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>> 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, February 23, 2011. Please remember to turn off your cell phones. or put them on vibrate. 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 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 up to 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 and Commissioner Cahan. Deferrals. Any item scheduled for hearing this evening for which deferral is being requested will be taken out of order to be heard first on the matter of deferral. A list of staff-recommended deferrals is available on the press table. Staff will provide an update on the items for which deferral is being requested. If you wish to change any of the deferral dates recommended, or speak to the question of deferring these or any other items, you should say so at this time. To effectively manage the Planning Commission agenda, and to be sensitive to concerns Regarding the length of 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. discussion on how to

proceed will be heard by the Planning Commission no later than 11:00 p.m. There are currently no items listed for deferral. Consent calendar. The consent calendar items are considered to be routine and will be adopted by one motion. There will be no separate discussion of these items unless a request is made by a member of the Planning Commission, staff, or public to have an item removed from the consent calendar and considered separately. Staff will provide an update on the consent calendar. If you would like to speak to one of these ideas individually, please come to the podium at this time. We have no cards, but I would like to pull 2 A. CP09-053. And I will entertain a motion for approval of 2.B if one exists. And I would like to remind the commissioners to please use their microphones.

>> Move to approve the remaining item on consent calendar 2B.

>> Second.

>> Commissioner Jensen: There is a motion and second. All those in favor? And that passes unanimously. Thank you very much. Staff.

>> Staff has nothing to add to the consent calendar.

>> Commissioner Jensen: Is the applicant here for this item? Item 2 A, a conditional use permit, to allow approximately 3112 square foot building addition to an existing church? If you would like to come forward and talk about your project a little bit and I'll let you know what my questions are. You don't have to come forward. We're taping, so I need to ask you if you're going to speak so that we can -- if you would like to come forward and speak. Okay. Most of my questions are actually for staff.

>> My name is Jessica Chang. I'm the principal of PTA design and architecture engineering. On behalf of Silicon Valley Presbyterian church I'm here as applicant and we do not have in -- we would hold any kind of presentation unless there's any kind of objection from the public. If it's okay with you.

>> Commissioner Jensen: Okay, thank you very much. Then why don't I go ahead and let staff know what my questions are and if you would like, if it's appropriate you can come back down and address the questions yourself.

>> I will.

>> Commissioner Jensen: All right, thank you very much.

>> Thank you.

>> Commissioner Jensen: Is there a motion to close public hearing? All those in favor? Thank you. So staff, my questions have to do -- and first I'd like to thank the applicant for taking into consideration the use of bicycle parking. This I think that's great that you have bicycle parking set aside in your new plan and I just wanted to be sure you knew that I appreciated that. Staff it indicates that there are five trees being removed as part of this project. It was difficult to tell from the drawings, exactly the sizes of those trees but it looked to me there was one greater than 18 inches, two that were less than 12 inches and one that ranged between 12 and 18 inches and I didn't see anything in here on mitigation of trees. It didn't see any new trees being proposed to be planted in the landscape plan and I wondered, why this was being handled differently than normal. And what we're doing to mitigate removal of the four trees.

>> Thank you, Madam Chair. You're correct, there is only one ordinance size tree located in the back portion of the site near where the addition is. The smaller trees are in that same general area. It shows in the site plan in sort of an outline form that's sort of generally dotted. That indicates the general location. It is staff's intention to provide mitigation in accordance with normal city standards, that is four to one for ordinance size trees, two to one for the trees that are between 12 and 18 inches and one to one on the trees that are less than that.

>> Commissioner Jensen: That's great. So then I'm happy to make a motion to approve this as long as the conditions are revised to reflect the normal content that we get when we have biological resources mitigation

measures. We have a table that normally appears which states specifically because what this indicates is that the project allows the removal of one ordinance-sized Viburnum tree. Mitigation provided, as shown on the approved landscape plan, I'd like to have that stricken and have the normal 4 to 1 for the greater 18 inches, the two to one for 12 to 18 inches and the one to one for less than 12 inches included in this as is our normal stand, because there is no indication that any new trees are being planted according to the landscape plan.

>> We can revise the condition in the resolution.

>> Commissioner Jensen: Great.

>> Before the evenings so you can sign that version of it.

>> Commissioner Jensen: Great, thank you. Sorry I'm not making a motion, I'm entertaining a motion for approval of this with that amendment. Commissioner Bit-Badal.

>> Commissioner Bit-Badal: Thank you, Madam Chair. Motion to approve with those changes.

>> Commissioner Jensen: There is a motion and second. May we vote by light? May we vote by light? Thank you. And that motion passes unanimously. Thank you very much. Moving on to item 3A. CP 11-006 and ABC 11-001. Conditional use permit and determination of public convenience or necessity to allow offsale of alcohol at a full service grocery store supermarket in the CG commercial general zoning district located within an existing approximately 40,498 square foot building at a shopping center, Eastridge mall, on an approximately 6.47 gross acre site approximately 200 feet westerly of the Northwest corner Of Quimby and East capitol expressway. Staff.

