

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 Do: Good evening. My name is Thang Do, 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, January 13, 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, 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 audiovisual technician. Please include the agenda item number, not the file number, for reference. Example, 4A, and not PD 06-et cetera. The procedure for this hearing is as follows: After the staff report, applicants and appellants may make a five-minute presentation. The chair will call out names on the submitted speaker cards in the order received. As your name is called, line up in front of the microphone at the front of the chamber. Each speaker will have two minutes. After the 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 the public testimony, ask staff questions, and discuss the item. If you challenge these land use decisions in court, you may be limited to raising only those issues you or someone else 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, rezonings, general plan amendments and code amendments is only advisory to the City Council. The City Council will hold public hearing on these items. The first order of business tonight is roll call. Let the record reflect that all commissioners are present. Except for Commissioner Kamkar. Next item, 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 want 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 remaining agenda items past 11:00 p.m, to continue this hearing to a later date, or to defer remaining items to the next regularly scheduled Planning Commission meeting date. Decisions on how to proceed will be heard by the Planning Commission no later than 11:00 p.m. Staff.

>> Thank you. There are three deferrals for this evening. First one, Item 1A, which is a conditional use permit, CP09-026, that is being dropped and will be renoticed per the applicant's request. An additional item 1B is a general plan amendment, GP09-07-02 recommended to be deferred to the January 27th hearing per staff request. So that we can complete staff analysis. And item 1C which is a planned development rezoning, PDC 08-010 which is again being recommended for deferral to January 27th, per staff. In order for staff to complete their analysis. That's staff recommended deferrals.

>> Commissioner Do: Thank you. Is there a motion to approve deferrals? All in favor? The matter of deferrals has been approved and is now closed. Next item is 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 the 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 on one of these items individually, please come to the podium at this time. Staff.

>> I'm sorry, there are no additional comments on the consent calendar.

>> Commissioner Do: Thank you. There's only one item on the consent calendar. Any commissioner -- is there a motion to approve the consent calendar?

>> So moved.

>> Commissioner Do: All in favor? Consent calendar is approved. And so now, we move on to the next item, which is the public hear. 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 agenda for public hearing time management purposes. Item 3A. PDC 08-051. Planned

development rezoning from the R-1-1 residential zoning district to the A(PD) planned development zoning district to allow for seven single family residential units on a .85 gross acre site located on the east side of Almaden expressway, approximately 400 feet north of Redmond avenue. Staff.

>> Thank you, Mr. Chair. Planning staff is recommending approval of the proposed planned development rezoning to allow for the development of up to seven single family detached dwelling units on the subject site. Because this request is consistent with the San JosÉ 2020 general plan and the residential design guidelines. While the project proposes a density of 10.6 dwelling units per acre which exceeds, land use designation the proposed project does meet the requirement for the general plan's two acre rule discretionary alternatively use policy in that the project is located on an in-fill site that is constrained by its triangular shape. The site design includes the extension of Almaden Road to the south across the site which will take up a large portion of the side itself and is needed in order to provide access to the Hudson property which shares the site's southern property line. The site design provides large rear setbacks from the existing single family rear yards located to the east. These setbacks are in excess of those required under the standards of the R-1-8 single-family residence zoning district and the residential design guidelines. Finally, the unique site design provides shared driveways that allows for increased landscaping along the new street and private drive. In addition with the approval of the Jane lane site, the city council districted staff to study and analyze vehicular access to the subject site and two others. With the Santa Clara County roads and airports department. For the purpose of reducing or avoiding reliance of access through Fleetwood drive. Planning, Public Works and D.O.T. staff in conjunction with the county roads and airport staff did study the site access and determined, based on the county's design requirements, that it is not possible to design a safe access route with direct access from Almaden Expressway to all four development sites. And that furthermore, this access was not needed as Fleetwood drive can safely accommodate the additional traffic generated from the proposed development. In addition the two signalized intersections that are located north and south of the project site at Macabee road and Almaden Expressway and Redmond Avenue and Almaden Expressway provide safe merging for vehicles entering and exiting the state expressway. The direct Almaden expressway access option will not meet the merging standard for safe acceleration or deceleration. Also, the number of trips for traffic volume on Fleetwood Drive that would be added by the proposed development of this site, the Hudson property to the south and the approved Jane Lane project to the north, would be 220 daily daily trips which, combined with the 470 existing daily trips from the existing residents on Fleetwood Drive would total 710 daily trips, which is well within the daily capacity of 1500 trips for Fleetwood Drive. And at this time I'd please like you to note that on page 5 of the staff report the trips added was incorrectly stated as 210. It should be 220 and the number of trips existing was incorrectly stated as 500 and it should be 470. So again for reasons stated planning staff recommends that the Planning Commission forward a recommendation of approval of the planned development rezoning to the city council. This concludes staff report.

>> Commissioner Do: Thank you, staff. Is the applicant here? Please come down to the podium. Yes, please state your name, you have up to five minutes.

>> Mr. Chair, members of the commission, my name is Jerry Stranges. I represent the applicant. This has been two years we were working on this project. We were here last year looking for a general plan change that was denied but we're back after working with staff and taking their direction on what they felt would be necessary to make this project workable for the neighborhood and everyone affected. Respectfully submit that we're here to 100% support staff's recommendation for approval. Gone through the report very thoroughly. We agree with everything in the staff report, and so rather than taking your time, and going through any issues, I'd rather address any issues, questions, concerns you have. We have here tonight our engineer, also our architect. And so with that, we support and appreciate the work staff has put into this. Support their recommendation. And I would address whatever issues you have.

>> Commissioner Do: Thank you very much. Any questions from any commissioners? There are no questions at this time. So is there -- there are no speaker cards. So is there a motion to close public hearing?

>> Thank you very much.

>> Commissioner Do: Thank you. All in favor? Okay, so staff, is anything you would like to add?

>> No additional comment, thank you.

>> Commissioner Do: Commissioner Zito would you like to speak?

>> Commissioner Zito: Yes, real quick. I know one of the issues we had last time was access to the property and especially with Almaden. Could you go through that, I look at the drawing on sheet 4, I don't know if that's the best drawing but trying to understand the frontage onto Almaden a little bit better.

>> Thank you, Mr. Chair. When the Jane lane project was approved back in 2007 the existing Fleetwood neighborhood did not want that site to be accessed because they didn't want the additional traffic through their neighborhood.

>> Commissioner Zito: Right.

>> So we looked at trying -- to for that project and the project Mazzoni property to the north of this site, the subject property and Hudson property to the south, if they could all be accessed directly from Almaden expressway through an acceleration deceleration lane, we determined that was not possible and the sites to be accessed through Fleetwood drive leaving the Mazzoni property to actually access through the north and not Fleetwood drive so only three sites instead of four. There would be no connection between, if you look at that map, Jane lane and Mazzoni. There is a piece of Santa Clara Valley water district property and there is some equipment on there that would be difficult to move that would preclude a road connecting those two.

>> Commissioner Zito: so this site is going to access Fleetwood?

>> This site, the property to the south with Hudson and the existing approved Jane lane site, which is approved but not built would access through Fleetwood, yes.

>> Commissioner Zito: I guess I was surprised that there was so much community interest in that and there's none tonight. I guess you got people to see things accordingly. Thank you.

>> Commissioner Do: Thank you, Commissioner Zito. Commissioner Platten.

>> Commissioner Platten: Thank you, Mr. Chairman. I move that we consider the mitigated negative declaration in accordance with CEQA, and that we recommend approval of the planned development rezoning as recommended by staff and indicated in the report.

>> Commissioner Do: There's a motion and there's a second. There are no speaker lights. So let's vote by light. The motion is passed with all commissioners present in support of the motion. Next item is item 3B. H 08-007 appeal of the planning director's decision to approve a site development permit to demolish an existing structures and to construct a new 5950 square foot retail building on a .38 gross acre site in the CPpedestrian commercial zoning district located at the southeast corner of race street and garland avenue. Staff.

>> Thank you, Mr. Chair. This hearing is to consider the appeal of the director's decision to approve a site development permit for a new 5950 square foot retail building. In review of this proposal staff found the proposal to be consistent with the zoning regulations for the CP commercial zoning district, the city's commercial design guidelines, and also the requirements of CEQA. This project is deemed to be exempt from CEQA pursuant to section 15232 which is for small infill sites. With respect to the appeal, the appellant who represents the existing plant nursery at the site has clear indication that she would like to remain as a tenant on this site and therefore wouldn't like to see the new building move forward. And I think it's important for the commission to understand, as was identified in the staff report, that the proposal tonight is really an evaluation of the site development permit that is pending rather than to try to weigh or make an evaluation as to the value of the new retail project versus preservation of the existing commercial tenant space that is there. The site development permit that's on file, any decision made tonight will have no bearing whatsoever with respect to whether or not the existing commercial tenant can stay. Essentially what I'm saying is that you know, approval of this site development permit does not guarantee the longevity of that tenant. The property owner still has every right at their desire to force -- to discontinue the lease to that existing tenant. And so denial of the site development permit does not provide for the longevity necessarily of that existing tenant space. And so while staff recognizes that there's a lot of folks that

may be here tonight to speak on this matter in support of the existing tenant's use, we just want to make sure that the perspective is clear that we're not trying to evaluate the merits of the existing use but rather the merits of the proposal that's before us tonight. So with this, this concludes the staff report, thank you.

>> Commissioner Do: Thank you for that clarification. Is the appellant here? Is the appellant, the person making the appeal? Okay, yes. Arlene middlebrook, please come down to the podium.

>> I have someone here that also wants to speak.

>> Commissioner Do: Are you speaking as a single entity or -- each speaker will have up to two minutes to speak. If you fill out a speaker card.

>> I'm speaking for myself but I'm speaking on behalf of the family of --

>> Commissioner Do: Let the appellant speak first and the appellant, you have up to five minutes to address the commission and then after that if you fill out a speaker card then you will have -- each person will have up to two minutes to address the commission.

>> Okay. I appealed this decision because there are many people in the organization that I'm president of that would like to speak about the current land use of the property. And I also want to comment about the review process that you've undertaken to come to this conclusion about the development permit. And I do believe that things could have been done in that review process that would have made us feel better about where we are today. Were we are located exactly adjacent to a school. And that we also have a real issue with traffic, because of that school. Twice a day, the parents line up, to pick up the kids. And there's no access to the property. And I think both of those issues, I don't know that they were looked at, as closely as they might have been looked at in terms of having a retail mini mall in this location. So I did want to bring that to your attention. And there are many people that do want to speak about what we have been doing at the site for eight years. And they'll be speaking tonight. So that's -- that's about all that I have to say. We want to stay there. And we have a lot of reasons to want to stay there. And there are many malls up and down race street with empty tenants, graffiti, the use of the land right now is very appropriate for a school. We have native gardens there. We operate a nonprofit called the California native garden foundation. And we are a statewide organization. And there are going to be people here that are going to discuss what we are doing with the land right now. I do not have an adversarial position with my landlord. Fred and I are on the same side. And Fred would like to sell the land to the foundation. And he would like to see our -- the present use perpetuated. We're working with St. Leo's school next door to use our gardens and our facility as an outdoor classroom. We've created a special gate so the children can walk directly into our nursery. And I just think that there's a real public outcry today for our cities and our institutions really recognizing how our communities are changing. And our role in our community on race street is to really bring nature into the city. Protect nature. Teach adults and children how to preserve nature and how to express the ecological model for human beings understanding and protecting our local ecology as we build our cities. And so the reason that we've made this appeal is just to bring this into the public forum, more so you can understand how many people really care about the kinds of work that we're doing and the use that we have. So there will be other people that will speak.

