unduly constrictive way and hope you will consider creating more flexibility. 3a, the applicant and staff agreed for many months that a range of residential uses, including single-family detached, would be allowed in the residential area consistent with the rm district. Literally the last day that we received the staff report there was a change that limited it only multifamily. I'm not sure why this occurred or what it means, but I don't believe there's a compelling reason from a policy perspective to limit home type options. The site warrants it. It's big enough to allow for some single-family detached along with town homes, podium, and cluster housing. That's also very consistent with the residential housing pattern within the greater neighborhood that it's a part of which include all of those uses. In fact single family housing is the single closest use to the site. The community feedback was for some single-family options as well. Private developers are looking for options, and allowing a range of unit types is going to allow the site to develop faster which frankly is better for the city because this is in a redevelopment area from a revenue standpoint. We are volunteering a cap on single-family detached of 75 units. We believe this is a sound approach that will allow the site to develop more quickly. It is an option, it's not required. This very well may be the plan that gets done but I don't want to foreclose opportunities if possible. 4a and b are a couple of conforming change which I hope are self explanatory. We hope you will consider modifying staff's recommendations which is the work of months of compromise, to include the development standards that we've presented, as an alternative if you are comfortable about the merits of what we're requesting but not quite

comfortable with the actual language that we're proposing although I did want to present you with something which would make sense, I suggest an alternative which would be to recommend staff recommendation to council but include in your motion a request that staff work with us over the next few weeks before this matter goes to the city council in december to address these issues, in whatever way or guidance that the commission may see fit to give staff through their discussion. Either way, we request that you take action tonight. Your recommendations to the council are very important, because this project is a big economic development project, one the biggest the city has and we want to move it forward to make it shovel ready as early as possible in 2011. The sale tax revenue alone from the retail center could be $600,000. I'm happy to answer any questions you have and if there's an opportunity to rebut even if there are there aren't any other speakers after staff makes their comments I would appreciate that opportunity before you close the public hearing. If not though I can answer your questions.

>> commissioner jensen: commission? Commissioner bit-badal.

>> commissioner bit-badal: thank you. For your recommendation for 2b, can you clarify why you are moving that to 40,000 square feet? Can you elaborate on that a little bit more?

>> so if you look at the plan in the lower area, here, this section here, is approximately 40,000 square feet of retail. The orange-yellow building is what we envision to be a mixed use building that would include residential above and commercial below. So I believe that the provision that staff included was essentially meant to allow this to occur which we appreciate. The challenge is that if there is an opportunity to do mixed use, even with, for instance, the existing office buildings, in this area, we would not want to foreclose that. So it is purely an effort to make sure that we don't unduly minimize the potential for mixed use development by limiting it to only what's shown on the conceptual plan.

>> commissioner bit-badal: okay, thank you.

>> and by the way if staff has an interest in more formal discussion of other units other than that we're happy to entertain it.

>> commissioner jensen: thank you, mr. Morley, we have no further questions, we do have a speaker card so you will have up to five minutes afterwards.

>> thank you, for your time.

>> commissioner jensen: my apologies in advance, I will give my best chance.

>> dalrymple.

>> commissioner jensen: great off camera.

>> my name is john dalrymple. I am here representing sheet metal workers local 104. And just a couple of -- I have a question first. I note this is in a redevelopment area, and I was wondering, is there going to be any redevelopment resources placed into this project? I know the streets there and being proposed and --

>> commissioner jensen: we can have staff answer that question afterwards.

>> great, thank you. Just a couple of things. You know, one of the -- the rationale that staff brings forward in terms of supporting the project is the issue of economic development. We're at over 30% unemployment in the construction trades. We have thousands of construction workers in this area, not particularly just to our local who are out of work losing their homes. These kind of projects in other communities, the -- for example i'm working on a rezoning in west berkeley. The idea that there's going to be local hire as part of that rezoning process for developments, is on the table. And it will probably be enacted. There are other communities that are look at not just the issue of local construction as being an economic driver, but who actually does the work? The former city manager of hayward, just on the school board, we had a scale a there, and as you know, that's not necessarily what we're talking about here, but they did a report where $40 million was reinvested in the hayward community because of the local hire provision that was in that agreement. That is a real stimulus to small businesses. So

when we have a project like this that is really substantive, where there's going to be tens and tens of millions of dollars of wages paid, there can be incentive given or directions given to ensure that those wages go to local folks, local men and women who it's going to take ten, 15 years over the next period of their lives to dig themselves out of the hole that they found themselves in with this economy. So when we look at the conditions that are being set for this development, we hope that you look at that as something to consider, in addition to the concept of using -- encouraging an apprentice to be used on these job so we have career opportunities for our young people. So I mean projects like this where we're really reusing urban land and we're creating denser development, you know certainly is the way to go. I've been on a --

>> commissioner jensen: thank you, mr. Dalrymple, thank you. Mr. Morley, you may have up to five minutes.