>> Thank you, Madam Chair. This is a request for a conditional use permit and determination of public convenience and necessity, to allow offsale of alcohol at a full service grocery store at Eastridge mall in a free standing building. This project is required to have a determination of public and convenience or necessity because it meets the two criteria in that the site is overconcentrated with offsale licenses and it's in an area of --

with a crime index that's greater than 20%. That said, this was reviewed carefully by the police department staff worked closely with them they have determined that because of the type of operation it is and where it is geographically, within their crime beat, that they're neutral to this proposal. It is also located just outside the boundaries of the West Evergreen SNI NAC so as such, the project wasn't specifically referred to them. The applicant has indicated and has been working with Council District 8 is office to present this proposal to actually two SNI NAC representatives on February 16th. And the applicant is also scheduled to do a full presentation in front of that NAC on February 28th. Mr. de Silva who is the SNI NAC leader indicated that he's not going to -- he's not able to attend the hearing tonight but he did provide a letter which I provided to you at the beginning of the hearing stating his objection to the proposal. So that, taking all that into consideration the police recommendation, consideration of where this is actually located with respect to residential properties, and the need for grocery stores within this area, staff has identified that we feel it's appropriate for this use to move forward on the offsale of alcohol is an important component to make the grocery store economically viable. And so with that staff's recommending approval of both the conditional use permit and determination of public convenience or necessity.

>> Commissioner Jensen: Thank you. And is the applicant here? And you -- if you'd like you may have up to five minutes, come down and introduce yourself, and you can make up to a five-minute presentation, and then the public would speak and then you would have an additional five minutes after the public has spoken. You're not required to do that but you have that opportunity. [ Inaudible ] you may present if there are any questions. You'll take your five minutes at the end if I understand you.

>> Correct.

>> Commissioner Jensen: Okay, correct, thank you. So I will call the first three speakers and if you would please line up at the bottom of the stairs, and my apology if I mess up your name. It's a little dark down here. Grace yah Ramos, Elsie Arranda and Khan Nguyen. Please introduce yourself and you have up to two minutes.

>> Good evening, my name is Gracey Garcia Ramos, I'm the past president of meadow fair and an active member of the community. I'm against this simply because of this, we have too many liquor places or stores or so

forth that are in the area. We're composed of 564 homes in the meadow fair area. We are a residential area. We already have lucky's that servings alcohol and we have various other places we have 7Eleven my urgency to go against this is because there is a lot of homicides in the area, I did get the report that it's 20%. When we live there it's more than that. We don't want to have a fatality. We've had five fatalities in the past five years. That is too much, one fatality. There have been stabbings and who's going to go ahead and read my issue. I'm against it for the simple reason that we are already saturated with liquor licenses. Literally at every corner. We do not need another liquor. We have to stop that and we are a residential area. Not to get drunk in public area. So we like to stop that. We are gang issues. There are five gangs in the area. There is Fay contaminants home sides stabbings and all kinds of crimes. Yes I know that one more license will not stop the crimes or not stop them happen but why add to the fire? There's malls and theaters and we are a residential area. The food park to the grocery that's okay, supposed to be a market, supposed to be fresh fruits. What's fresh about liquor? So please, we do not need that. We are -- who's benefiting from this project? You know or with this request? Obviously, not the community. Not the kids. Thank you.

>> Commissioner Jensen: Thank you. Ms. Arranda. Is and if you would also introduce yourself.

>> Happy new year.

>> Commissioner Jensen: Happy new year.

>> My name is Elsie Arranda, commission, good evening. I'm here for West Evergreen NAC. Excuse my cold. East San José, we're only in February, the homicides that have taken place this year and we're off to a bloody start this year. More than 50% have happened in East San José. Statistically we have the highest incidence. The mayor's gang prevention task force, we have more of our fair share of hot spots in East San José. According to strong neighborhoods initiatives we have more than our fair share of neighborhoods in crisis. East San José could flourish. We're a diverse community but every corner you pass, every store you go to, alcohol's their number one seller. Everybody wants that alcohol license. If you take a look just driving around a lot of them succeed. The size of the store going up it's massive. It's huge. I don't know what the percentage of their

area they want to devote to alcohol. But they've got more than enough room to make more than enough money on selling groceries. This is a grocery store. Like it was -- like it's been pointed out we've got plenty of places in the area that already sell alcohol. We've got lots of restaurants that serve drinks onsite. I don't know how much more alcohol we need in East San José. Granted, this is not my neighborhood. It is my neighbors' neighborhood. That being said, we need to continue standing together against this because what affects my neighbors will affect me. We've been up here time and time again. It doesn't matter what face you put on it. We do not want any more alcohol sales in East San José. We've got more than enough of the negative stuff. We'd like to partner up with businesses that have the best interest of the community, and selling alcohol is definitely not it. Thank you.

>> Commissioner Jensen: Thank you, Ms. Arranda. I have a question for you, Elsie.

>> I'm not used to being asked questions. Usually yell and leave.