>> Commissioner Do: Thank you very much. Is the applicant here? Ma'am, return to the podium. Commissioner Zito has a question for you.

>> Commissioner Zito: Hi, I just have one question. I'm just wondering if you have any other sites within the San JosÉ area that you're involved with, your foundation, the California native gardens foundation?

>> Yes, we do, the California native gardens foundation, we actually give grants schools, to public and private and small nonprofits, to assist them in creating native gardens.

>> Commissioner Zito: So where is -- is there one within close proximity of this one?

>> Where we are right now?

>> Commissioner Zito: No --

>> We're working with trace elementary, in Willow Glen is also one of our projects. So yeah, within you know, five minutes. And one of the things we're doing with St. Leo's is we're starting the outdoor classrooms with St. Leo's but there are also four other schools within walking distance. And I met with the mayor's office recently and you know, we have an opportunity to go in with San JosÉ Unified School District to write a grant to go in with more funds and build more of these gardens.

>> Commissioner Zito: Thank you.

>> Commissioner Do: Is the applicant here? Would you like to address the commission? Please come down to the podium. You have up to five minutes to address the commission.

>> My name is Fred Soltanzad. I owned the property for almost nine years. She has been my tenant for almost seven to eight years. I've been spending a lot of time and money on this project and I've been going with the zoning according to the city zoning and consistent with the use of that property. I don't think it's going to be right for this kind of use that she's doing right now, with my property. I let her stay in the meantime. But I'd like to tell you that she does not have a lease. And every time, every month since she has been there I have problem to collect my lease. As of right now she owes me 15,000 -- \$14,000 for the back rent. I can give her three-day notice and she's gone. Then what's going to happen with my property? I'm just doing everything that I can to make the property right and nice and make the neighborhood to improve, create more jobs, and, you know, do my best to help the economy. That's what I plan to do.

>> Commissioner Do: Thank you sir. Thank you very much. There are a number of speaker cards. I will call three names at a time. Please all three come down to the bottom of the stairs. The first three are case hill, Laura Mccauley and Dee Brown. Please come down to the bottom of the stairs and Ms. Hill, please approach the podium. And each person will have up to two minutes to speak.

>> Hi, good evening, thank you. I wanted to ask first if it's possible for me instead of speaking to relinquish my time back to Ari middlebrook.

>> Commissioner Do: You may not have to do -- well she will have another five minutes at the end so --

>> Okay. I'll be very brief. I work for middlebrook gardens but I also volunteer for the California native garden foundation as a garden program manager so I help to coordinate the work that's done at the various schools around the Bay Area, not just in San JosÉ. To get the gardens built. So I have a very personal of course investment in what they does but I also think it's very important because the reason we're here, it's very important to address the planned use, what the permitted use would be. And as an educator, and as someone with a public administration degree, I have a lot of experience with schools and with young children. In a teaching capacity and also in a policy capacity. But in this particular case, I think that the idea of a mini mall, a retail center while it may in fact create jobs, I'm not sure about that, I think it's not an appropriate use of land, being adjacent to a school. It is very, very busy there with many children. And I think that a place where, I suppose, because there's not parking for a mini mall right now where there would be parking somehow with cars, many more cars coming and going, I think that you put at risk the very safety of the children who go to school next to that structure. I don't see how you could factor that in and still consider that an appropriate use of that corner, it's a very busy corner as it is. It is very hard to even cross the street with the pedestrian crosswalk there. So while it may create jobs I don't think that's the center of the real issue here. I think it's more an issue of safety.

>> Commissioner Do: Thank you. Your time is up, I'm sorry, thank you. The next speaker please, Laura McCauley.

>> Good evening. I'm a volunteer for California native gardens. I've been volunteering since July. They're doing fabulous fabulous work there. In the long term I believe that's more of a job creation than a mini mall but I understand today that we're here to talk about land use, permit use, Alrie and both Casey have called to the attention the traffic patterns. I did take pictures, and this is an occurrence that happens five days a week, in the

morning, the afternoon, and midday. And I would like to submit these pictures for your use. It is pictures of cars, lined up. Here is race street.

>> Commissioner Do: Could you please hand it to the technician. He can put it on the screen, thank you.

>> What happens five days a week, twice a day, and midday on Wednesdays, is that we -- the property is located behind St. Leo's school. And then you'll see forward coming traffic, back traffic, where the Subaru is, is where the parents who are picking up and delivering their children to school at St. Leo's around the corner. So those are all the cars that are queued up, right in front of where the property is, middlebrook. So our driveway is blocked twice a day, in the morning and the afternoon. We don't have a problem with it, because obviously, you know, we park in other areas. We walk into the garden. And the trucks are already gone, because they leave by 5:00 and don't get back until 5:00. We've never even had an issue but if you build a mini mall there you will. I also want to -- this is a recent article in the San JosÉ Mercury News, Sunday, January 10th. Five Bay Area retail centers go belly up at year end.

>> Commissioner Do: Thank you, ma'am. Thank you, your time is up. If you would like you you can leave that article with the technician as well. The next speaker please and I will call three more names. Mary Ann Lewis, Janet malleksi and Katherine Ridolfi. Please come down to the bottom of the stairs, please.

>> Hi, my name is Dee Brown. I'm not a volunteer at the garden although I am an organic gardener I've had the interest over 20 years of doing that and I'm an art docent in the element schools. I'm here to speak to you face to face the value I have learned in working with children and adults also but largely children, in letting them have time spent in the garden. Time understanding that avocados grow above ground and potatoes grow below ground. That's been a very interesting experience for them to learn. And just the connection with nature. And not having to go far away in order to be connected. And that this seeks suitable that this is something that should come from the schools, and be supported by the schools. I think that most of us know that intrinsically. So I just want to encourage you to look for those opportunities in our city. I'm a native of San JosÉ. I grew up playing in the pear orchards, and I remember when there were a lot of trees and I didn't have to wonder about where the pears came from. So my heart is very supportive of this organization and others like it that want to take the simplicity, the health, the education, that is so valuable as a foundation for our children. So I just encourage you to keep a tender heart towards that if you haven't already.

>> Commissioner Do: Thank you very much. Next speaker, please. Please state your name for the record.

>> Hi, yes I'm Mary Ann Lewis and I'm a volunteer for the California native garden foundation. And I'm relatively new to the group but I'm really, really impressed with Elrie's vision for the future of this space. Not just what's there now, but what she will be planning to put in place with -- after grants are approved and such. So the -- it's a beautiful garden space now. There actually is room both indoors and outdoors for classroom students to come and have their classroom there, to learn how to do various task force, such as growing earth worms or composting and actually planting things so they have hands-on experience. It's a rare opportunity I think and it's something the children don't have enough of. My focus is also on caring what our children are going to be raised with, these are city children, about as close as you can get to the middle of the city. Very accessible area, very great vision to be able to reach out to other schools after this first school is brought over to have classes there and be successful so that they can invite other schools in the neighborhood and/or possibly go to those schools with the same curriculum and start teaching there, hands-on. So the idea of all of the sustainability of our planet, all of those kinds of demonstrations will be there. It would be like a demonstration area, not just for children but for adults, too. For, I won't go and list all the items, I'm sure Alrie has presented them low pressure or can in the future. But all of the items that are required to have a green environment, whether it's your home or your commercial area, or your school. Would be demonstrated on a small scale in that particular space. So that's what inspired me as well as helping the children.

>> Commissioner Do: Thank you. Next speaker, please. Please state your name.

>> Good evening. My name is Kathleen Radolfi, I'm a professor at Santa Clara university and I live in the community surrounding 76 race street. I think what Alrie addressed you initially she touched on the main concern here which is that when a decision was made to change the use of this property to something different, that there

was important information you didn't have. That that no one really investigated what was going on at the site. And that there wasn't consideration given to the value of its current use which, as you can hear, has great value to the community, to schools and to the City of San José. Right now, this site is being considered by the sustainability site initiative, which is a program of the American society of landscape architects, the lady bird Johnson wild flower center, and the United States botanical garden. If this site is approved, and there's very good chance that it will be, there's 29 criteria and this site has already met 27. And if the site gets its designation, it is the first in California and one of the very few in the country to have this designation which is going to really put San José in a leadership position on sustainability issues. So there's a lot -- a lot more layers to this project than simply a garden center and a parking lot. And finally, as was already stated, not only is this project involved in St. Leo's school but Santa Clara university students have internships there, San José State, public schools and high schools are involved. The educational component, not only the community, which some people have talked about but the education in the area is very significant. Thank you.

>> Commissioner Do: Thank you. Commissioner Zito has questions for you.

>> Commissioner Zito: You have mentioned this site is under review by a particular society, I don't exactly remember the name of it. What does that designation mean? Does it mean that they are going to come forward with an offer to purchase it or it gets special protection or what does that mean?

>> I think that Alrie can certainly answer this question better than I can. But for example, the soil itself, there's been years invested in establishing this property to meet the soil requirements which were actual requirements to be a test site. And there are other aspects of the property which make it stand out. There are actually a whole list of -- I honestly -- I don't know. I don't have them memorized, I couldn't tell you exactly except to say that there's a great investment in that property to bring it up to the level that it is. And you can't just move that property. Because if you move that operation to another property you can't just recreate what they've already created. A lot would be lost.

>> Commissioner Zito: You've answered my question. Hopefully the appellant can answer in a little more detail. Thank you.

>> Commissioner Do: Next speaker, please. I will call the last two speakers, are there other speaker cards? I will call the last two speakers, Lana Brian and Eric Winkler. Please come down to the bottom of the stairs, ma'am please go ahead.

>> My name is Janet Moleski, and I'm a customer of Middlebrook Gardens. I'm also a volunteer of the California native garden foundation and I'm a resident of the Bay Area, have been for 45 years. Middlebrook gardens is a very rare resource. It supports a lot of local customers. And it's, in a way that other nurseries really don't do that, and some of these ways I'm going to go ahead and list. But one of the things middlebrook gardens has been doing is building a network of people and responsible gardeners through training workshops that they provide for free, lectures and courses, they are providing native plants that you otherwise can't get in a nursery, and they're establishing a location that people can connect to each other, and network, which is very valuable. It's more valuable to meet with these local experts that they bring in, in her workshops, to see, you know, to talk to them and ask questions and have that communication with them, more than just the e-mail and networking that way, but there's plant propagation, and she's seeking sources, Alrie is seeking sources in other locations to try to bring plant worthy California natives into the marketplace. This is something that isn't being done by most nurseries, and very few native nurseries are really out there. She has an incredible demo garden. And if you haven't seen it, before you make the decision, you ought to go down there. Because there's a beauty and serenity to this demo garden that when you walk in there, you just feel, you feel the essence of it, and you just know that this is healthy. Can I just say a few more things, please, please, please?

>> Commissioner Do: Unfortunately I have to be fair to everybody. So okay, if you can be extremely brief.

>> Let me just conclude, San José's a cutting edge city and we are ready to move to more sustainability. Something that's more wildlife friendly, and I think what we need to do is rethink what development means. And --

>> Commissioner Do: I think we appreciate the point.

>> Okay. Very good.

>> Commissioner Do: So thank you very much. Okay. Next speaker, please.