>> with respect to the speaker's comments, we very much sympathize with the building trades' dire plight. It is a very serious situation and the city is doing a lot I think and has especially lately to jump start development. Especially in the housing area and especially in north san josé. You may be familiar with the larger effort that council made recently to make adjustments to affordable housing projects to get building off the ground in north san josé. Very well documented the number of jobs that that will create. I think it's reasonable to say that a family that has owned this property here for 100 years recognizes the importance of hiring local labor and making a reinvestment in the community. All that being said, the fox family sees this as a legacy issue for redevelopment which is why they're bringing forward the master plan and completing the remediation for the site. They in all likelihood will be working with development partners moving forward as this is not their major plan for the remainder of the family's investment and work. But we wanted to work through the major building blocks of this site together and again the simple reality is especially in north san josé and for large plans until we get through the zoning process and the ceqa process we are not in a position to advancing actual development. I wish I had an answer today of what the development was going to look like, we're not there soon. We are starting to discuss with some potential parties who are interested in the site, the first thing they always say to us is, do you have a zoning, do you have a ceqa document, are you ready to go? Which is why we're here tonight. Just a couple of other comments that I wanted to make for you. As I mentioned, there are some significant revenue benefits to this project, like others in north san josé, which can't be the only consideration, but in this environment

we can't forget. We expect that this project once fully built will generate physical $1,300,000 for taxes for the redevelopment agency and likely $600,000 for retail center. If the office building was built out it would hold 750 employees. We believe the request for change we've worked very closely with staff and as much as we were able to get through just about everything they came to a different conclusion. At the very end a couple of substantive issues on the project which we elected to bring forward to you today, we hope we'll have more time to work with mr. Horwedel and his folks on that. But we thought it was important enough to bring forward to you today because it does substantively affect our ability to develop the project. Other than that, I just want to reinforce that whatever you do tonight, we do very much hope that you will act tonight. Delay of the city acting on this project this year is going to push us well into 2011 and our real sincere hope is that we can bring a project forward in the early part of the new year or at least pieces of it. It's an exciting opportunity and I think we've done everything right here. We did it originally at the city's request filing the applications to get this economic development opportunity started. So we hope you will take up the cause and recommend approval with some consideration for the items we've asked for.

>> commissioner jensen: thank you. And we do have questions so let me -- commissioner kline.

>> commissioner kline: mr. Morley, this is an exciting project and the piece of property is amazing. For once I like what developers say in exchange as far as your additions, I think they're actually pretty good. I like the more mixed use with the multiple single use family, especially along the creek there that would be an unbelievable type of development. I just have a couple of questions. We just had this great presentation on downtown districts and high dense use. We know that's going to take decades maybe hundreds of years for that particular street reinventing themselves. We are in the process of reinventing strip malls into villages and here we have this great piece of property, kind of like santana row, different property that can start from scratch that can redesign the utopia grade neighborhood vision that we not we wanted to go our city. So the question is specifically have you thought of doing a more traditional plan? I like the plan by the way. I don't think it's a bad plan. I just thought have you thought of being more innovative, as far as what's going on around the country as far as main street and town houses and parks and round abouts and things that will give it a much more flavor of palo alto or even willow glen, neighborhood village area?

>> your comments are well taken and one of the basic building blocks of zoning is to allow mixed use on the commercial area. Both from a residential standpoint as well as retail and office. And so what you see before you here, is what I refer to as retail 101. It is retail center that may very well be an appropriate use for this site. It's not necessarily the one I most desire, and you start to see elements of that mixed use along what we refer to as street a that runs from brokaw through to old oakland. If you notice and planning staff was very good in this in working through the conceptual design issues, the buildings all front on that street to create a main street feel. While this plan does not show it because we wanted to make sure we were addressing at a minimum the retail economic development need and objective, however the zoning allows for a range of mixed uses and actually quite an intense residential component if there is a demand and market for it. So the opportunity is there. We chose to present a conceptual plan that addressed as I mentioned in my beginning remarks a balance of good use planning and realistic development reality today, a balance of those issues. So it doesn't foreclose it, and this plan probably doesn't do the site as much justice as could be done on the commercial use site. I think you could very sell see thought what we refer to as site 2, below the retail center, which has a mixed use component. The rest of the site very much has the capacity to do that. And I don't know how familiar you are with this neighborhood. It is very much a mixed use neighborhood and it is thriving. Are it has been done without design. There are houses, there's offices, there's retail, there are moms and dads with strollers all parts of the weekend day and evenings. That's sort of my definition for whether you have a neighborhood in a mixed use neighborhood. If you see strollers moving around. We have schools, a lot of different light industrial uses, it works and we think that there's a real opportunity here to play off that. But I want to be able to take a range of opportunities out to the marketplace and see what people can come up with.

>> commissioner kline: definitely, we definitely don't want to restrict you at all. As a matter of fact, I can just tell by your excitement how enthused you are about the project. And I am, too, and I think it's going to be great. I just want to put you toward the fact of look at more traditional innovative pedestrian friendly types of environments that we've been talking about tonight, but also are exploding all around the country.

>> we were having a fun discussion in the back there as you were discussing the main street ordinance because those are many of the elements that we were debating some design concept through the conceptual planning site planning process with staff.

>> commissioner kline: fantastic, thank you.

>> commissioner jensen: thank you, commissioner kline. Commissioner cahan.