>> Commissioner Jensen: Thank you. The staff report provided to us and I don't know if you had a chance to look at it online, but it provided to us overhead, arial projection with a 1,000 foot radius a 500 foot radius and a 100 foot radius of the area. There are currently no offsale licenses anywhere near 1,000 feet of this location. Staff generally identifies even those locations that are outside of that. And I don't see anything listed on here and I'm looking to staff to see if they have added on here. So it is not clear to me where the Safeway and lucky's --

>> It is very long blocks. The reason you have that clearance is because you have Eastridge there, just like with notifying the neighborhood of this application, you notify the neighbors and they don't exist on that site.

>> Commissioner Jensen: It's not the neighbors that I'm concerned about but it's the current licenses. There doesn't appear to be any currently licenses anywhere 1,000 feet of the current locations, but there do seem to be significant residents within 100,000 feet who may not have access.

>> On the south side.

>> In response to your query of the total square foot, they're asking that less than 3% be dedicated to alcohol sales. As this is a full service grocery store like a Safeway would that make you feel any more comfortable knowing that it was that type, as opposed to one of the corner markets that we're so fond of?

>> No because where this market falls into that area geographically, is it doesn't have anybody around it. So to say that there is a multitude or an overexposure of licenses there, no it can't fall on that. But to say as a whole you go a city block to the left, you go north Southeast west and you've got either liquor stores or 7Elevens or grocery stores selling liquor. Now if they're only depending on 3% of area space for the alcohol, to me, that doesn't seem like a great big thing. You know, you've got 97% of your grocery, is this really a big thing to give up? No it's not logically. But the reality is if you are going to sell alcohol you're going to have a big turnover on that. Which is why they're so adamant to get these permits. Because you get big money on that. Because whether you're surrounded by highways all four corners or whether you're a stand alone alcohol is a big draw and what alcohol draws, aside from being convenient for the person to go get their groceries, get their alcohol at the same place what that draws as well is you're going to have folks hanging out there that will drink their alcohol because again you claim there's nothing -- you say there's nothing within a thousand feet. Let me go buy a beer and drink it outside. We see it time and time again, time and sometime again. That's a constant viewing thing we see in San José.

>> Commissioner Jensen: Thank you. We is also have a question from Commissioner Kamkar. You can't leave yet.

>> Commissioner Kamkar: Thank you, Madam Chair. 3% of a big space is a big space. I follow your logic on that. The point is, you know, if there's already a lot of alcohol sales, this person that can't buy alcohol here. They would go like you said one block away and buy there so I don't understand your logic in that it would increase alcohol consumption. I agree that it's a little bit more convenient on one side, which would be a negative effect. But the other side, it provides also of jobs, grocery store, you know. We have to balance the two, and how would you respond to that? Would you rather not have the store move in at all? Because --

>> Oh no no no. Believe me to get business in East San José it's a godsend and we appreciate it regardless what the business is. The diversity of it, we open arms. We support that, we live it, we shop at the markets.

>> Commissioner Kamkar: All right.

>> But we need a good neighbor. And a good neighbor has the best interest of the community at heart. I know 3% doesn't seem like a lot but we know what sales are in our areas, liquor sales, it's crazy. It doesn't matter what it is. Let me throw that you know my twisted logic back at you. You know does it matter they buy it there or if they go 2,000 yards to buy elsewhere? Yeah it does because to me I apply the same logic there and this sounds totally off the wall and I usually am so I'm not real surprised myself. This is like saying, we have ten drug dealers in the neighborhoods. If we get rid of one what does it matter because they're only going to go to the one next to them. And I know it's not an even comparison but to me alcohol in East San José is as bad an issue as drugs and gangs and violence and our kids just hanging out in front of stores waiting for the next adult that's willing to buy them alcohol with a \$20 tip. It's getting old. It's getting old. So any time this comes up, it's not just bottom line, no way no how. We have sieve places that sell alcohol now. More than enough. More than enough.

>> Commissioner Kamkar: Okay, thank you very much.

>> Is that it? That's it.

>> Commissioner Jensen: Thank you for your question and your time. Mr. Nguyen if you would like to come forward, while you're coming forward I'll call the next three speakers, Maria Ted and Ted. Thank you.

>> My name is Ted Johnson, I'm part of the East San José SNI. Unfortunately we're going to meet with the applicant Monday evening so he wasn't able to take a position on it. On the other hand, our NAC has taken the position of no additional offsale of alcohol in the area just because of the fact that within a one mile, radius you can find 11 to 12 other establishments that do sell alcohol and a number of them do have offsale license. So for that reason, I'm here speaking for myself because I can't take a position for our neighborhood. But I'm against

this. And I will communicate that. The other thing is about this time last year, we have the distinction of having the first homicide for the City of San José of 2010, two blocks away and that was gang related and that's the concern. Is that we do, the Meadowfair neighborhood is surrounding the neighborhood and we do have an acknowledged barrio gang in there, and that's considered a neighborhood in crisis. And in combination with this, one additional offsale of alcohol place, people go in there, buy it, I know 3% is not a lot, but 3% of 40,000 is a good jump. Yes, this will create jobs for the city but no, please don't put it on this neighborhood, on our neighborhoods. Because we're bearing the brunt of the area, and we're not really seeing the services, probably the only services we see are the police going in there every so often or particularly when there's a killing. So yes, this will bring revenues, funds to the city. But please consider it carefully. Your decision today your recommendation today will carry on to eternity, the danger that alcohol and related crimes and activity will bring to our neighborhood. Thank you.