>> Hi, I'm Lana Brian. I'm a volunteer with the California native garden foundation. And as Janet just said, this is one of the few nurseries that is -- in fact it's the only nursery in San JosÉ that is exclusively native plants. And Alrie spends her time during classes and workshops teaching people what it is like to have a native garden. And many people run out of those classes and say, I want to tear out my lawn. Tell me how. And she does that. It's really inspiring to see her in one of these workshops. The nursery is an oasis and it is a beautiful place. And as another speaker said, as cookie said, you really can't just start over in a new location for a nursery. So we're really asking for the California native garden foundation headquarters which is at the nursery, be able to stay there, and continue doing the educational work that we do. And also, to continue improving things, such as becoming a sustainability site, which is, again, furthering education. If San JosÉ is truly going to be a green city, then part of the city property has to be green. And that is why we are arguing for that today. We have the curricula ready to teach the students and we'll start teaching them next month. And we hope that St. Leo's will just be the first group ever students who will benefit from this and learn about native bees and native birds and native insects that all come to a native garden. Thank you.

>> Commissioner Do: Thank you very much. Next speaker, please. Please state your name.

>> Good evening, my name is Eric Winkler and I live in the neighborhood on Mariposa avenue which is at the bottom of the map there. I'm also a board member of the neighborhood association and I'm also a fellow Planning Commissioner from the City of Santa Clara when I lived there. Appreciate your time this evening, been through many of these meetings before. One of the things I would like to speak about is just my disappointment that the staff report did not -- there was not a lot of investigation that went into this report. Because like Ms. Radolfi spoke about, this sustainable sites initiative is a huge deal for the City of Santa Clara, I mean for the City of San JosÉ. We are if we get this designation which we'll know in the next 30 days, we will be the first city in the State of California to get that. And this site is the only site that's being considered. So in our city. And the work it's taken eight years to prepare for this, designation, and there will be a handful of sites across the nation that will get this. That will be awarded the designation. And just from my experience, I think that that's a valuable point that was sort of overlooked or that was not investigated during this process. I regularly attend the envision 2040 meetings. I'm heavily involved in the community through all of those committees, and the work that's being done at this specific location to prepare this location for this designation cannot be moved. So if this site is lost, and she's forced to move somewhere else and restart, it puts us ten years backwards. Turns the clock ten years backwards. And it would be a shame to do that. This particular site has been viewed on Bay Area back roads, a special show was done on it. It's been showcased in 67 countries. The research that's done at this property has been the subject of a book that sold 20,000 copies, there's another book that's being written based off the research that's done at this location so I think you should all know that.

>> Commissioner Do: There's questions from Commissioner Zito.

>> Commissioner Zito: Thank you. I'm sorry to take up so much time on this, but I feel for what people are saying, it make sense that this site contributes to the city as a whole, but what I want to come up with a basis and you as a fellow Planning Commissioner could help me, what basis would we have for essentially denying a landowner the right to develop their property? And what you brought up again was this designation. Does this designation bestow anything upon this land that would -- you know --

>> And Alrie, I think she knows the 29 points that are required.

>> Commissioner Zito: That's fine.

>> But the designation does. I mean this is a designation that shows that this particular test site has -- is fully sustainable, which means that it's all -- everything that goes onto the property is used on the property, there's

zero waste, all of the water -- all of that. It's a model, a test site and a model for what sustainability is across the world.

>> Commissioner Zito: I appreciate that but like for instance, with historical structures, if the federal government or the state bestows a historical classification on a site then that has some meaning to it right?

>> Right, absolutely.

>> Commissioner Zito: Means there's a designation, some protocol that has to be followed. Does this designation do anything of that sort? I'm talking to you as a fellow commissioner, maybe you can help me.

>> So this designation -- I think it would depend on how the city viewed the importance of the designation. This --

>> Commissioner Zito: But it's nothing in policy or guidance --

>> Currently, no.

>> Commissioner Zito: And I apologize for cutting you short, I'm really trying to understand the importance of that.

>> And my expressing that is just the disappointment that that was never mentioned, right? Because it took eight years to prepare this property, this specific location for that, and it was never mentioned. Never.

>> Commissioner Zito: Thank you very much.

>> Commissioner Do: Thank you very much, Commissioner Zito. The organization that the appellant mentioned is the American society of landscape architects, ASA, which is a private organization. She can clarify on the issue but I doubt that it has any legal force what you're looking for. But let's see, the appellant, you may -- you have up to five minutes to address any of the points that have been made. The appellant. Let's start with the appellant. Yes, ma'am, Ms. Middlebrook.

>> Okay, I just -- I want to talk a little bit about the sustainable sites initiative. Because I applied for this designation. Sustainable sites initiative has been in the process, it's funded by EPA, there's a lot of federal funding coming into this. And it's been going on for about five years. And what it is, is, it's comparable to the United States green building council. The LEED standards. And the landscaping professional, you know, ASLA, the lady bird Johnson wild flower center and the United States botanic garden, they have not had a comparable rating system for sustainable landscaping. And so this process of developing a rating system is what the sustainable sites initiative is. And they called for a small number of projects, internationally, this is not just in the United States, to be pilot projects. And we've applied to be a pilot project. And the reason that I applied for it is, that is what I do. You know, I wrote a book 20 years -- well, I didn't write the book 20 years ago. I started working in native landscaping 20 years ago. I wrote a book called designing California native gardens which has sold 20,000 copies. And what I've tried to do there at race street is the embodiment of a sustainable model. Now, what's happened is, the sustainable sites initiative has actually created a monetary value for what they define as ecological systems or ecological services. And it starts with restoring the basic ecology of the land. Which means returning the soils to their natural state. And this supports our pollinators. And when you return the soils to their natural state, you're actually providing filter for your water, so your water is of a higher quality and can return back to the underground aquifer. Your air quality is better and the quality of your food is better because your soils are more natural. And this is what we're finding. And the place to do that is in the urban environment. It isn't out you know in a pristine area. It's where people live. And our model is exactly that. And what I've tried to do, and so now, I've expanded the idea, and we are actually going to do a laboratory there. And that's how I submitted this project. And it's called environmental laboratory for sustainability and ecological education. And that is how I submitted this. And it will be a model for teaching future generations about how to live in the city, how to protect ecology, and how to grow their own food. Okay?

>> Commissioner Do: That's a -- Commissioner Cahan has a question for you. And I just want to say, I bought your book so I'm fully sympathetic to what you're doing but the issue this evening may -- we'll debate this later on but Commissioner Cahan, please.

>> Commissioner Cahan: Thank you, Mr. Chair. I support what you are doing 110%. I wish we had more of you out there. I am concerned, though, because you have taken on this fabulous project, but on a property you don't own.

>> Yes, well I don't feel the same way about property values as a lot of people do, or property ownership. I don't have the same value.

>> Commissioner Cahan: So as a tenant, and we are -- we have certain rules that we have to follow.

>> I understand that.

>> Commissioner Cahan: In what we do up here.

>> I understand you know protecting property rights in America.

>> Commissioner Cahan: So as a tenant, have you -- do you have some sort of understanding with the owner that we're not aware of, some sort of lease or purchase agreement that's happening that we should be -- that we should know about?

>> Yes, well, one of the things that I said early on is that I'm on the same side as Fred. Now Fred's upset with me because I owe him some money. But I gave him a check of \$5,000 tonight. I had two modifies no sales. I'll catch up. I have eight years of a payment record with Fred. I've been a good tenant. But what Fred and I talked about earlier last week and also again today, is what I want to do is, I want to try to raise the money to buy the land. And raise it through the foundation. And I have -- I am quite confident that I can do that.

>> Commissioner Do: I'm sorry to interrupt you. But we are -- the commission really doesn't deal with buy-sell, and economic issues. Versus private parties.

>> I understand but she asked.

>> Commissioner Do: I understand.

>> So what I was going to do is ask for a deferment tonight but I talked to Fred about that and he didn't want to do that and I don't want to get on the bad side of Fred because I want to actually create a lease purchase option with him for four years so I've got the time to you know stay there.

>> Commissioner Do: Thank you. Commissioner Cahan does that answer your question? Thank you very much ma'am. The applicant, you have up to five minutes to speak.

>> It's going to be very brief. First of all, as they said, race street is a very rough street, full of graffiti and everything else. And that's why I try to improve that street by building a nice building over there, at least to get rid of some part of that. Second of all, I have the same right as the property owner, as everybody else. They cannot come in and own my property and do whatever they would like to do. They will come to buy. And she's been telling me for last four years that she is going to raise money and buy the property. I say I will cooperate with you and sell it to you if you like to buy it. They haven't done that. They are late on their rent and if they have so many sponsorships how come nobody comes up with the rent end of the month? And to answer your question, they do not have any lease, they can be out of that property in three days. Then they going to start somewhere else, that's their problem. That's all I say. Thank you.

>> Commissioner Do: Thank you very -- excuse me sir. Commissioner Zito has questions.

>> Sure.

>> Commissioner Zito: Just real briefly. You plan to put like a mini mart in that -- on that corner is that what you're --

>> Whatever the city allows for the use, I'm following that.

>> Commissioner Zito: Okay, so --

>> And I'm not willing to do it right away. I think I have four years to go ahead and build the place, right? Is that right?

>> Commissioner Zito: I'm not sure, you'll have to see --

>> I think the permit was good for --

>> Commissioner Zito: I think it's two but either way staff will educate you on that. My question is with its proximity to the school I believe that might limit what you can do in that mini mart. For instance a 7Eleven selling beer and wine --

>> They're not going to sell beer, whatever the city permits to do they will follow that rule.

>> Commissioner Zito: In other words you have no specific intent --

>> No, we're going to build a shell and then divide it to so many spaces whatever the city allows to do it. But I'm not going to build that place right away. I'm going to be nice again, give them time to buy, if they want to buy it. And thank you, here is not the office, they will come to do it.

>> Commissioner Do: Thank you very much. Thank you. Is there a motion to close public hearing? All in favor? So staff, anything to add or --

>> Thank you, Mr. Chair. I just want to add for the record that you know, the issue of the applicant's interest in leasing to own the property is something that had not come up prior to today. Actually I had a phone conversation with Ms. Middlebrook I think it was yesterday actually on that topic. The issue of the sustainable sites initiative hadn't come up prior to the director's hearing. The applicant was at that hearing, obviously, and you received a letter from the appellant on that. And there's no mention of that in that appeal letter, as well. And so just as another point of clarification, is this permit was written to include a four-year expiration date, and so that the applicant, despite whatever decision happens here tonight still has probably ample opportunity perhaps if the property owner's willing to still try to come to some type of term to either extend the lease agreement or develop some type of option to purchase the property before anything happens.

>> Commissioner Do: Thank you. Commissioner Zito.

>> Commissioner Zito: Thank you, Mr. Chair. I just want to explore one avenue and make sure there's no issue there and that is CEQA. Given this designation or potential designation or anything of that are there any CEQA considerations whatsoever?

>> Thank you, Mr. Chair, if I could answer that. With CEQA, you typically analyze the project that's being proposed. And so they do analyze, you know, the backgrounds of the burrowing owls on this site and whatnot. But in this particular instance I think applications have been made but I'm not aware from the testimony that any designations had actually occurred and even if they had my understanding is at this point they are in the pilot program stage to explore and research exactly how value would be given to these types of sites, and the mechanisms and the methodologies that would be used. So at this point, there really isn't anything that would be analyzed under CEQA.