>> commissioner cahan: thank you, madam chair. I'm very concerned with the current crisis that we have of our workers, and their needs to get jobs locally. And I understand that you are not at the phase right now of talking about who you're actually going to have do any building. And I also understand that we actually don't have any control over who you hire. But I would like to -- I do hope that part of your legacy, not only as the great stimulus, that the end result would create, but that the process of the building is also going to put our local workers to work. Because they are in dire need and that would also stimulate our city and we greatly need that.

>> message received. And from the standpoint of the morley brothers, we have a pretty good track record and history in this regard. You know I don't want to speak for who may actually develop the site. I generally speaking though and I think it's reasonable to say that the more intense a development, especially on the commercial side, might occur, the much more likely it is that the intricate construction capability of folks in this area here are going to be utilized as well. And you know, I think it's reasonable to say that the fox family, again who's been operating here for 100 years, they're going to do the right thing. They have time and again invested in this community through world wars, recessions, great depressions and their track record speaks for itself too. So I don't want to predict the future but I think it's safe to say that the people involved in this project are going to do the right thing.

>> commissioner jensen: thank you. And just to note this isn't a land use issue, this is not something that the commission can address but the council would have the opportunity to make that address, if they choose. I see that there's a light on. I don't know who it is. Commissioner platten.

>> commissioner platten: thank you. I just want to make sure i'm clear on something mr. Morley because maybe I heard you and didn't hear you accurately. I'm enthused by this project and proposal also, I think it's great, I know the piece of property. Very supportive. Do I understand you to say, that a little bit more time in working with staff might resolve these issues? We've got one more general plan meeting calendared before the close of the calendar year. I just want to find out with you do we have to deal with it tonight or should we give you one opportunity --

>> i'm not asking for a deferral by any means. And the general plan amendment, we're at the rezoning level now we're scheduled to go to the city council on the 7th for the general plan amendment and december 14th for the city council for the zoning. That's their last meeting. I really don't want to lose those dates.

>> commissioner platten: okay.

>> here's -- with respect to the issue, i'm going to give my little plug for city staff here. Your planning department is terribly overburdened and understaffed, even in the limited projects we have going forward. We got through a lot of issues, and we ran out of time. And they focused on a couple of development pieces that i'm sure they'll comment on to you that they thought were important, and i'd like to think with a little bit more debate we could come to conclusion. As you'll see with the highlight items, they're really only a relative handful, and my only suggestion to you about maybe allowing for some additional time, not necessarily from the commission. But if you're comfortable with the direction or the merits of what we're requesting but aren't comfortable with the language that we're proposing, staff hadn't had adequate time to review it that perhaps you would adopt the staff recommendation encouraging them to work with us prior to council.

>> commissioner platten: i've got it, thank you.

>> commissioner jensen: thank you. I believe that's it. We don't have any light management up here so i'm winging it. Thank you very much, mr. Morley. A motion to close public hearing. All those in favor? Thank you. Staff.

>> thank you, madam chair. Just to answer that first question relative to any redevelopment resources going to, i'm not aware of any. As far as the proposed modifications to the development standards, staff has looked at them and we do have a response. Relative to item 1, conclusion of these numbers, really are reflective of the plans and we have no problem with removing the 85, reference to the 85 units. And the multifamily. The item 2 a, again, our intent is to -- and we've gotten a few projects like this where we have existing industrial buildings, but the proposal is for, you know, commercial and residential, and/or mixed use commercial/residential. But we found that the market is such that they want to continue to utilize the existing industrial development for that very purpose, until they are ready to develop you know, per the proposal, the nonindustrial development. So this is kind of our intent, attempt to allow for the continued use of the industrial buildings per, really, the current industrial regulations, so we don't have a problem with putting back the commercial support. And even allowing an office, medical office or clinic beyond the commercial support restrictions, it's more office. But with respect to the last highlighted, no conditional uses will require a mixed use overlay. If you're familiar with the industrial park zoning regulation, there are -- they're your standard conditional uses and then there's an additional set of uses that we can consider through a conditional use permit, if there's a mixed industrial overlay. And that's because it really kind of -- that mixed industrial overlay identifies areas that are already developed in a mixed manner, whatnot. If we were to take this away it would in essence just you know allow for us to consider the uses such as religious assembly or indoor private recreation on those larger assembly-type uses within these buildings which the other industrial users within this area are not allowed. So again our intent is really to keep the ability for them to utilize the industrial development as they currently can under the industrial zoning regulations. So with the exception of that last highlighted, we're okay with their proposal. But we would want to continue to require the mixed industrial overlay as it is for the ip. So to not add that additional line at the end of line 2a. As far as 2b, again, the 40,000 just reflected their conceptual plan, so we don't have a problem taking that away. It, again, where they struck out on the west side of street a, again, this is all in the context of, if they're using the existing industrial office buildings, those are limited to uses of the ip district. And then the additional commercial uses that can happen in that commercial area need to happen on the west side of the street. Otherwise we'd be saying in the industrial buildings you can utilize it for the ip district, as well as any other commercial uses. That's not really the intent. So if there's industrial buildings are to remain we're saying they can continue to be used for the ip district but all other