>> Commissioner Jensen: Thank you. Ms. Johnson. I'm sorry, I got my cards out of order. It's maria Seja then Helen Johnson then Ted Johnson. I'm so sorry.

>> Good evening, my name is Maria Seja and I'm a rent of the West Evergreen association. I'm here to oppose the project. The applicant has another store in the area, the Lion supermarket on Tully road. I live two blocks from lion market on Tully road, I've lived there for decades. And I have several concerns. The applicant does not maintain their property inside and outside. They routinely top their trees in the parking lot, this is in violation of the city tree ordinance. Doing that creates a very harsh and barren environment and it is an eyesore for the neighborhood. In addition, they either allow or cannot control fireworks on their premises for all hours of the day several weeks leading up to and past lunar new year which just happened two weeks ago. This too is in violation of city fire work ordinance. And this negatively affects the quality of life for residents for miles around the area. I have lived in the area for over 20 years and these poor behaviors are common and consistent. One other issue with this owner is that there is a light signal that drops into their property and it is a very unsafe signal. And either the owner has chosen not to address it, or is unable to address it, I don't know which one it is. But it is very unsafe to drive there. It is unsafe to shop there. I've shopped in that supermarket. And that is the big concern, the fact

that this owner is so -- does the minimal required for the properties in the neighborhood. Consequently. Given these lax --

>> Commissioner Jensen: Thank you. Your time is up but we do have a question for you. From Commissioner Bit-Badal.

>> Commissioner Bit-Badal: Thank you, Madam Chair. My question, to maintain the property inside and outside they do not maintain it. Can you elaborate a little more and also you did have another statement after that and I did not hear it well.

>> Okay the main tenants, I cannot recall that property being painted. The signs are very unattractive, the trees get topped every year it seems. There is very little vegetation. It is often dirty inside and outside. And the other stores in that area adjacent to it are also in that condition and I do not know if they are connected or not.

>> Commissioner Bit-Badal: There was another statement. Would you like to repeat it?

>> The fireworks.

>> Commissioner Bit-Badal: Thank you. Is that it?

>> Commissioner Bit-Badal: Thank you.

>> Commissioner Jensen: Ms. Johnson.

>> Good evening. My name's Helen Johnson and we have lived here in the same house in San José for 50 years. On the Eastside. And we have been since 1995, protesting opening more liquor stores. Grocery stores or whatever kinds of stores that sell liquor. Because there are so many on the Eastside. More than in other sections of the city, I'm sure. And nobody, it says for determination of public convenience or necessity. I would like

somebody to explain to me, how buying a bottle of liquor could possibly be a necessity. I've asked this question before and nobody's ever given me an answer. We have too many places to buy liquor. Another grocery store is fine. More grocery stores, the better. But we don't need more alcohol sales on the Eastside because it just brings more problems. Thank you.

>> Commissioner Jensen: Thank you. Mr. Johnson.

>> Hi, my name's Ted Johnson. I'm having a hard time hearing. I've got hearing aids and you're coming in sort of garbled. As my wife said we've been here 50 years. We raised five children here, all of them are productive. We've been fighting this liquor problem for 20 years. When Eastridge, we were there before Eastridge got built. But when the story and king complex got in, one of the things that we did was keep the drugstore there and Target from putting in liquor as a condition of them moving into that story and king area because of our desire not to have more liquor in the area. About two weeks ago, I was driving on Aborn and I took a side street and here, behind one of the I think it was one of the stores there, were two guys sitting on the fire escape with a 12-pack of beer, drinking in public. And that was on Aborn and the gym that's right there. I think you know where I'm talking about. I put a 311 call to the police and they tried to respond but they didn't catch the guys. But we have been fighting to keep the liquor stores and the liquor sales out of East San José. And believe me, it's tiring to come down here so many times to say these same words, that we don't need more liquor on Eastside of San José. There's plenty of places. In fact I wish they would start pulling liquor license, because a lot of the places are selling to minors. And we have trouble with that. We've done stings on that. And all in all --

>> Commissioner Jensen: Thank you, Mr. Johnson, your time is up. Thank you very much.

>> Thank you, okay.

>> Commissioner Jensen: And if the applicant would like to come forward you may have up to five minutes to respond or make a presentation.