>> Commissioner Zito: All right, there's no criteria to which to analyze this, that's what I was afraid of. Thank you.

>> Commissioner Do: Thank you, counsel, thank you, Commissioner Zito. Mr. Platten.

>> Commissioner Platten: Thank you, Mr. Chair. I move that we Uphold the director's decision to approve a site development permit to demolish an existing structures and to construct a new 5950 square foot retail building on a .38 gross acre site in the CPpedestrian commercial zoning district as recommended by staff. if my motion receives a second I'd like to speak on it.

>> Commissioner Do: There's a motion and second, Commissioner Zito would like to speak on that. Before that, I'd like to clarify the commission's legal position on the issue, please.

>> Thank you, Mr. Chair. To the extent it would be helpful to the commission, having sat with you now for several years, and I would like the audience to know as well, for public education purposes, while the commission will be and some of the commissioners have indicated that they are highly sympathetic of the use that's on the site, your legal role is to analyze the proposal for development and whether it conforms to the general plan, the zoning code, and whether or not it conforms to the demolition considerations, that need to be made. So as much as the commission may highly value the work that's being done on the site, I believe a couple of the commissioners have alluded to the fact that they understand that this particular property owner does have the right to apply for a development proposal, like any other property owner, and that the city unfortunately, or whether it's fortunate or unfortunate, is the fact that the city cannot mandate that this property owner continue to be in a landlord-tenant relationship with any particular tenant.

>> Commissioner Do: Thank you, counsel. Commissioner Zito.

>> Commissioner Zito: If I could, Mr. Chair, I'd defer to the maker of the motion to speak on this motion, and then I'll take up --

>> Commissioner Do: I'm sorry, Commissioner Platten.

>> Commissioner Platten: That's right, and I thank you, Mr. Chair. I appreciate the chair's request for an education from counsel on the issue. Counsel's quite correct. Almost 40 years ago the late Supreme Court justice William O. Douglas, in a famous dissent which put before the United States Supreme Court the first amendment issue of environmental rights versus property rights, wrote and I'm paraphrasing that there's a need in our country to have standing, because who speaks for the trees? Who speaks for the animals? Who speaks for the earth? Unfortunately, the law has not progressed to the point where those external diseconomies are part and parcel of our considerations. Our considerations are as counsel has laid them out. This is a land use decision. I think I can speak for the majority of the commission here by saying that we fully support the activities that are carried out on that property today and we hope very fervently that those activities continue at another location. But under the current rules and practice and the way the law is situated, our mission is clear and we must be absolutely in line with what our obligations are under the law. Perhaps in the future, as our little spaceship earth hurdles towards environmental disaster we will reconsider the balance between property rights and our environment, because after all, at the end of the day, that's all that we have. But today under our rules and given our responsibility, we are required to adopt this proposal. So that's all I want to say. It's with deep regret but I support the decision of the planning director.

>> Commissioner Do: Thank you, Commissioner Platten. Back to Commissioner Zito.

>> Commissioner Zito: Thank you, Mr. Chair. I am reluctant to try to follow up on that. I think Commissioner Platten was so eloquent. And absolutely reflected my sentiment. But I would just like to say, sitting on the City's 2040 task force I really look forward to the adoption of more sustainable side type regulations and guidelines. And maybe, maybe this isn't going to work for daw but I really urge you to get before the 2040 task force and speak your mind in this regard, and have us understand what you're doing and how it will affect the urban environment and the population, make it a better quality of life for all of us. And hopefully we'll incorporate those kinds of ideas. And as Commissioner Platten said, maybe we'll have -- be able to make a small impact on those kinds of decisions as we go forward. So I appreciate the work that you're doing and I urge you to go forward with that work and hit us up at the task force as well. Unfortunately I also will have to support this motion.

>> Commissioner Do: Thank you, Commissioner Zito. Commissioner Cahan.

>> Commissioner Cahan: Thank you, Mr. Chair. It is with great sadness that I, too, will have to support this motion. And I concur, that you should do what you can to try to change the regulations, so that this sort of project has some protection like a historical landmark. And I urge the property owner, looking for you, but I don't see you at the moment, there you are. I urge the property owner to really try to work with your tenant, so that she may purchase it, if she is able. And please, if that doesn't work out, I hope that you are able to find another place that you are able to purchase, so that you can build such another great site that will not be able to be destroyed.

>> Commissioner Do: Thank you, Commissioner Cahan. Commissioner Jensen.

>> Commissioner Jensen: Thank you. So first I'm going to also say that I anticipate a very strong fundraising effort to begin with, you know, and grant applications to everybody and their cousin who will support a building and purchase effort on your behalf. And I fully expect to receive an envelope asking me for money. And I hope you ask everybody else up here who's expressed support as well. I'm going to take a little different tactic. We have in our packet a series of findings that were made by the director. And in looking at those findings, there is an implied discussion of weighting the use versus a future use. And I'm going to say that I personally can't find the same -- I'm going to read them don't worry, I'm not going to find the way the director did so I actually will be voting against this. One, the interrelationship between the orientation location mass and scale of building volumes and elevation of proposed building structures and other uses on site are appropriate compatible and aesthetically harmonious in that the architectural elements of the proposed and or existing structures are integrated into harmonious whole. I have heard this referred to repeatedly as a mini mall and honest -- well, that's been the reference. A small retail, commercial retail outlet center and I don't -- I personally cannot find, having visited the site, a two-story mall, commercial retail outlet being far more harmonious than the existing use. The orientation, location, elevation of the proposed buildings and structures and other uses on the site are compatible with and aesthetically harmonious with the adjacent development and the character of the neighborhood. It's a cute little neighborhood. St. Leo's is adorable. It's got cute little houses all over the place, it's got the element school, it's got the church. I think a public garden and landscape and native nursery fully supports and is aesthetically harmonious with the adjacent development whereas the commercial retail proposal in my mind is not. Traffic access pedestrian access and parking are adequate, again this is a narrow street, it's a very busy street as was raised repeatedly. I'm quite familiar with this area and I fully agree with the statements and the photos that were shown that this is a challenging neighborhood and adding a commercial retail facility to this area I don't think would -- I think would prove a significant challenge. And finally, the benefits of permitting demolition removal or relocating of the subject structures outweigh the impacts of the demolition removal or relocation. And I can't find that either, given that this site has already, the business onsite has already put eight years, invested in time, money and sweat equity into creating land that will likely achieve an international rating for a sustainability site. And given that they would have at least seven or eight years of additional work to do in order to try and achieve the same, so I can't make those particular findings, and so I will be voting against the motion. Thank you.

>> Commissioner Do: Thank you, Commissioner Jensen. Commissioner Cahan.

>> Commissioner Cahan: Thank you, Mr. Chair. And thank you, Commissioner Jensen. I was trying to find a way to go about this, and I think that you supported my desire to vote against the motion. And so I will now be changing my vote.

>> Commissioner Do: Thank you, Commissioner Cahan. There are no other speaker lights. I don't have much more to add. I think that generally speaking, I'm in agreement with Commissioner Platten, and Zito, and maybe others. I -- I think that again, I think that others have already spoken, that the Commission, for sure, we all support sustainable practices and all of that. But I think that what you're asking us to do is to deprive a landowner of his right to develop, in accordance to what city policies allow. And so that's beyond the authority that we have here. Let's see, Commissioner Zito.

>> Commissioner Zito: Yes, I just want to -- it's rare that I flip-flop as in the past eight years I think you could count it on two fingers. But I applaud Commissioner Jensen for finding those particular findings, and I have to agree with her assessment, that I -- especially what troubles me was the traffic. And putting a mini mall there

probably is not a good idea. It will definitely be in conflict with the school. So for me, I think there's enough there to uphold the appeal.

>> Commissioner Do: To uphold the appeal?

>> Commissioner Zito: Uh-huh.

>> Commissioner Do: Which is to, yes, to reverse the director's decision.

>> Commissioner Zito: Reverse.

>> Commissioner Do: There are no other speaker lights, so let's vote. Commissioner Kamkar.

>> Commissioner Kamkar: I just want to say because I missed the public hearing portion of the testimony, I won't be voting. Thank you.

>> Commissioner Do: Let's vote by light. A yes vote would mean to uphold the director, director's decision. There is the vote, the motion is not passed. The -- we don't have a quorum, we don't have a majority on the issue. So -- go back to square one. Is there an alternate motion? Commissioner Jensen would you like to make a motion?

>> Commissioner Jensen: Sure. Deny the director's decision to approve a site development -- uphold the appeal, uphold the appeal. To deny approval of a site development permit, to demolish an existing structure and to construct a new 5950 square foot retail building on a 0.3 acre gross site in the CP-pedestrian zoning district.

>> Commissioner Do: Thank you, Commissioner Jensen.

>> Commissioner Zito: I'll second that motion.

>> Commissioner Do: There's a motion, there's a second. Let's vote by light. The vote is the same as prior, so the motion is not passed. The motion is not passed, so there is -- so far there is no decision on the issue.

>> Commissioner Zito: Mr. Chair --

>> Commissioner Do: Is there a motion to defer if issue so Commissioner Kamkar can participate in the next meeting?

>> Commissioner Zito: That would be my motion, Mr. Chair, so Commissioner Kamkar can be reconstituted, and we can take the vote probably next meeting.

>> Commissioner Do: Is there a second? There's a motion and there's a second, let's vote by light. That motion is approved. So the item will be deferred until the next logical meeting so that we have more participation. Thank you. So next item is item 3C. PDC 09-016. Planned development rezoning from the CP commercial zoning district to the CP(PD) planned development zoning district to allow 41,457 square feet of commercial uses, office over retail, with an attached two-level parking structure on a 2.08 gross acre site located at The southeast corner of Lincoln Avenue and Willow Street. Staff.

>> Thank you, Mr. Chair. The proposed planned development rezoning would allow a 41,567 square foot retail and office building. In addition to the new construction as described in the staff report, there is an existing retail building along Lincoln Avenue which includes such tenants as Jamba Juice that would be preserved. The project also includes the preservation of a structure of merit which is the building that is currently occupied by Willow Street Pizza. The proposed planned development zoning would further the general plan goal of strengthening the Lincoln Avenue neighborhood business district by providing a combination of pedestrian-friendly ground floor retail uses with office uses above. The number of parking spaces conforms to the zoning ordinance, parking is proposed in an attached two level parking structure located behind the building and adjacent to the commercial development on Willow Street with a ramp and surface parking lot located on the southern half of the site between

Bluett avenue, the residential units on Bluett avenue, and the existing commercial development on Lincoln Avenue. The ramp that leads to the second level of the garage includes a minimum of a five to eight foot stepped sound wall along the edge of the ramp to shield car noises from the adjacent residents. This wall is set back 11.5 feet from the residential rear yards to provide the opportunity for the preservation of existing trees that are along that property line. A mitigated negative declaration was circulated for this project on December 21st. Stating that any environmental impacts of the project would be mitigated. Responses to comments that we received were forwarded to the commission to address these issues and comments were sent to comment authors. With respect to traffic, this project conforms to the city's transportation policies, measured at the City's signalized intersection, intersections in the area, primary access is provided from Lincoln Avenue with secondary access from Willow Street. A new bus duck-out will be provided on Willow Street to allow eastbound traffic to pass while maintaining pedestrian-friendly sidewalk width. Written comments and concerns were recently received and distributed to the commission about potential cut-through traffic on Bluett avenue. The city's Public Works department and department environmental staff evaluated this and determined that any additional traffic would be negligible on Bluett Avenue, and would still be well within the design capacity of that street. Public works staff is available and may wish to provide additional comments after public testimony. In conclusion staff feels that this project will be compatible with the adjacent residential neighborhood and will be very beneficial in strengthening the Lincoln avenue business district and for this reason we are recommending approval of the project. Thank you.