commercial uses need to happen on the west side of street a. So again, if -- understanding how that was really structured, we need to have that on the west side of street a remain. But we're fine with taking out the reference to the 40,000 square feet the residential area, with all due respect to mr. Morley, you know, staff was looking at this development all along as a multifamily development and there was no discussion of single family detached. And I will actually you know bear full responsibility for pulling the plug on what was proposed as the original development standard which said, permitted special and conditional uses of the rm district. And staff thought that was just an easy way of basically saying it's all multifamily plus whatever else because if you know the rm district you're only allowed one single family detached anyway. So staff intention you know through that development standard was not to allow single lot, single family detached development because it's not a development proposal that we had been looking at, at all, over this time. So we are pretty strong on the permitted residential uses out here are multifamily and by definition those are attached in any form, up, down, sideways, whatnot. The additional request that they've made, I don't have my glasses here, related to 3b, again, because we're not supportive of single family detached residential, we're not supportive of this, either. So those two go hand in hand. And then further down, I think he might have referenced 4b or something. I don't have a number. But it's where on internal separation under setbacks, they've requested to basically give the ability for the director of planning under 4a, to grant an exception to all of those setbacks. And our intention is that it is not, that we really just want for the internal separation, it be limited, it be measured from private open space edge to edge of private open space. So if you go onto the next page or whatever you'll see the single asterisk, that that's very relevant to how we want to measure the internal separation. So that if you try to put the double asterisk for, it doesn't follow our intent of that. So we feel that the internal separations listed below should continue to be measured from private open space to edge of private open space, and then, gets a little confusing, the double asterisk, just be, again, go back to our own front -- the exception, front to front, not all the setbacks. Because again, we only want to give the director of planning the ability to grant an exception to that, you know, front to front separation, not all of the internal setbacks. And that's primarily because we realize that these buildings have been laid out in a conceptual manner, we've got some curving areas and stuff like that. So we really want to limit the ability to grant an exception to that one setback. And 4b, again, because we're not supportive, of single family detached, if it just said the residential area, that's fine. So again, you know, the majority of what they've presented here, we're okay with, with the exception of relieving the requirement of the mixed industrial overlay and granting the ability to do

single family detached. .and changing the -- how the internal separations are measured and the breadth of what the director can grant an exception to. Does that all make sense?

>> commissioner jensen: thank you, staff. Thank you for the clarification. Commission? All right, I see blinking lights. Commissioner kamkar.

>> commissioner kamkar: thank you. I wanted to talk about the single family detached residential. If i'm not mistaken, the proposal calls for up to 650 residential units. They're asking for 75 of them, no more than 75 to be single family, that's slightly over 10%. I understand that 75 may replace, I don't know, maybe up to 100 of the 650 if they were a little bit more compact. But, you know, didn't we want -- I mean, in this economic times, if we were in booming times, I understand. We give them more flexibility so they can attract somebody sooner so they can get started sooner? If they were asking for half single family I can understand your point. To me they're asking for 10 to 15%.

>> well again, I mean I think a lot of the conversation of some of the commissioners being real excited about this being an intent development and really trying to work some of the main street concepts, even the conceptual hasn't reached that. It is at a somewhat lower density in the range and again this is not kind of the pattern of development that we feel that single family detached creeping into it is appropriate. You know at some point even through envision 2040, we're not going to solve the city's housing by continuing to allow detached development, whether it be just a small percentage of a larger one or stand alone, and we really I think need to stand strong on saying we want see attached development in a mixed-use environment and an attentive commercial setting so that we get these vibrant communities. And so that the people in the surrounding neighborhoods are drawn into this and can really support a vibrant commercial center that they just -- it's not just the people living in this development but it's the ones living to the northeast and the ones living to the east of here to really come into this community. So keeping the density up and not allowing that single family detached product because someone in the market may want it earlier than you know the other, to us is not enough to allow for it to happen.

>> commissioner kamkar: you know I understand your point. But to me to have a vibrant community you want flexibility, you want different ones, you don't want uniformity. So if the issue is we don't want to lose the residential stock, i'm okay with going higher, you know, so we don't lose the number of units that you want to have on the site. But I think we shouldn't try to micromanage the developers. If it's worth for them they would probably do all multifamily if that's what the market asks for at the time. But I think leaving some flexibility in there for them I think makes sense. And I definitely see your point about the 2040 and all those goals, you know, but we should be careful about trying to micromanage developers and all the constraints that they face. Thank you.

>> commissioner jensen: thank you, staff. Commissioner kline.

>> commissioner kline: make sure there's no more questions of staff first.

>> joe horwedel: I would like to make one short comment. That's unusual, it's short with me. In the late '80s we were going through a recession, not as bad as this one but it was bad. And in north san josé we were building housing. And the only product that was available that was interested in the market was single family detached. So the council approved single family detached in north san josé. And ultimately we built some town houses around that and then a little bit of high density apartments around that. But today, we still have a single family neighborhood that is there, 15, 20 years later, that has no park, it just -- it just plopped in. We're getting a park with this site, we acknowledge that. But did decision -- we should not be making land use decisions based on what the market is at this moment because that unit will not go away. That residential unit especially the single family detached will be there for 100 years and every year we will be providing services to that residential unit that cost dollars. And while there's certainly retail dollars that may be coming out of the shopping center there is not a guarantee that that will be built first. The single family town houses those are the things that get built first. We are seeing that across the city that people are trading down. So it is one I would ask you to think about 20 years from now would you go through and say that was the right decision?