>> Thank you to the members of the Planning Commission for giving me the opportunity to speak about fresh world market. I do want to address a couple of the concerns that some of the folks before me mentioned. I do want to clarify regarding Mrs. Seja's comment about lion plaza. We are not lion plaza. We happen to share the same name as lion plaza but the management of the shopping center, the park lot, the fireworks, that is not within our control. That is a landlord's responsibility. And nothing that we have a direct influence on. I do want to make it clear that fresh world market is not a liquor store. It's not just another market. Fresh world market is 40,000 square foot mecca of international produce, meat and seafood. This is a \$6 million project that will create over 200 much needed jobs in this community. When you enter, I want to talk a little bit about what the market looks and feels like. You know when you enter this market you're going to be faced with the largest produce department in Santa Clara County. We'll offer over 300 produce items from a list of 1,000 seasonal items organic products which are currently not offered in any market in the area will be introduced to the communities and neighborhoods in this area. The seafood department is not unlike any other market that's around. 40 feet of live aquarium tanks, we'll have another 40 feet of iced down displays featuring everything from lobsters, crabs, Ahi, fillets, the meat department unlike other grocery stores in the area are full service. 68 feet of full service meat departments. That is just not anything you see in any other neighboring markets but one of the things I really want to focus on that separates this market from what's out there is there's going to be a large international food court. And essentially if you look at the plan of the market a third of the store is actually dedicated as more or less a restaurant. There will be a grill and barbecue. There will be a taqueria, there will be a delli, there will be a pizzeria, made from scratch not thaw and bake. There will be a pasta bar with fresh made on site and made to order. There is an Asian bistro, not just another panda express, fresh Deli. Whether it be Chinese Asian pound cakes, Tres Leches or good old American apple pie. You know in meeting with councilmember Rose Herrera her office is supportive of the market, because it's not just another market. We are not one of the core values of the company and myself it's to be involved in the community. With the focus on youth organizations and schools. And I do want to talk from the heart to the people that spoke before me. This is going to sound like a rhetoric from another company, another person trying to get a license. It's little different here. Because I lived in this community for 15 years. I grew up in this area, in fact I lived right across the street from Mirassou winery and saw Lenardi's get built and closed down. I used to walk my dog and I used to attend the farmers market at Mirassou winery so I'm I'm intimately knowledgeable of this area. I know this community and I know the impact this market's going to have on

the community. Bought it's my neighborhood. It's my home town. And I know it's going to serve the best interests of the community and I know what kind of neighbor I can be. When we talk about crimes, the issues with liquor, I think one of the things we got to realize is, jobs create opportunity. And we, I definitely have a focus on the youth. I've got three kids. My wife's a teacher and a teacher for 12 years. The focus of this market will definitely be to be intimately a part of the community. And so although I share and recognize the concerns of the neighborhood, I'm very confident that being part of this community and having lived in this community that we are going to make a very positive impact in the area. Thank you.

>> Commissioner Jensen: Thank you. Any -- we have no questions from the commission. I take that back, we do. Commissioner Kamkar.

>> Commissioner Kamkar: Thank you so much. So I think I agree with everything you said. The issue is you know, I don't think the residents that spoke before you also have any problems with all the departments and the displays and everything you mentioned. It's the alcohol which you didn't address, you know. So my question is, to me this is a community that feel that they're taking a brunt of the problems you know in the neighborhood not because of you but because of past decisions. How important is this 3% to you? Can you, for example, forgo 3% now and then after one year of operation, once they've you know seen how genuine you are and you say what you and you do what you say then come back and say you know I'd like to add that, is that something that you might consider?

>> You know, I appreciate the question and the concern. The fact is, it's tough running a grocery store. It's a cutthroat business. Very, very small margins. I think you're seeing in the marketplace today whether it be Joey Frankos, Lenardi's, it's a challenge. You've got high cost, high labor, high overhead. But in this case when we are talking about 3%, it's important to understand, it's less than 3%, it cannot exceed 3%. This is not a liquor store. Part of the liquor store is because we are an international food store and we want to be authentic. I think for me, convenience is paramount to the consumer today. If they can't come here buy fresh meats, produce and a nice bottle of wine to go with their dinner they're going to take that business elsewhere. And so to answer your question sincerely, I would not be able to move forward if we were not able to provide what our customer needs. It

would not be economically viable. But I do want to stress that this is not a liquor store. This is not about what is traditionally perhaps in the or the surrounding area. This is a real special supermarket that's going to serve the multiethnic needs of the community that I call my home town. This is my neighborhood.

>> Commissioner Kamkar: Okay, I have another question if I may.

>> Commissioner Jensen: Please.

>> Commissioner Kamkar: Is this -- are you going to exclude hard liquor, is this going to be wine only or are you proposing to have everything?

>> There will be liquor but a focus of what we're offering is going to be wine, and part of that is also wine education. I think food and wine are intricately mixed these days. And I think it's important that we offer good value wines in a safe fashion, to our consumers.

>> Commissioner Kamkar: So make me understand. 3% you know let's say you went to the maximum, 3%. 40,000, that's about 1200 square feet if my math is correct. What does that mean in terms of aisles, you know when I go into Safeway and lucky and I see aisles of wine, what does 1200 square feet mean as far as typical aisles?