>> Commissioner Do: Thank you. Is the applicant here? Please state your name for the record. You have up to five minutes to address the commission. Is there an on button?

>> There we go, we'll do that again. My name is Alex Byer, I am the applicant. 15 years ago I fell in love with the charm of Lincoln avenue, after my real estate broker, sitting in the front row, sent me down there to look at an old decrepit appliance building that was for sale. I had never been there. I immediately fell in love with the charm of the neighborhood. My family purchased the building and proceeded to knock it down, build a new building with Jamba Juice, Peet's coffee, various other tenants along the avenue which really gave the avenue a real boost of business and kind of a great community gathering spot. I fast-forward about a decade, we're able to acquire three other parcels to square off the property and we start to form a vision on the next evolution of or stage of the project that can be better, greater and a further gathering spot for the community. So I instruct my architect, Mr. Khan, to come up with not just a good design but a great design for the neighborhood, work closely with the residents so we can satisfy any concerns since there are a lot of adjoining homes nearby, we've gone into the homes and allayed concerns to satisfy anybody that we end up with a project that are great for the neighborhood. We are a long term forever other than and we have spent three years of looking at the finer details of making this truly a great project which everybody can be proud of and the time and business on the avenue is really despondent, very, very bad, and we think this will give the avenue the sense of vitality and energy that is necessary for its success in the next decade and years after that. With that I'll turn it over to Mr. Khan. I'll be available for questions, thank you.

>> Thanks Alex. I'm Charles Khan, I'm Alex's architect. I wanted to say we haven't tried to believe everybody. I think that is -- please everybody, I think that's beyond human possibilities. We tried but I don't think that's doable. Bluett is the most impacted street by whatever happens on Lincoln and very legitimately, the neighbors have concerns. This is actually our third public hearing of what would be five minimum. The first one we did over a year ago in December of 2008. Voluntarily before we ever submitted for the project, to solicit the neighbors' concerns and support and see if we could respond. Prior to that, Alex and I offered to meet with the four neighbors on the contiguous properties, the residential neighbors. We have now successfully met with three of those four neighbors who agreed to meet with us. We have been working very closely with them. That's why, although the city standards only require 42 inch high wall for example on the ramp, adjacent to those properties. We have the eight-foot wall that Mike referenced earlier, that's directly due to the request of two of the four neighbors back there is now supported by a third that we've spoken to as well. I should point out the city setback requirement was ten feet, we were asked if we could push that to 15 feet by those neighbors, we did push it to 11.5, six inches, .5 but we can't do any more because of the parking restrictions we have. I only have a few minutes, whoops, wrong way so here we go. You're all aware I'm sure with the Willow Glen community, it's a wonderful community as Alex has said. And the orange buildings here between Willow Street and Minnesota represent a very vital, what historically at least has been a very vital commercial street. It's suffering as are all the retail districts in this city and all across the country. The reason I show you this is because we recognize the

importance the Willow Street and Lincoln Avenue intersection as a gateway to that commercial strip, and I'll speak to that more in a moment. This is a google map view of the property where it says Lincoln avenue there is, the building that Alex referenced. I hope you've been down and you know the neighborhood. It's a lovely -- there's a lovely little terrace in front of Jamba Juice, Noah's and Peet's that's very well -- very activated public space. And that was part of the inspiration for the design that you see before you tonight, I'll speak to that in a moment. This is where we're talking about locating our building. We also have some public plazas and semi public plazas and a parking deck to accommodate the parking requirement which is located between the commercial buildings. And this is our landscape artist's conception of what this will look like. This is your first glimpse, for mally here tonight of the courtyard at willow and Lincoln to the courtyard along Lincoln which has on one side the existing terrace which will be enlarged for Peet's --

>> Commissioner Do: Mr. Khan, your time actually up but I think your presentation is beneficial to the commission. But because the applicant has an additional five minutes at the conclusion, we'll continue that here so you can continue this.

>> I went through this three times it was four minutes and 20 seconds, each time, maybe it's stage fright, my first appearance before you. Thank you very much for that and we will concede whatever minutes are used from our closing remarks. This is an image of what the building will look like and the very important approach from Lincoln or willow and it gives us an opportunity with the tower and the courtyard and the fountain also some monument to really provide that kind of gateway to the retail street. And this is a view, a close-up view of that plaza that public plaza that Alex wanted to create at the corner and a sectional view showing the relation of the fountain, relationship of the fountain to the seating areas that we will be providing both public and semi private areas. The areas I talked about where we have the existing on the right, Jamba Juice, Peet's and Noah's terrace which will be enlarged, and a complimentary terrace opposite. And again our landscape architect's conceptual view of what that will look like when it's constructed. This is a view of the Willow Street pizza building on the right, not a wonderful photograph, I'm sorry about that. But the awning represents the outdoor seating area that they currently have. When we first met with the neighbors over a year ago this is what we showed them and there were some concerns about Willow Street pizza particularly in reference to the low roof to the side of the building. We want to really honor that building. It's a lovely building. It is a building of merit. I think it should be a landmarked building. We are trying to treat it as if it were. And we responded to those concerns, also the second story by pulling the second story portion of our building back three feet and raising the roof. And this is what we had when we presented to the city, to the public more recently. And this is just a few from the other side. One of the important traffic mitigations that we're providing here is, the reduction of the number of curb cuts. We're showing five curb cuts in this image, that's the existing can be. You can imagine the kind of congestion and confusion both along Lincoln and willow associated with those curb cuts. This is what we'll be proposing which will reduce that to one on Lincoln one on willow which will be much more controlled and manageable flow of traffic. The other really significant traffic mitigation that we've taken on and at no small cost to my client but I think for great benefit to the city is the bus situation on Willow Street. Right now, I don't know how -- where you are aware of this problem in this community, but that bus, that is a bus outline that you see. Whoops. Do I show, give away the great solution yet. Okay. There's very little room to get a car buy. In fact you can't get a car past a bus in this oncoming traffic. It just piles up in the intersection, which is a terrible and dangerous situation, and I think it's part of why the Bluett neighbors see cars tearing down their streets from just frustration from what people have experienced here. I'm not saying that the problems on Bluett is are going to be solved by the bus duckout but my sincere hope is that it will help with their issues, I feel it will help with the neighborhood issues, absolutely. We have worked with VTA and planning staff and the neighborhood business association and the neighbors to come up with this solution which meets VTA standards and has been accepted by them, and we are basically granting over four feet of our public right-of-way to the public for the bus duckout which will allow cars to get by easily and the city doesn't has the funds to cover this so that's what we're handling. I mean you know we're providing a public plaza here without request for any city funds but we're going beyond that we're actually providing the funds for some public amenities in the city right away. Am I totally out of time now? Getting really close?

>> Commissioner Do: Yes.

>> I think I'm almost done. We do have in the office portion upstairs, there are offices above the retail, the intention and desire and we have designed it for small offices, offices as small as 200 square feet. They were 300. Alex wanted to get them down to 2, we've done that so people have the option of living in this community,

working on this building and shopping on this street so they can live, work and shop all in the same location which of course leads to sustainability, and you heard a lot about that in the last review. But this will be at least LEED silver and we're really shooting for the gold.

>> Commissioner Do: Thank you very much. Commissioner Cahan has a question for you. Please remain.

>> Commissioner Cahan: Thank you, Mr. Chair. The Willow Street pizza building which I'm really glad that you're working on preserving that. There was a picture and I was trying to visualize where the skylight is because I've forgotten.

>> It is probably about midway back in the seating area.

>> Commissioner Cahan: So then how far back total are you going to go with the second floor?

>> The second floor will completely reveal that light. That light will allow all the sunlight through there. So it's considerably far back. I think -- I don't know the exact number but I think it's 25 or 30 feet back from the public right-of-way, it's considerable.

>> Commissioner Cahan: And it's my understanding you're going to keep the window. So it's my understanding you're going to have a full frontage left inside of that?

>> Alex was very clear in his direction to us about that. Ed Rathman, the owner of Willow Street pizza, is here to speak. And it was very, very important to us that his tenancy was preserved and protected, as is the Willow Glen Yogurt Company, and Jeff is here to speak on that as well. We'll be preserving both of those businesses throughout the construction period and then giving the yogurt company a new home within the new construction.

>> Commissioner Do: Commissioner Kamkar has questions for you as well.

>> Commissioner Kamkar: Thank you, Mr. Chair. Can you go back one or two slides? I think I have one question maybe two.

>> I'm going to wrong way, I think. See what happens. It's wrong way now for sure. Okay. This is new equipment for me.

>> Commissioner Kamkar: Okay, that's the one.

>> Okay.

>> Commissioner Kamkar: I see the four neighbors that you were referring to.

>> Yes.

>> Commissioner Kamkar: Which is the neighbor that you haven't met with if you were to --

>> I personally left invitations to meet with us with all four neighbors back in October. Got responds immediately with two who we were able to meet with and when we met with them on I think it was December 8th, left two more for the other neighbors.

>> Commissioner Kamkar: Can you point to --

>> It's the one that we haven't met with yet is right here. And I welcome an opportunity to meet with them.

>> Commissioner Kamkar: Okay. At that point, how high is your ramp at that point behind there?

>> I don't know -- I don't have the exact profile there. But the ramp would be -- if it's zero, you know at one image, and it's a 14% slope, so I would say roughly five feet, or six possibly, at this edge. Five, maybe. Maybe less.

>> Commissioner Kamkar: Okay, okay, and if you could go back a couple more slides, I think I had the second question.

>> Is this the slide?

>> Commissioner Kamkar: One more back. I think you went forward.

>> I probably did. Well, this -- actually I did go back. Which, can you describe the slide you're looking for?

>> Commissioner Kamkar: I just remembered the same question. I want to make sure I am in the correct corner of the intersection. Immediately to your north is the Dunkin doughnuts.

>> We're directly across from AAKI.

>> Commissioner Kamkar: Which is the center that I usually cross?

>> You're on meridian.

>> Commissioner Kamkar: Doughnut street, I'm sorry, I'm a whole street over. Thank you, I'm okay.

>> Commissioner Do: Thank you very much.

>> I'm happy to answer any more questions you might have.

>> Commissioner Do: Thank you. There are quite a few speaker cards so I will call three names at a time. Please come to the bottom of the stairs. Todd Weber, Norma Ruiz and Dave O'Meara. Come down to the bottom of the stairs. Please Mr. Webber state your name and you have up to two minutes.