>> commissioner jensen: thank you, director. Commissioner kline.

>> commissioner kline: comment, and in consideration of that, the reason I comment on single family is because I really want to protect the river front. I thought the single family would be appropriate there versus the denser. But I appreciate that comment especially with the consideration of the existing single family homes around it. So I would like to make a motion to move staff's recommendation along with the changes as staff has indicated in the applicant's 1, 2a, 2b, with the exception that no conditional uses will require mixed use overlay in that one line with the exception of 2a. And I believe that's it. I'll keep the single family stuff out, and I think that covered your changes. I didn't think there was any other, was it 4b -- was it 4b that I missed? And then 4b, which is the single-family attached residential, the big one, is that it? Did I get that right?

>> commissioner jensen: there is a motion and second. Would you like to speak to your motion?

>> commissioner kline: no, that's fine. I think we covered it.

>> commissioner jensen: great. Commissioner bit-badal.

>> commissioner bit-badal: I was going to make the same exact motion so -- I also believe it's a great project. I do understand that you would need more time to work with the planning staff. I do agree with the comments of the planning director. I think we can make decisions during tough economic times, otherwise there is no need for a general plan 2040, we will go as economics direct us or dictate us. At the same time i'm in support of this project that has mixed using of everything and wish the developer and applicant great success.

>> commissioner jensen: thank you, commissioner bit-badal. Are there any other commissioners? Okay I would just like to encourage everybody to continue thinking about the main street theme that we've been talking about tonight. You have a great opportunity here, as was mentioned earlier. A nice large blank slate and it could be a truly incredible project. And whatever you can do to consider the type of parking that we've been making recommendations on, elimination of surface lots and so forth, it could be truly beautiful project. And with that and there's no further questions, all those in favor? Opposed? And that motion passes unanimously. Figures 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 hearing or directing staff to place the item on a future agenda. Seeing no speaker cards, referrals from city council, boards commissions or other agencies. There is -- i'm seeing the director nod his head no. Good and welfare, report from city council.

>> joe horwedel: I think it's been pretty quiet on our end of the world, except for backup which doesn't affect you so I think you're good.

>> commissioner jensen: okay, thank you. Commissioners report from committees. Norman y. Mineta san josé international airport noise advisory committee. Commissioner cahan has stepped out. Commissioner cahan, we will call on you when you get back. Envision 2040 general plan process update. Commissioner kamkar.

>> commissioner kamkar: if I can defer to you chair jensen.

>> commissioner jensen: certainly.

>> commissioner kamkar: thank you.

>> commissioner jensen: we are continuing the final review of the proposal, and I think we're getting -- and i'm going to ask the director to help me out here. But I think we're getting a lot of very interesting and detail in as far as revisions in addressing things that are going to make this plan very strong. And the committee is moving forward, I think at a very good clip light now.

>> joe horwedel: I think the committee is recognizing the end is in sight, and so kind of redoubling efforts in finish it. The draft plan is out. We were meeting with co-chairs. Some concerns were raised at the last task force

meeting about some phasing but that's one of the things we're going to talk about at our next task force meeting. I think it was a good exercise at the previous task force meeting, I don't know if laurel talked about it, with the task force members with the lego bricks, working with different village areas to really understand what's possible and what some of the challenges are and how that affects some of the policies. So that's been our goal of staff to really make sure that we really understand the implications of the plan, that the community, the task force and the council, embrace what's in that. Because in the end it really needs to be all of our plan. So I think we're making good progress on that.

>> commissioner jensen: thank you, director. And commissioner cahan is back so we will ask her to fill in on the norman y. Mineta san josé airport noise advisor committee.

>> commissioner cahan: thank you, madam chair. I was did only one in attendance at the meeting so I had a great brief of what the group was doing at this point.

>> commissioner jensen: okay, we're glad our group has a perfect track record. Review the synopsis from 10-13, 10-27 and 11-3. We have a variety of people in attendance at these meetings so i'm going to call on them independently. The 10-13 meeting all commissioners were there with the exception of commissioner cahan so i'll ask you to abstain on that one. May we have a motion to approve or modify the 10-13 synopsis?

>> move for approve.

>> commissioner jensen: there is a motion and second. All those in favor, thank you. 10-27. Commissioners abelite, cahan jensen and kline can vote on this one unless someone has reconstituted themselves on that. Can we have a motion? There is a motion and second, all those in favor, thank you. And the november 3, 2010 synopsis, only commissioner platten is unable to vote on that one. May I have a motion to approve? There is a motion and second to approve. All those in favor? Thank you. Subcommittee formation reports and outstanding business. We had a very exciting time last time and we set up three subcommittees. And I know staff is assisting us with ensuring that these get kicked off. I'd like to ask counsel to address a question that came up at the last

discussion, where the general policy has been to limit it to two commissioners. But there was going to be a review of policy and a determination of whether or not we could have a third commissioner available on that. Counsel.