>> In our typically out right now we have a small area for chilled alcoholic beverages meaning beer and white wine, your Chardonnays, your Sauvignon Blancs, et cetera. There will be a wine department, because that is going to be a focus of the store. We want to be able to offer good quality wine to educate the consumer and expose them to the benefits, quite frankly, of wine and the marriage of food and wine. And it just goes back to one of our core values of the store, it is about education, it is about exposing customers to international beverages and making this an international supermarket.

>> Commissioner Kamkar: How many aisles are we talking about?

>> I'm sorry?

>> Commissioner Kamkar: How many Aimes are we talking about?

>> We are talking a portion of one aisle.

>> Commissioner Kamkar: So 1200 square feet would be a portion of one aisle.

>> And it would be currently far less than one aisle.

>> Commissioner Kamkar: Okay, got it.

>> Commissioner Jensen: We have a question from Commissioner Bit-Badal.

>> Commissioner Bit-Badal: Thank you, Madam Chair. I do have a question about the community meeting. I wasn't clear, it seems like there's one coming up. Why did you set up the meeting after the Planning Commission?

>> I actually didn't set up the meeting. It was the person that's handling the application. Sorry, Rose Herrera's office was contacted regarding the market. I offered to speak and explain to the neighborhood and community about the market. It so happens, I'm told at least their members meeting is later this month so it's not something that I actually set up.

>> Commissioner Bit-Badal: And also my next question is going to be, it's nice that you clarified that you're not the lion's market or the shopping center, I don't see a point of contact should there be a problem? Should it be the store manager or who should the residents contact if there's a lack of maintenance, I'm sure you're going to be, once you're in or if you are that you'll be responsible but quite often I see point of contact in the conditions here.

>> Quite frankly the point of contact would be me directly. I want to make sure that the concerns that are brought up are addressed promptly and correctly. And if I may add further that this is part of general growth's Eastridge mall generality development. There are standards in terms of maintenance, in terms of landscaping, in terms of upkeep, you know just the general environment that we're going to have to create as part of this larger retail shopping center. But to answer your question I would like to be that point of contact.

>> Commissioner Bit-Badal: Great, thank you.

>> Commissioner Jensen: Thank you. Just to piggyback on Commissioner Bit-Badal's question, it says lion foods LLC is one of the applicants. Lion's foods is or is not related to the lion market?

>> We own other markets and they're called lion foods. The confusion is because one of the stores that we have is located in a shopping center --

>> That's also called lion's?

>> That happens to be called lion plaza and there in lies the confusion. But we have zero affiliation with the plaza. Or the management.

>> Commissioner Jensen: With the plaza, right. I got the impression that the public was talking about some issue specifically with market maintenance. Not just the plaza. But I agree, it sounded like there was some issues with the plaza as well that perhaps we can ask code enforcement to look into. But it sounded like there may be some issues with the market in terms of cleanliness so I'm glad you have offered to be the point of contact. And I'm sure that everybody will be collecting your business card at the meeting on Monday. Are you related at all, there's -- I did a google search on freshco. I get the feeling you are not related to them at all.

>> We have no affiliation with any other market. This is actually the first prototype store of its kind.

>> Commissioner Jensen: With the full restaurant service and food service and the wine education?

>> Correct.

>> Commissioner Jensen: All right, great. I have no further questions. I see no other questions from the commission. Thank you.

>> Thank you for your time.

>> Commissioner Jensen: Motion to close public hearing?

>> So move.

>> Commissioner Jensen: There is a motion and second. All those in favor? Staff.

>> Thank you, Madam Chair. I think a lot of questions which are responded to by the applicant but there are a couple of things I wanted to touch upon. One of the things the staff weighs heavily on is the existing facility was formerly occupied by circuit city. It's been vacant for a long period of time. I don't know the exact time. Over a year I'm sure. And so to get a tenant to fill the space, in a large shopping center, is sometimes problematic and it is good cause for celebration when you find a tenant to fill such a spot. The police department I know from having had conversations with them about offsale locations and different types of facilities have mentioned to us on several occasions, staff, that is, that they have a higher degree of comfort when we have an offsale establishment that's part of a larger shopping center. We've had a number of proposals that were over the plant, for example, S staff have seen the offsale proposition such as that as well as Santana Row and so forth. When you have a larger management entity, to take care of that, along with that comes a higher degree of expectations as far as the maintenance of facilities and also comes with that the added security that that mall provides. So I think that probably weighed into the decision that the police department had where despite you know, the recognition of