>> Good evening, my name is Todd Weber. My wife and I are three-year owner residents on 1134 Bluett, which is one of the last houses on the Willow Street and really Looking over to where the development and so forth will be. First I'd like to note that during the last several months there are several things that we as a Bluett community have tried to share with the developer and the team and many of those things have been resolved and the developer is working with us and I want to acknowledge that. Having said that I want to bring up that there are a couple of things that we want to keep our eyes on in this development going forward. The priorities that I look at in this development and have tried to maintain are immediate focus or my wife and I have been our residents that do have that shared back wall with the development itself. So we've tried to subordinate anything else we've talked about to try to make sure that those residents get a full integration with the developer. Second to that then, what we've tried to do is be aware of our neighbors look with us, who directly face, then, the development, and look across the street, and we'll spend the rest of our lives, 24 by seven, looking at the development. And then third, we've tried to stay reasonably focused on the impact that this development is going to have on the overall traffic patterns on Bluett. If you remember, if you remember the way the entry exits are, there will be two basic entry exits. One will be on willow. The bus bulb out, I'm not using the correct term, is going to be very close to that exit. Most of the traffic I presume if we look at current traffic leaving the development will take a right and their next immediate opportunity to do anything to get towards Minnesota is to take a immediate right onto Bluett.

>> Commissioner Do: Your time is up. Thank you very much.

>> That was fast.

>> Commissioner Do: I know. Next speaker, Ms. Ruiz. You have two minutes.

>> Yes I'm Norma Ruiz and:00 executive director of the willow glen business association. I'm here to support this project, to support the rezoning. During this economic downturn it is very exciting for our business district to have such a substantial economic investment, which will not only produce a quality project but add jobs to our local economy. We believe that this project will be an attractive and welcome addition to the economic cultural and

architectural fabric of our business district. You've seen a lot of the proposed public amenities such as the large plaza and streetscape improvements, we feel that that will add to the visual richness of the district and certainly a possible venue for cultural activities. Mr. Buyer has been a strong supporter of our events by allowing us the use of this property so we have had his support and it's also you know we're excited that the design incorporates the Willow Street pizza, the historic building as well as the Willow Glen frozen yogurt company. They are actually working the construction schedule to allow them to stay open until their space is ready for occupancy. So we've attended all the community meetings and feel that the developer has been very responsive to the community concerns, and we're totally in support of this project. Thank you.

>> Commissioner Do: Thank you. Next speaker, please. I will call the next three speakers. Please come down to the bottom of the stairs. Ed Rassian. Will marshman, and Marvin banberg. Sir, please go ahead.

>> Dave O'Meara, the owner of Aqui Restaurant, been a liver in Willow Glen since 1956, family lives and has done business there since that time. I have two points. I have seen my shares of inflection points in business since I've owned my own restaurant since 1972. I would say Willow Glen is an inflection point. Willow Glen itself was a fantastic community but it has suffered substantial competition increase in the form of Santana Row and the fabulous new shopping center at the G.E. plaza out there at Monterey. It is hollowing the street out along with the general economic conditions. I have had my experience with Mr. Byer when he built across the street. I had opened Aqui in 1993. He opened I believe in 1995 and I can say I was truly astounded what small renovation did for the street and how it renovated business for us. Our business moved up 30% sharply thereafter when he opened that street. It is absolutely my belief that Willow Glen as a community to become unique and competitive, could use the insanity of a landlord who's willing to invest in this kind of marketplace. And this project is unique, and opportunity to kick-start the environment and the local community, and become competitive again, in a very, very very difficult marketplace, so I applaud Mr. Byer, I'm glad it's not my money. I admire the work that he's done, it's been incredible. And it's my absolute believe that anything of this scale will put Willow Glen back on an equal footing with Santana Row and other marketplaces where everybody is fighting for every inch of dollar in the residential community, will benefit longer term, because of the economic prosperity of the street. It's what makes unique, Willow Glen unique, the combination of fabulous residences and a unique district that will then become a cornerstone of people coming to the neighborhood again. Thank you so much now.

>> Commissioner Do: Thank you very much. Next speaker, please.

>> My name is Ed rathman, I'm the managing partner of Willow Street wood fired pizza. We have been there almost 20 years now and we are completely in support of this project. We will -- the developer, Alex byers has gone out of hits way to integrate our new building really tastefully in this project. We get -- Willow Street will end up having a larger patio, increased feeding and for 20 years parking has really been an issue on Willow Street and this I think should take care of that issue. I echo the Aqui owner Dave O'Meara's comments about Willow Glen. I don't think Willow Glen has had a new building in 50 years. The economy in Willow Glen is not real great, the business economy and this could be the shot in the arm to propel Willow Glen, you know, business pro fell it into the 21st century here. We are very, very supportive of this, are really excited, we urge you to support this project, thank you.

>> Commissioner Do: Thank you. Next speaker, please. Please state your name.

>> My name is will marshman. My wife and I live in Sunnyvale right now but we earned the 1143 Bluett house, we plan to renovate and move back into it in a couple of years so we're really concerned about that. It's the first house down the corner, on Willow Street after the Gagliardi property on the corner. We love the atmosphere of Bluett and the sense of community and we really enjoy being able to walk to restaurants and shops. I like the yogurt place particularly. So even though the parking garage for this project will be right in back of our house, which will really change the feel of our back yard, we're happy that a quality development is being planned on the corner, and we do support it. We do have a concern about the safety on our street, and really believe that we need help slowing down traffic, as it turns onto Bluett as a previous person mentioned, you'd have to take a right and a right to get south on -- in the direction or something, after leaving the area. I want to request that a bulb out be placed at that corner. The first speed lumps are further down the street and even now a lot of cars whip around that corner. A lot of shoppers also park in front of our houses. That's totally okay with us, it's a public street, Barbara always says we can't complain about parking in front of our house, because before she bought it she

used to park there all the time. That's not a problem for us. Parked cars do make it more hazardous to go in and out of our narrow driveway. It's hard to see them, especially the SUVs. If there's going to be more traffic, and if it's fast-moving, it will make it a lot more dangerous to come and go out of our driveways. We really think that bulbouts are a minimal request, given how successful we think Mr. Byers's project is going to be.

>> Commissioner Do: Thank you. Mr. Banburg, I will call the next three, Steve Lynch and Lynn Repetsky, please sir go ahead.

>> I'm Marvin Banburg, I'm an architect, I own the property immediately south on Lincoln Avenue, that's where my office is. I'm strongly in favor of the project. It replaces a ragtag disconnected group of buildings with a nicely designed well integrated commercial development. The corner plaza is the key focal point of the significant street intersection in the downtown area. It offers a setting for lively social interaction and architectural quality where there is none now. I understand the tower roof exceeds the zoned height limit by a few feet. The tower is well proportioned, it's a strong design statement, and is located where the extra height will affect no one adversely. I applaud the bus turnout. It is a severe problem currently and I did suggest to Alex that he look into this as part of this development and I'm very pleased that he did. I recommend that you follow the staff recommendation, and approve the project, as recommended. Thank you.

>> Commissioner Do: Thank you. Next speaker, please. Chris Rowe. Please state your name.

>> My name is Chris Rowe. I live at 1155 Bluett with my wife and my son, Devon. We are one of the four neighbors that live directly adjacent to the proposed development. And while we can see definitely some benefits for the development, we -- you know, it has created quite a bit of anxiety because of specifically the park ramp and the park structure. The good news is that we have worked with the architect, to alleviate some of these concerns. Specifically, we've talked about, can the ramp be moved or changed, so it isn't at this point, 11.5 or 11 feet six inches but we understand that can't be done due to the way it's laid out. But we have worked with them, we have increased the height of the sound privacy wall to eight feet at its minimum and this has alleviated quite a bit of our concerns especially regarding privacy with cars driving up the ramp and potentially looking down into our backyard because that's a big deal for us being a family and having a one-year-old son. So hopefully we want to see that this continues and this doesn't change. We want to make sure that the eight feet is implemented. And we continue to work closely with the architect and owner to make sure that our concerns are addressed as they continue. Especially with the project of this size, the business operations, currently there are some issues with after-hour deliveries, garbage trucks, things of that nature. And while we can appreciate it is a retail area, we want to make sure that again, a project of this size is very closely looked at and considered. Thank you very much.

>> Commissioner Do: Thank you. Next speaker please. Please state your name.

>> Yes, thank you chair and good evening commission, my name is Steve Lynch, I'm a resident at 1142 Bluett Avenue been a resident for five years look with my wife and two children. I'm also in support of this project. This corner is a bit shaggy and run down and redevelopment is a long time in coming. I also want to support a number of issues that have been brought before you particularly with the eight foot sound wall that leads up the ramp, that will actually give us some pretty good noise buffer. I live directly across, I wasn't win of the four neighbors that was connected, unfortunately, I can see the current liquor store. One of the first once is the bulbouts you have heard a little bit about and I just want to elaborate a little bit the advantage of that. It really isn't to stop cut through on Bluett Avenue. Bluett Avenue has historically has had cut-through traffic, and it always will. There's no stopping that. We live in a downtown and I think we're all cognizant of that. But the advantages it would really help create a bit of a gateway. Cut through traffic, people coming from the downtown, they don't know where they are. Circle around, differentiating between the commercial portion of the downtown and the residential portion of the downtown so when they see it choke down a little bit they'll realize they're not in the commercial area anymore. They may realize they need to continue on, make a U-turn and come out. That's the advantage for the bulbouts. I would like to at a mitigation measure for the trees that are being lost. When you add street trees on Willow Street, some of the artist's rendering had trees, some of the landscape plans in fact the current plan that's up there aren't trees on Willow Street, there is only one or two. There was a time a number of years ago, a number of large willow trees on Willow Street, very appropriate. I know San Jose has a street tree policy and I'd ask you apply that to this property, even if it's just tree grates for the trees in the ground. It doesn't even have to be a generous planting area of in-ground planters, but just some trees above ground.

>> Commissioner Do: Thank you.

>> Thank you very much and I'd just like to thank staff for all their hard work.

>> Commissioner Do: I'll call the next three speakers. Michael storm Chris Dominguez and Tanya Cornell.

>> Hi, my name is Lynn Rapetski, and I live at 1120 Bluett avenue, I've lived there 20 years. I've seen a lot of change in 20 years. I'd like to echo Steve's comments about the need for bulbouts, even though staff says there wouldn't be a traffic impact on Bluett, when you look, taking a left turn from willow out onto Lincoln I think it would be very dangerous. There's a lot of cars making left-hand turns with the arrow. Again, I think people will for safety reasons take a right-hand turn and go down Bluett. I think it's important for them to know they are entering a residential area. I happen to be an avid cyclist. It is a dangerous avenue for cyclists. I think we want to encourage cyclists to get to the avenue, to have access to the avenue and I think that's a great way for them to do it. I think making sure traffic enters carefully and when they go down Bluett it's monitor to do. In addition, I want to make sure that the developer keeps working with the residents who are adjacent to the property regarding sound walls, set backs, lighting and views and the effect of noise. I think noise is important not only during construction but also talking about the noise and the impact once the business is open. What's the plan for the parking garage, how will it be monitored, I know there's issues about garbage pickup, we hear garbage pickup at 5:00 in the morning, even though it's not supposed to be that early. I think a plan for monitoring, we hope because Alex owns the property forever because we know he's a good neighbor, also we see businesses have changed on the avenue and whether businesses have changed and turned over, the residents have not been so receptive to the residents on Bluett, so we'd like that consideration, thank you..

>> Commissioner Do: Next speaker, please state your name.