>> thank you, I did go ahead and research city policies as well as the brown act and I wanted to report back on a couple of items. One is that I did not find either in your bylaws or in council policy a limit of two commissioners on a subcommittee. I know it has been the practice of this commission, and it's possibly in place because it was deemed by the commission to be a best practice. And the reason for that is because four of you acting on commission business could constitute a quorum. Depending upon the issues that you're discussing. And so if you had three of you it would just take one person on the subcommittee discussing an item, whether it be you know, changes to be made to the riparian corridor policy or something like that, it would just take one of the subcommittee talking to one member of the commission to then create a quorum issue. So I believe that's the history of the two-person limit. Hoping that that would in some ways further prevent a brown act issue. But I did review city council policies and did not find a two-person limit. I did find and I will distribute it to the commissioners if the commissioners are interested. I did find that the city council -- I take that back. The rules committee on october 6th, passed something called implementation of mba number 16. And the title is changes to boards and commissions. And it was not distributed to this commission and I went and asked why. Because one of the clear directives in here is -- it says clear directives to forward this advisory to boards, commissions and committees. And it was not provided to the planning commission. My understanding the reason it is not is there is a parenthetical in here that quasi-boards and commissions are excluded. It did not go to the commission, it did no go to the appeals hearing board but it did not go to this commission with the thought this was a quasi-judicial commission. However, much of your business is not quasijudicial in nature. You also are advisory on land use policies, rezonings, general plan amendments. So I did clarify that with variation members of the organization. This commission did not know about this. The purpose of this directive is to advise boards, commissions about the staff shortages, and specifically with regard to subcommittees, to examine how to reduce the number of subcommittees and reduce the number of meetings of subcommittees, and to examine do you really need and have a purpose for subcommittees that you do have. Within the memorandum, it talks about the fact that commissions should submit work plans. If they're going to start having subcommittees and working on items, submit a work plan to the city council and allow the city council to approve it, I suppose so that the city

council has seasonal notion of what the commissions are working on in their advisory capacity. And then there is a note in here that says forming new subcommittees, whether they be standing or ad hoc, before the work plan of the commission is improved is not consistent with the intent or spirit of this mba 16 and is not recommended. Again you did not receive this and there is no way you would have known about this and I have alerted people that to my knowledge the planning commission did not receive this and that the planning commission is in the process of actually forming new subcommittees. So again I came across this as I was researching the two-person limit on subcommittees to see what was out there that would apply, and didn't find a two person limit but did find the directive from the rules and open government committee which again, was not provided to you because you were deemed to be a quasi-judicial commission but you do do a lot of advisory work and I recognize you are forming your subcommittees not for your quasijudicial business but for your advisory business. This is a little bit of a wrinkle. I would like the opportunity since you didn't receive it to get thoughts about people who were involved in this, what should be done with regard to the current effort underway on this commission to form a variety of subcommittees.

>> commissioner jensen: thank you. And do you have recommendations before we initiate conversation?

>> in terms of?

>> commissioner jensen: on this?

>> well, the reasons that the direction was provided and the reasons, the purpose for the memorandum, do appear to cover the business that you're transacting at the present time, which is the formation of these subcommittees. Again, however it was not technically provided to you so I just want to confirm what that means.

>> joe horwedel: so I am aware of the directive and it is one of the things that is a part of how staff has been talking about the creation of these ad hoc subcommittees was that we would go through and work on discrete task force and then those would go away and that they were very much around the commission taking the lead on doing the staff work. Because as you have heard us say over and over and over, we're not staffed to go through

and do major initiatives. And really, where that directive has come out from the rules committee is dealing with there are a number of commissions that exist that have subcommittees that the main work of the commission, while it is important, is not essential to the day-to-day, it is not in the charter. And that they were then creating subcommittees to go off and essentially direct staff in doing work, in creating at their own work efforts. And the council is concerned about the amount of staff time consumed in that work effort. That's why this came out the amount of work that the commission to really curtail back. So it is something that one I think we do need to get a work plan put together for the planning commission, we never have done that because your work is reviewing planning applications which is pretty easy to do the work plan. But in working on the general plan update it has really become evident that we as staff think there is a role we should be looking at for the planning commission as a policy body, to grapple with policy issues to help with what's going to take to implement the new general plan. In the past the planning commission actually helped create the residential design guidelines that we used 20 years later a major part of that work was with the planning commission, holding workshops and really vetting through issues in a, you know, very hands-on working with the development community and the community itself. So it's one that I think we'll need to work through this directive. I think, you know, we've got a little bit of wiggle room but it's one that we are pushing the envelope a little bit.

>> again if one of the limits or one of the reasons this directive is generated, to ensure that the staff resources is being judiciously and effectively used. And you have the planning director saying in this case, with regards to the subcommittees that you're forming really is, then really the only issue that I would want to work through is the fact that the council wants to approve your work plans. In other words, I get a sense that if the various boards and commissions of the city are going to be forming subcommittees to go off working on issues, that the council wants to make sure those are issues that they concur and should have priority. Again I only learned of this today so I would like to be able to advise you more completely on whether or not this applies to you. It was not provided to you because the thought was it did not apply to you. But the reasoning behind why it was not provided to you is not completely accurate.

>> commissioner jensen: thank you. I see somebody, commissioner kline.