liquor stores on the Eastside and overconcentration in general, within a lot of the census tracks on the Eastside and the fact that it's in a high crime area, the fact that it's part of that Eastridge mall conglomerate is what gave the police department a higher level of comfort with that. I did want to respond to one of the speakers that talked about what constitutes necessity. When we review this proposal, there are four factual findings that we are required to make, and it has to do with the geography of the proposal with respect to its location within an SNI area, within 150 feet of residential, within close proximity of schools and so forth. It met all the tests for 34 those four mandatory if findings. A lot of time this commission will get proposals will are mandatory denials and we bring them here because they don't meet one of these four criteria. Consequently this commission is also obliged to recommend denial when we can't make those four findings. In this case we are actually able to do that. Actually it's actually a relatively rare occurrence do we have a proposal that involves the determination of public convenience or necessity where we don't actually have a mandatory denial. And so what happens is, if we are able to make those factual findings then there's a second tier of findings that you go to, you move to step B and step B basically are the findings that this commission needs to make ultimately or the city council if appealed. Those findings are a little bit different. One of those findings does deal with the issues of necessity although that's not finding we're obliged to make. There's four different findings that can be considered as part of that. And one has to do that it is in a census track that is unusually configured, it may or may not be, that's really not to issue here. That's not one of the required findings, we're simply required to make one of the following four, one is that it would enhance the vital of the commercial area, without having a significant impact on Public Health or safety. We're not choosing to make that finding here, that could be the subject of a lot of debate probably there is also a finding related to the census tract and whether or not it has a low population density with respect to other census tracks in the city, and again we're not trying to make that finding either. The finding that we feel is really ultimately most appropriate for this particular one, one of the four findings that we need to make and only one of those four is that the proposed offsale of alcoholic beverages is incidental and appurtenant to a larger retail use and provides a more complete and convenient shopping experience. And I think with a larger grocery store, this clearly fits that last criteria and so we're able to make that finding. So with that, you know, staff feels very comfortable with the recommendation of approval. And you know given its exact location and feels that this Planning Commission should recommend approval of the conditional use permit. Thank you.

>> Commissioner Jensen: Thank you staff. Commission? Councilmember Kalra.

>> Commissioner Kline: I move to approve staff's recommendation for 3A.

>> Commissioner Bit-Badal: Second.

>> Commissioner Jensen: There is a motion and second. Discussion. Would you like to speak to your motion, Commissioner Kline.

>> Commissioner Kline: Just quickly of course. I would always have great concern with approving something like this in a high crime area. However I think the findings are pretty clear here. Besides the findings of location and the management and the findings which were just covered, and were covered extremely well by the way, I think the idea of beyond the findings, the idea of jobs jobs jobs jobs such a great benefit to this community is very important. I think the location, the specific nature of the location, how it's somewhat separated from the neighborhoods, and the management that's part of a larger complex, I think that all those really mitigates our issue here with the liquor license. I know how difficult it is to run a business. I run one and the fact is, you have to be competitive. And if you are providing a full service grocery, you have to provide alcohol unless there's a very specific finding against it, in this case there isn't so I'm going to vote to approve this motion.

>> Commissioner Jensen: Thank you, Commissioner Kline. Any other commissioners? Commissioner Bit-Badal.

>> Commissioner Bit-Badal: Thank you, Madam Chair. There is always difficulty, especially lack of maintenance of a shopping center, that's why I brought it up during the discussion to make sure this center is being maintained and there's one point of contact for maintenance of it. As it relates to alcohol sales, the smaller grocery stores, actually, the smaller stores that only sell alcohol, I think the chance of getting alcohol by teenagers and bribing the salesclerk, is much higher I feel than in such a large grocery store where it's going to be managed professionally. In addition to that the fact that it's creating jobs and will be providing organic food. And it is actually

within walk distance of neighborhoods, which is also walkable neighborhoods. And that's something that I do support. I think because of all those reasons, it is going to be an asset. It -- really everything in life is a cost-benefit analysis and in looking into the greater benefit to the community, truly, the alcohol sales is just such a short or small percentage of this facility, and the other amenities will be a much greater benefit to the community. And for that reason I support this motion.

>> Commissioner Jensen: Thank you, Commissioner Bit-Badal. I'm also struggling with this. East San José has traditionally born the brunt of much of our challenges. And this year is certainly not been an exception. It's been very challenging in East San José. And I know that you guys are on the forefront of doing the best possible work to try and mitigate and alleviate the gang violence and the challenges that you face. And I had to look at this as a fully composed, full-service grocery store, not one of the corner markets that puts out a box of oranges and calls itself a grocery. And in doing so, and I've struggled all this evening listening to everything everybody has said. I will be supporting the motion. Because it is a full service grocery store. Because I think the individuals who are likely to want to get alcohol illegally or get alcohol when they're already inebriated are not going to go to the trouble of going to Eastridge mall and into the shopping center, and I don't share Commissioner Bit-Badal's comment about this is a walkable neighborhood at least to get to Eastridge. So I don't think this is going to contribute to those challenges that you see. And I agree with the staff findings. You know, and I looked through here to see if there was something that I just -- staff knows I'm happy to look for things to disagree with them on their findings. But it's not near residences, it's not near a church or a school or a park. And within a thousand feet there's no other offsale of alcohol within a thousand feet. And there's I know you mentioned a city block but I think you're right. I think it's a very long city block before you see that. So I will be supporting this. And you know, I have to apologize to the NAC because you know I support you and you know I'm there for you but on this one we have to disagree. So with that, Commissioner Abelite.