>> Michael Storm, resident at 1222 Bluett, other side from this development. I really applaud Alex. It is a wonderful building, it looks great. We go to the jamba juice and the Peet's coffee, all the time. It has a lot of good highways and good neighbors and good services in the restaurants and businesses. But we don't think it's Alex's job to control the traffic around the city streets. That's kind of the City's job. We've looked at the city to help both slow down and provide control of the traffic on our street. It's not just the volume of traffic, it's generally the speed of it. People, occasionally before the bumps, were in were going at 50 and 60 miles an hour. The bumps have helped a lot but there's still some space and people speed up and slow down. So we applaud everything, I'm in favor of this and we look forward to it, with, you know, all the stuff that Alex and his architect is doing to help like the sound walls and the lighting and trees and stuff.

>> Commissioner Do: Thank you.

>> Thank you.

>> Commissioner Do: Thank you. Next speaker please.

>> Good evening, I'm Chris Dominguez, I'm one of the contiguous property owners, at 1165 Bluett. We had the pleasure of being able to meet with the developer and architect today and really had some of our concerns put to rest in regards to the parking, the parking ramp and what they're trying to do to work with us and so we look forward to continuing that. As the other property owners have spoken to, we're concerned about the size of the ramp the height of the ramp the second floor of the parking grant there, it's kind of a project that's unmatched or hasn't been seen yet anywhere on Lincoln avenue. So that's a great concern for us. But the trash pickups and along with the traffic along Bluett Avenue, we're not opposed to the development, because we think it would do a lot for the neighborhood and it would do a lot for property values within the area. I would like to state, though, that despite knowing that we purchased the property up against a commercial area that this is going to radically change that corner as it backs up to the homes and just so that that's noted in the project. Thank you.

>> Commissioner Do: Thank you. Is Tanya Cornell here? She is not. The next two speakers are Jean Dresden and Richard Zefelli. Mr. Dresden please, Ms. Dresden, please approach the podium. Please state your name, you have up to two minutes.

>> Thank you, good evening, my name is Jean Dresden and tonight, I join you as a board member of the Bluett avenue neighborhood association. It is a very special place. We are a very tiny neighborhood association. But we are the kind of people who enjoy and love a neighborhood business district. We are not in conflict with it, we are just trying to take care of some of the details. And our letters to you have been about details, they have not been about opposition. And through whatever reason, the details of life goes on, our request for chokers was not initially seen by the Department of Publishing works and was not shared with the other than and developer in a timely way. So we ask of you as a Planning Commission to investigate this concern and perhaps suggest it to the developer about what your thoughts are about this. We continue to have some speeding, we know it's going to be a wildly successful project and we'll have some increased cut-through traffic. The staff reports don't indicate as some of the traffic that goes down and does a lot of U turns in our driveways, we know they do, they're not counted as part of that traffic. But what does happen is when people sail around those rather ugly barren corners, because they are open that way, there's nothing to slow them down, they nearly hit those cars that are backing in and up out of those driveways. We are trying to create safe way -- safety. We know that the professional business association's looking to try to increase the number of trees along Lincoln Avenue, not Lincoln, Willow Street to create a gateway. The chokers there would be part of that kind of effect, and the corners there have no area for trees except in chokers, because they're all driveway on the two corners on Willow Street. If we had chokers we would be participating with the long term traffic goal, we have impacts I hope you'll say that to our developer friend, thank you.

>> Commissioner Do: Thank you, Mr. Zepelli, please state your name, you have two minutes.

>> Richard Zepelli, with the Willow Glen neighborhood association and also the Lincoln Avenue stakeholders for safe green village. Our stakeholders group is made up of business association members, neighborhood association members, the bicycle coalition, and Willow Glen elementary school. We find it real easy to recommend this project, because it's going to be an excellent project for the business district, is also -- is for the residents in Willow Glen. The first thing I'd like to do is point out the positive things that we've seen about this project. First of all, we feel the scale and mass of the building are appropriate to our unique and welcoming neighborhood. Secondly, developer's willingness to contribute property at mid block for a bus stuck out for automotive safety and creating a more pedestrian friendly environment. Developer's contribution of property, to develop a large plaza with streetscape improvements at the corner of willow and Lincoln creating a place of place for children and people to share. Creating 17 to 20 bike racks on the site, in addition to showers to encourage office and retail workers to ride bicycles to work. Submitting a project to become a certified very green LEED registered project, currently shooting for LEED silver or possibly gold award status. This is important to Willow Glen. Downtown San José has the Adobe building. We would be proud to have a gold building in our neighborhood, as well. The mix of offices, retail and restaurants will encourage residents to participate in the local businesses, provide new employment for residents within walkable distance or by using public transportation or bicycle. The addition of extra-wide sidewalks consistent with the adjacent properties on Lincoln avenue that the developer owns --

>> Commissioner Do: Thank you sir, thank you, your time is up. The applicant, you may make a closing remark. You actually have used up most of the time allotted already, but I will allow a two-minute remark. If you so choose.

>> Just one comment in response to the concern expressed. And I promised Chris Dominguez, the neighbor at the rear to have it on the public record and I forgot to do it. Currently those four houses do face garbage collection early in the morning, and I have a similar experience in my home, it's awful, it wakes you up another 5:00 a.m, 6:00 a.m. sometimes. We will be relocating all the garbage that's currently collected behind those houses underneath this ramp with its sound wall. So the trucks actually will be behind two sound walls because we have one on either side of the ramp and they will be completely sequestered. I just want to get on record that we are committed to do that.

>> Commissioner Do: Thank you for doing that Commissioner Kamkar has a question for you. Commissioner Kamkar.

>> Commissioner Kamkar: Thank you, Mr. Chair. I want to compliment you for the quality of the plans. The plans are so readable and understandable and no fudge factor.

>> I'll tell my staff.

>> Commissioner Kamkar: My second question is on the ramp that comes up to the deck, to the upstairs deck, I did notice the first two parking spaces that you get to, they're, you know they look a little bit difficult to get to. Is it possible --

>> Let me, hold that, hold that part up.

>> Commissioner Kamkar: This would be on page A-1.2.

>> Bear with me, it will show up. A-1?

>> Commissioner Kamkar: A-1.2.

>> This one.

>> Commissioner Kamkar: Perfect. As you come up the ramp, the two parking spaces that are right next to the curved curb that you have --

>> On did right?

>> Commissioner Kamkar: As you come up to your left.

>> Okay.

>> Commissioner Kamkar: There is one on your left and there is one on the left, you know, farther to the left. Those two spaces are a little bit difficult to get to, I know you have tried to come up with parking spaces everywhere you can. And miscolleagues know I'm not too much of a fan of a tandem parking but I believe sometimes it has its place. Have you considered using tan chem parking underneath your ramp? In front of some of your spaces where your storage room is to convert them to tandem parking so employees can park there?

>> No, we had not considered that, commissioner, that is an intriguing idea. We are considering those spots for garbage, but I know that's an intriguing idea.

>> Commissioner Kamkar: I know that parking is premium.

>> It is premium. Thank you for that suggestion.

>> Commissioner Do: Thank you being Commissioner Kamkar. Commissioner Zito wants to ask a question. Commissioner Zito.

>> Commissioner Zito: I was wondering if you had in comments on the request for bulbout on Bluett?

>> There is no question that Bluett is the most impacted street on this, the conditions are much different on the other side of Lincoln. I heard what the neighbors were talking about where the turn would might involve another right turn. I think that's an accurate statement. I'm not sure how a bulbout would -- I'm not a traffic engineer and whether that would really create the change you know that they're looking for.

>> Commissioner Zito: I'm just wondering you know, obviously it would be up to D.O.T. to figure that out and make sense but if it is a good solution or something would you be amenable to that, to assisting in providing those kinds of mitigations?

>> I think that's really a question for Alex. It's not my cash. Had to put you on the spot Alex.

>> I got to be reasonable. We have to explore it a little bit.

>> I marine, I do want to say that -- I mean I do want to say we want to accommodate the Bluett neighbors as much as we can but their going are to a point where they're diminished return we are paying for there bus duckout, which is a significant investment, the eight foot wall ain't cheap and we have tried to make a good project for the community but also to accommodate a lot of these concerns. I don't know what the costs are here but it's very hard to commit to this.

>> Commissioner Zito: I wasn't asking for a commitment. I asked if you were willing to cooperate with D.O.T. on these?

>> The idea is a wonderful idea.

>> Commissioner Do: Commissioner Platten.

>> Commissioner Platten: Absent any other questions I'm prepared to close public hearing.

>> Commissioner Do: Is there a positions to close public hearing?

>> Councilmember Pyle: So moved.

>> Commissioner Do: Thank you sir. Staff anything to clarify?

>> Mr. Chair, I don't have anything to add. I think the comments were well taken. Perhaps Public Works would want to comment a little more on the issue of the bulbouts on Bluett, when would be the best timing to address that type of thing.

>> Commissioner Do: Good.

>> Karen Mack from Public Works. Good evening, commissioners. I spoke to the Department of Transportation with regard to Bluett Avenue. It's a sensitive situation. They've worked diligently with the neighborhood on the existing problems out there. It resulted in the installation of four speed bumps on BBluett Avenue, the Department of Transportation has collected data before and after, and they are very pleased with the success of the speed bumps. They were able to reduce volume and also speeds, and showing a measurable decrease. I believe the traffic volumes went from about 1300 vehicles, average daily traffic, to about nine to 950 vehicles average daily traffic and also, the speeds went down. They continue to work with the neighborhood. Additionally the neighborhood has asked for chokers. I spoke to the Department of Transportation again, regarding chokers. They are in support of the chokers, but not as a traffic calming device, but more as a neighborhood identification. They normally won't put more than one traffic calming device for the purpose of calming the neighborhood. The bulb or the speed bumps been in at the traffic calming device so the bulbouts would serve another, different purpose. When the Department of Transportation spoke to the merits of the development, I spoke again to the D.O.T. about how this development could affect Bluett and the surrounding neighborhood. We jokingly said we could put ten speed bumps on the street or bigger speed bumps but really the conclusion that Public Works came up with the development was the best thing we could do was improve the arterial development as it relates to this development in order to further discourage vehicles from traveling on Bluett. While we do expect a modest increase in vehicles, the traffic consultant -- modest increase in vehicles on Bluett, the traffic consultant concluded it would probably be immeasurable because of the installation of existing speed bumps. What the developer did do, and there was a lot of coordination and it was at an impact to him, his site, design and cost, he agreed to put a modified bus duck-out. The benefits of that duck-out to the neighborhood is not just to Bluett but to the neighborhood in general. The duck-out itself increases the sight distance, improves the sight distance on willow so the driveway that is on willow we feel the cars can safely, much safer make a left turn out because they can see around the bus now. The headway for the bus is about 11 minutes during peak. So there's a bus there quite a few times during that time. Public Works staff and D.O.T, we were out there not even at a peak time but at 3:00 and we were surprised at the frequency of the buses and it was a pretty busy stretch of road on willow. We looked at the driveway on Lincoln, looked at gap time and concluded that cars could safely make left turns in, and safely

make left turns out. That's not to say that all the time that this would just like any peak hour, we're going to have a little bit of congestion, it's a neighborhood business district. But overall we felt that that bus duck-out cleared the way on willow, provided better sight distance, the driveway on Lincoln was accessible, from an ingress and egress standpoint, the existing bike lane that was striped on willow was striped right across a bus pad which is not the best situation and now will have even a better bike situation on willow, and the intersection at Lincoln and willow, the left turns and the eastbound traffic will not be impeded as much. So we looked at the development, and given that he is -- that his frontage when he agreed to incorporate a bus duck-out into his site, it provided so many benefits that we did not explore the idea of adding chokers to his requirements.