>> commissioner kline: this is somewhat d╓j└ vu, when I was mayor of saratoga, I actually made all the commissions create work plans so we knew what they were up to because they were driving staff absolutely nuts. So I sympathize greatly with this memorandum because I wrote one myself. On the other hand, I think there is a great amount of value that commissions bring outside the formalities. What he can bring, cannot be duplicated at staff level. That's why we're here. The other thing, a debate for city council for every single small project seems a little overhanded.

>> i'm not suggesting this will be a city council debate, it is how this directive is implemented. I should say the council or I should say the rules committee has acted. It is not so much as to the appropriate implementation.

>> commissioner kline: as we're clarifying that, I simply suggest we keep staff interaction to a complete minimum and unless we get better guidance and it's unclear as do they want a planning commission guideline of the subcommittee projects or do they want a subcommittee plan? Or both?

>> they want both. It is a work plan of every commission including subcommittees.

>> commissioner kline: that's a great -- maybe subcommittee to do that.

>> volunteers for that.

>> commissioner kline: we've got that to work on and then we have the idea of the three people. There are only five county board of supervisors, when I was mayor of saratoga there was only five councilpeople we had the exact same problem we couldn't talk to anybody else on a subcommittee, if I said hey joe, what do you think of this idea, if they didn't like it, I was out of luck. That was a fact of life. If we can't make an exception, that's great. If we can't, then that's fine. I think we should kind of all agree one way or another and vote on that or back it up. Otherwise, great.

>> commissioner jensen: and I think i, given that we -- i'm going to request that council provide very clear guidance on brown act, to each of the subcommittees. And I think they reconstitute everybody on what the brown act requirements are.

>> I can do that in a study session.

>> commissioner jensen: that would be great. I'm sure none of us wants to violate brown act and i'm sure none of the work on the subcommittees are something that you're going to be calling each other up at midnight and trying to negotiate. The reason this comes up is because commissioner kline had expressed an interest in the urban design committee but didn't want to be there at the expense of having other commissioners participating. So I would like to see us allow and encourage the three, and if it becomes an issue, we're going to be self-policing, if it's an issue I want everybody to be respectful and obey the law, the letter and the intent. And step aside if it looks like it's going to become an issue. So that's the three. Then work plans. I see that the best practices subcommittee has put together a draft work plan. I'd like to request that for all items coming from subcommittees that it include the meeting date, the attendees and the committee member names. I'm going to assume commissioners cahan and kline worked on this together, great. So in the future, we have kind of an ongoing track record of what was going on. And if you've had the opportunity to review this, is there any discussion on the proposal? I'd like a clarification, because I thought it was a little broader in terms of -- and it may just have been my wishful thinking. When we had talked about environmental consultants, I was thinking people who do riparian corridor, people who do species analysis, habitat, not just eirs, and so I wondered if I can get some clarification from the subcommittee.

>> commissioner kline: yes, the work plan is flawed to say the least. We did actually focus in the original meeting on eirs, thinking we could have a more focused attempt at it. But in conversations with staff we then expanded it after this was actually printed to include initial studies and neg decs which I think would include the items you were mentioning and in practice, you know, it seems after talking to some of the cities that the same process covers all of them. I mean, it's not like they have major differences between one and the other. So we covered

those three, we're going to cover 90% and there might be exceptions at the county level but otherwise I think we'll cover everything you indicated.

>> commissioner jensen: are you saying then it changes to read study best practices for the hiring of expert environmental consultants or are you saying something else there?

>> commissioner kline: it should say -- it should say study sessions, initial study, neg dec or eirs, environmental documents.

>> commissioner jensen: environmental documents.

>> commissioner kline: correct.

>> commissioner jensen: director can I ask will environmental documents then address all of those issues?

>> joe horwedel: I scratched out eir and wrote in environmental studies, that's even broader.

>> commissioner kline: good, excellent.

>> commissioner jensen: I see somebody else has their light, is that on this item?

>> commissioner kline: sorry.

>> commissioner jensen: you're still lit up. With that modification, are you comfortable having the commission provide approval on this and then throw it --

>> commissioner kline: absolutely, if we've done that we have spoken to staff at length which is fantastic, a lot of support, within 15 minutes too it was really brief. And then we've actually talked to three of the major cities in the

state of california already who have been incredibly helpful, they have bent over backwards to provide us information, too much already. And we're now actually going after a couple of small cities around us. So we think we'll get a proposal back to staff, advisory, obviously, at the beginning of the year.

>> commissioner jensen: great. With the subcommittee attendees, subcommittee member names, is it appropriate -- and the change in modification under sentence 1 under goal 2 when that gets modified hand that to you counsel and have you figure out-d give it to the director and the director will figure out what the next process is. Thank you, you're going to be our guinea pigs and we'll see how that works. So commissioner kline, with your permission i'm adding you to the urban design subcommittee. Okay, maybe without your permission but you're there. I hear nothing so you're there. And then, was there anybody interested in joining us on riparian corridors? Okay, great. So commissioner bit-badal will be joining us on riparian corridors. And then is anybody interested in participating on the best practices subcommittee? Okay, you guys are on your own. Thank you. Is that everything, okay, so we know we still have to hear from staff with respect to riparian corridor. So we haven't met yet. And urban design, I think you are also expecting response from staff before you can meet, as well. Great. So on to commission calendar and agenda and study sessions. You should have received from staff a memo listing proposed meeting dates for the next calendar year, and the first three study sessions, green building, wireless communication and cip. Counsel.