>> Commissioner Abelite: I just have a quick Point of order, do we need to fold in his on the findings?

>> Commissioner Jensen: Director has a comment.

>> Laurel Prevetti: Thank you, Madam Chair. The conditions as they read don't identify a point of contact. So if that is the will of the commission, we'd be happy to add it to the motion.

>> Commissioner Kline: Make a motion that agrees with that.

>> Commissioner Jensen: Management plan in place and that a point of contact will be identified? Because I don't know that we want to in perpetuity list his phone number.

>> Laurel Prevetti: That's correct. We would not identify an individual, even though we appreciate that someone did come forward to be that. We would just require that there be a point of contact and that point of contact information be visible so that way as the community might have concerns they would know who to address those to.

>> Commissioner Jensen: Thank you.

>> My motion grace with that.

>> Commissioner Jensen: Commissioner Bit-Badal? Yes, no. Okay.

>> Commissioner Bit-Badal: Thank you, Madam Chair I just want to thank my fellow commissioners for agreeing to that. I think it's really helpful to have somebody who will be responding to the community's concerns if there are any.

>> Commissioner Jensen: Thank you. And with that may we vote by light? And that motion passes unanimously. With commissioners Platten and Cahan absent. I'm sorry we'll be completing the meeting. If you would like to stay around and talk to us afterwards on -- I'm sorry this portion of the meeting, I'm really sorry, this portion of the meeting, this item is closed. We do have immediately upcoming petitions and communications to discuss nonagendized items. If you'd like to discuss the theory of -- so let me hang on one second. Let me open

up the petitions and communications and if you'd like to come forward and talk about a nonagendized item, perhaps the theory behind this -- I'm very sorry. Public comments to the Planning Commission on nonagendized items. Please fill out a speaker's card and give it to the technician. Each member of the public may address the commission for up to three minutes. The commission cannot take any formal action without the item being properly noticed or placed on the agenda. In response to public comment, the commission is limited to the following options: Responding to statements made or questions posed by members of the public or requesting staff to report back on a matter at a subsequent meeting, or directing staff to place the item on a future agenda. Are we going to get a speaker card? It doesn't look like we're going to get a speaker card. Okay. Referrals from city council, boards, commissions or other agencies.

>> Laurel Prevetti: There are none.

>> Commissioner Jensen: Thank you, good and welfare report from City Council.

>> Laurel Prevetti: City Council held a study session on February 14th, they considered a priority setting for a variety of ordinance and policy updates. About half of that list were items that were coming from Planning, Building, and Code Enforcement. Of note the council was interested in doing quarterly updates to the zoning code to allow for the types of tinkering to address emerging businesses and streamlining and that sort of thing and to certainly continue with our sign code update and there were other ordinances that were lower in the priority list. So given that priority setting, that will help our staff with the ordinances and so as our Planning Commission, you will be seeing those proposals as they affect title 20 in the future and that concludes staff's report, thank you.

>> Commissioner Jensen: Thank you. Commissioners reports from subcommittees. Norman Y. Mineta San José international airport noise advisory committee. Commissioner Cahan is absent this evening. We will ask her to report back at our next meeting. Envision San José 2040 general. FTC plan update process, Commissioner Kamkar.

>> Commissioner Kamkar: Thank you, Madam Chair. The next meeting is February the 28th. This coming Monday. Thank you.

>> Commissioner Jensen: Will not be voting on this because I was unable to attend that meeting.

>> Commissioner Abelite: Make a motion.

>> Commissioner Jensen: Thank you, Commissioner Abelite. There's a motion and second to approve. All those in favor, please say aye. Thank you, that passes unanimously. Subcommittee formation reports and outstanding business. Commissioner Kline.

>> Commissioner Kline: Is best practices subcommittee is done with its work and will be presenting a report at the next Planning Commission meeting.

>> Commissioner Jensen: Wonderful. Commissioner Kamkar would you like to report out on the riparian corridor study committee?

>> Commissioner Kamkar: Sure. There was a meeting last, I think it was Monday morning or was it Thursday morning? I'm sorry, it was -- it was last week, you know.

>> Commissioner Jensen: In the early hours.

>> Commissioner Kamkar: Early hours, we were like 7:30 or so. And you know there was a meeting and suggestions to the riparian corridor guidelines were discussed. The next meeting is set for I believe March 31st, I thought. We got an e-mail about that. So that's a quick run down, you know. We are discussing all possibilities, whether we want to propose an ordinance change or a guideline change or, you know, or just suggestions you know for city council to act on.

>> Commissioner Jensen: Thank you, Commissioner Kamkar. Commission calendar and study sessions. Are there any recommendations for additional study sessions? Director?

>> Laurel Prevetti: Madam Chair, just a reminder, that at your last meeting the Planning Commission did set a study session for Wednesday, March 9th and 5:p.m, regarding the general plan update, it did not make it to the published schedule but it is mentioned in the synopsis.

>> Commissioner Jensen: Thank you. And with that I believe we are adjourned. Thank you very much.