>> Commissioner Do: Okay, thank you. Commissioner Zito.

>> Commissioner Zito: Thank you, Mr. Chair. Architecturally, it's a beautiful project, and that's what really is certainly getting my attention. Seeing as this is a rezoning, what aspects of the architectural amenities and aesthetic qualities of this project are ensured through the rezoning? Like for instance the plaza, the treatment of Willow Street pizza, those sorts of items?

>> Thank you, Mr. Chair. This particular project probably has a better set of developed plans for a planned development zoning than a lot of projects. In fact when we get to the PD permit stage which I would anticipate the developers are going to be filing soon is not going to be substantially different. Staff knows that the applicants worked very hard with the neighborhood and with us and with the business association to accomplish certain things and we want to make sure those things continue. So I don't think there will be many changes. The types of things we try define at the PD permit stage will be defining the height of the wall along the edge of the ramp within a foot or so, the planting of additional trees within that area within the ramp and the back of the houses at Bluett to provide a more continuous canopy, there are four trees in the area right now and they may not be the best suited to provide a complete screen, and it's been our objective at the end of the day to provide a good screening so really that ramp is not really visible at all. So we'll deal also with the issue of the placement of the trash enclosure, I know we had discussed that with the applicant earlier, I'm glad he was willing to do that and that's something we'll discuss at the PD permit stage as well.

>> Commissioner Zito: Some of the other things like the cut in for the bus stop and the little plaza and the setback under the pizza place those are all conditioned as part of the rezoning?

>> Essentially what's being conditioned is what's identified specifically on the development standards. And so I don't think that there's a requirement per se that the developer provide a 2,000 square foot plaza or whatever the dimension actually is but if it's the wish of the commission to actually zone a requirement in to make it consistent with perhaps what's shown on the plan and actually zone that square footage in you know at those dimensions you know, I would recommend providing a little bit of latitude within a foot or two to deal with circumstances that occur identity in the field. That's -- out in the field. That's something that could be added.

>> Commissioner Zito: So if it pleases the chair I'm ready to make a motion.

>> Commissioner Do: Yes, please do.

>> Commissioner Zito: That we recommend, we Consider the mitigated negative declaration in accordance with CEQA. Recommend approval of the planned development rezoning of the CPplanned development commercial zoning district to the CP(PD) planned development zoning district to allow 41,457 square feet commercial office uses, office over retail, with an attached two-level parking structure on a 2.08 gross acre site. with the additional conditions that the design of the project is consistent with the design drawings that were provided as part of the packet. In addition, the eight foot sound wall, the bus cutout and so on.

>> Commissioner Do: There is a motion and there's a second. Is the motion clear enough for staff? Okay, great. Commissioner Platten, did you still wish to speak?

>> Commissioner Platten: If there are no questions I'm prepared to vote.

>> Commissioner Do: Okay, Commissioner Cahan.

>> Commissioner Cahan: Thank you, Mr. Chair. To the maker of the motion if we could include the 11.6 -- 11 feet six inches setback to the ramp from the residents.

>> Commissioner Zito: Yes, I agree with that. But is that not part of the drawing or was that a change from 10.6 to 11?

>> It is staff's intention to zone in 11.6, the existing fences aren't cite sited exactly why they were. The ten feet represents the absolute minimum, they can certainly go larger, there is nothing wrong with that, providing that the parking space size and the aisles meet the minimum requirements.

>> Commissioner Zito: So if I say we maximize that setback would that be sufficient to meet your current concern?

>> Commissioner Cahan: The neighbors specifically asked to increase it from ten, their initial request was 15 and they came to an agreement with the architect of 11.6. So I would urge that at minimum, 11.

>> Commissioner Zito: Planning, do you think that 11 is fairly comfortable?

>> I think that would work. It provides Mr. A civil-inch cushion.

>> Commissioner Zito: There you go, I know it's not much. But with that I'll accept the friendly amendment.

>> Commissioner Do: Commissioner Campos? Commissioner Cahan?

>> Commissioner Cahan: I do think that this project will actually help the traffic situation. I frequent that area and going to try to find parking at the pizza place it's usually full and so then I have to come out and with the addition of the parking available right there I think it will really ease all of the traffic issues. It actually never occurred to me to go around that back street. So I'm not one of those. But I think that this will actually help that whole area with the traffic issues and thank you for working on improving that.

>> Commissioner Do: Thank you, Commissioner Cahan. Commissioner Jensen.

>> Commissioner Jensen: Thank you. First I'd like to commend everybody. It's not often that we have the opportunity to hear both the residents and the applicant all on the same side, just negotiating the details. And like they say, the devil's in the details. And I look forward to having our hardworking staff continue to work out those niggling little details. One thing I would like to encourage staff to keep an eye on, is the lighter situation especially on the upper deck of the parking garage. And on the back side of the buildings as it faces out onto the Bluett area, in the winter especially, I live on a street where all the trees drop their leaves, and the commercial area right on this street behind my house have some really obnoxious lights that come on and state on all night long. Perhaps whatever you can do, alternative lighting on the top deck but also to ensure the privacy of the folks to make sure they're not going to have to buy blackout occur dance. I'd also like to commend the applicant and the architect of putting trees on the upper deck of the, as far as I can tell, parking garage. It is so difficult to put trees into San JosÈ and usually parking garages are overlooked as an opportunity so that was really nice. And to the owner of Aqui's, thank you very much for pointing out the symbiotic relationship between that lovely little coffee house and the Margaritas at your place. I'm glad to hear I'm not the only one who thinks there's a good little cross way there. With respect to the architectural style, I recognize that you've worked very hard on this, and I would like to encourage you to continue to try and increase the articulation in the building so that it doesn't appear to be a single monolithic building, Willow Glen, that part of Lincoln avenue, has some amazing beautiful and very different buildings sitting smack next to each another. And I think that is one of the many things that makes Willow Glen so enticing is the ability to see so many different small little buildings. And I think you have an opportunity here through articulation and paint and the exterior styling of the building to do something very similar so it doesn't look like one giant business building. And I would encourage you to try and take advantage of that. This is -- if ever there were a gateway entry to anywhere, this intersection is it for Willow Glen. And so I commend you for taking that funky little parking lot drive-through whatever it is on a regular basis, and converting it to a true gateway and a courtyard. That is going to be an amazing spot. Although I'm a downtown resident I spend way more time than I

should over in that area, and like hope, it would never have occurred to me to go park in front of the Marshmans' house, but you know, I might now that I know that that parking is there and that you don't mind. So I look forward to be able to partake and I promise not to tell my downtown business owners that I'm two timing, thank you.

>> Commissioner Do: Thank you, Commissioner Jensen. Commissioner Zito.

>> Commissioner Zito: Yeah, just a quick follow-on. While it's not part of my motion, I would ask that staff continue to work with DOT, continue to work with the neighborhoods to do whatever they can to mitigate whatever traffic impacts that this project would cause.

>> Commissioner Do: Thank you, Commissioner Zito. There are no other speakers so let's vote by light. The motion is passed, unanimously. So thank you and congratulations. So moving on on the agenda, is item number 4, petitions and communications, and there are none. Number 5, referrals from city council, Boards, commissions or other agencies. Director.

>> Laurel Prevetti: There are none.

>> Commissioner Do: Item Number 6, good and welfare. Report from the city council, director.

>> Laurel Prevetti: Thank you, Mr. Chair. First of all I'd like to just announce that the City Clerk's office is now accepting applications to the Planning Commission. We have three commissioner slots that will be open starting July 1. Applications are, one of our commissioners is eligible for reappointment. But there are two spots in which that is not possible. So we are very much interested in getting great candidates for the commission. Applications will be accepted through February and then interviews will be conducted in front of the city council on April 12th. Secondly I'd like to report that yesterday the city council began their discussion and direction on the update to the sign code. And they considered two major items. One has to do with billboards. They did endorse the support of continuing the City's billboard ban. However they did direct that we look at the relocation provisions for billboards to see if we can move them out of residential areas and into commercial areas. The second item that they were very excited about were freeway signs of shopping centers of 15 acres or greater. And they endorsed the parameters that staff moved forward. The council will continue their discussions of signs at their meeting of February 2nd, so if you or others are interested, they are accepting public testimony as part of that process. And then the updated ordinance will be considered probably in the May-June time frame. Thank you.

>> Commissioner Do: Thank you, director. Commissioners' reports from committee. Norman Y. Mineta international airport.

>> Commissioner Campos: Thank you, Mr. Chair. Nothing to report.

>> Commissioner Do: The envision San JosÉ 2040 general plan update task force.

>> Commissioner Kamkar: Thank you, Mr. Chair. As they relate to land use and you know, can we can anticipate the makeup of the population that are going to be living in San JosÉ in the next 25, 30 years. And how do we accommodate that population, you know. And the other thing to report is, the task force will be meeting twice a month, rather than once a month, try to you know, I guess, put some meetings in, and then I believe it's going to take a six-months hiatus while the EIR is being presented. And as such, I wanted to request if my other colleagues on the task force, Commissioner Jensen and Commissioner Zito, can assist me in doing these reports. Since it's meeting twice a month, you know, I will need some help with some of this reporting. And so I would like to make this request formally from the commission.

>> Commissioner Do: Thank you. Any response from Commissioner Jensen or Zito?

>> Commissioner Zito: I'm certainly willing to report out as best as I can, as well. It does make it a little more challenging to make every meeting. I understand Commissioner Kamkar.

>> Commissioner Jensen: Thank you, it does make it a little more challenging to prepare my notes.

>> Commissioner Do: Thank you, commissioner. Commissioner Cahan.

>> Commissioner Cahan: My comment is not on this so perhaps I need a different time to make my comments.

>> Commissioner Do: Is there a place for you on this agenda? Moving on, reviewing synopsis from the last meeting. Is there a motion to adopt it?

>> Commissioner Platten: So move.

>> Commissioner Do: All in favor? Thank you. Next item is discuss and approve a study session on May 3rd. Is there a motion to -- that's, I think that's a normal meeting date. Just a study session.

>> Commissioner Zito: I think that adds one extra meeting day in May, the 3rd, the 12th and the 26th. So given that that's a CIP, as typical I'll move that.

>> Commissioner Do: All in favor? That is approved. Subcommittee reports and outstanding business. Are there any? There seems there are none. Okay, please, Commissioner Cahan.

>> Commissioner Cahan: Thank you, Mr. Chair. We discussed previously that in March, the -- what is -- no, no, no, the conference for Planning Commissioners, the planning conference is coming up in Monterey. And I think it occurs during one of our meetings. And so, we discussed previously trying to alter things so that the commissioners would be able to attend that meeting. And I'm not sure the procedure to make that happen. But I would like to facilitate that as much as possible.

>> Commissioner Do: So would the director and staff --

>> Laurel Prevetti: Yes, we'll take a look at the March 24th date. I believe the conference actually begins on the 24th and then continues at least through the 26th if not the 27th. So we will see what adjustments we can make to the commission's schedule to reschedule the May 24th -- March 24th meeting to another date.

>> Commissioner Cahan: And then, I don't know if we would need to post that we -- if there are a majority of us that want to attend and are planning to attend, we need to post that so that we make sure that the Brown Act is covered.

>> Laurel Prevetti: Yes, we would certainly be happy to make sure that that occurs.

>> Commissioner Do: Thank you, thank you. And so with that, the meeting is adjourned. Thank you.