>> I think i'll probably be very involved in the wireless communications study session. And i'm likely to be out of the office. So i'm wondering if we can move that up into march, either march 9th or march 23rd.

>> commissioner jensen: it's okay with me. Does anybody else -- staff, can you support a march 9 or a march 23 meeting?

>> as of tonight, yes. If something comes up, we'll -- so you want -- march -- when is easter? I know april 1st -- so I don't know, it -- maybe the earlier in march because I don't know if some --

>> commissioner jensen: we'll give you flexibility to figure out which of those dates works best for you.

>> okay.

>> commissioner jensen: and then if we -- and the year is coming quickly to a close but if we're going to be launching our subcommittees, if we could have a brown act reconstitution, soon.

>> and i'd like to rene╓ to, I don't know, the sooner the better. In years past we looked to do maybe one a month. So maybe if something in february works. Or --

>> commissioner jensen: well one of the subcommittees will be long dead by that time. So we maybe want to meet with them before that.

>> what are the meetings in december?

>> we have december 1st and 15th.

>> so maybe I can shoot for december 15th.

>> december 1st is on too late to schedule so it's got to be the 15th or then we're into january.

>> commissioner jensen: no, it can't be combined or no, you can't do it?

>> I can talk to people in the office who do the ethics training. If you would like to inquire if it is -- it is. It's slightly -- it's open government.

>> commissioner jensen: please remember to use your microphone. Because otherwise, it look likes i'm up here talking to myself. So is either the 1st or the 15th going to work for you?

>> I could shoot for the 15th.

>> commissioner jensen: okay, great. So until the 15th you have had multiple brown act trainings, i'm sure commissioner kline. So you are the lead, keeping everything under control, responsible grown-up party.

>> sorry. The only other date that I did want to alert you to on your agenda is may 4th, I understand that's the reason the meeting has to occur, it's your annual review of the cip. We haven't always held it on wednesday in the past. Just fyi, it conflicts will annual california league of cities conference. Wednesday thursday and friday in may. I know I had difficulty trying to get somebody to cover my seat. I'm at that conference, vera is at the conference.

>> joe horwedel: rick is available right?

>> actually, rick goes to the conference.

>> you're wanting us to look to see if tuesday --

>> a good portion of the city attorneys --

>> so even having a meeting on that date doesn't work.

>> I think you remember last time we had trouble finding someone to cover that meeting.

>> commissioner jensen: staff, you have that noted. Director?

>> joe horwedel: one of the things that laurel and I have been talking about is the role of the planning commission, the role of the cip, how it's treated is a document is dropped on your desk and you're given an hour or so to look at this spending plan for the city. And that's really not one that the charter anticipates for the planning commission, is not really the best way to be running that. So we are looking at how to go and really make the cip

more of a year-round discussion with the planning commission to be more strategic, so i'm not anticipating that we're going to be effective for this coming year, but i'm really thinking on an 18-month cycle. And one of the things when we were in seattle with the chamber of commerce a couple of weeks ago dave sykes and I met with the city of seattle staff in their planning department that work on cip about some of their mechanics and so it's something that we're going to pursue with the general plan update we think it's really critical to make sure our capital investments are going to things that actually help the future general plan rather than being spent in other places that don't leverage that. That's one I want to come back and talk to you about putting some time on your calendar to talk about how that might work in early 2011. So I just put that place marker in.

>> commissioner jensen: thank you. So we have two modifications to next year. The april 6th study session will be moved to either march 9 or march 23, depending on what the holiday issues are and the may 4th, 2011 cip review will possibly be moved to either may 2nd or may 3rd so we can have counsel joining us at that. Aside from that does anybody see any challenges with the schedule as proposed by staff? And we will cancel the may 4th meeting in addition to that. Okay. Planning commission meeting because we won't be able to have legal counsel joining us.

>> we're going to have to try and you know -- because again the cip is not available, and so there's a small window for us to schedule it. So we'll look to start working back you know that monday or tuesday, or -- so we'll work with the person who usually deals with that to pick a better date and come back to you guys with that.

>> commissioner jensen: commissioner kamkar.

>> commissioner kamkar: there seems to be three meetings scheduled for may so would that be because it's like a general plan?

>> it is because of the cip and there's charter requirements. You typically do have like a third one and it's always in may so that's why.

>> commissioner kamkar: so would it make sense to, the cip moves to another date then.

>> I think it has to come out by may 1 and you have to review it within ten days.

>> commissioner jensen: so reply request would be that we not double-up either of the other -- that we not have a meeting on may 10th and 11th or may 9th and 11th. Just a request. Okay. Aside from that, everything looks good. Is there a motion to approve as amended? There's a motion and second. All those in favor? Super, thank you very much.

>> and again just to clarify we're going to be scheduling a study session for brown act for december 15th.

>> commissioner jensen: correct. Okay, with that we are done. Thank you very much. [gavel]