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>> Commissioner Bit-Badal: Good evening. My name is Edisa Bit-Badal, 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, December 5, 2012. 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 ticket validation table at the back, and at the bottom of the stairs near the audiovisual technician. Deposit the completed card in the basket near the planning technician. Please include the agenda item number, not the file number, for reference. Example, 4A, not PD 06-023. The procedure for this hearing is as follows: After the staff report, applicants and appellants may make a five-minute presentation. The chair will call out names on submitted speaker cards in the order received. As your name is called, line up in front of the microphone at 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 commissioners' questions will not reduce the speaker's time allowance. The public hearing will then be closed, and the Planning Commission will take action on the item. The planning Commission may request staff to respond to 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 actions on rezoning, prezonings, general plan amendments and code amendments is only advisory to the City Council. The City Council will hold public hearings on these items. Roll call. Roll call, let the record show that all commissioners are present with exception of Commissioner Kamkar and Commissioner O'Halloran. 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 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 defer remaining items to the next

regularly scheduled Planning Commission meeting date. Decision on how to proceed will be heard by the Planning Commission no later than 11:00 p.m. Staff.

>> Thank you, staff has only one item recommended for deferral, and that's item 1A, it's planned development zoning file PDC 12-010, planned development zoning to allow 20 single family detached residential units at the southeast corner of Mabury road and educational drive, commonly referred to as the Sabatino property. Staff is recommending this be deferred to December 12th, 2012, however there is a strong likelihood, and for the benefit of anyone in the audience, that this may be further deferred out to a hearing date in January. And so that date would be clarified if that occurs next week, thank you.

>> Commissioner Bit-Badal: Thank you staff. Commissioner Cahan.

>> Commissioner Cahan: Thank you thank you, Madam Chair. I'd like to make a motion to defer item 1A as recommended by staff.

>> Commissioner Bit-Badal: Do we have a second? All please voting by saying aye. And the item has been deferred. Thank you. Consent calendar. 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 to one of these items individually, please come to the podium at this time. Staff, item 2A.

>> Thank you, Madam Chair. We have only one item on the consent calendar tonight, and staff has no updates to that item. Thank you.

>> Commissioner Bit-Badal: Commissioner Yob.

>> Commissioner Yob: Move to approve consent calendar.

>> Commissioner Bit-Badal: And Commissioner Cahan stated second. All those approving please say aye, and all approved, thank you. And moving on to public hearing, 3A, Generally, the public hearing items are considered by the Planning Commission in the order which they appear on the agenda. However, please be advised that the commission may take items out of order to facilitate the agenda, such as to accommodate significant public testimony or may defer discussion of items to later agendas for public hearing time management purposes. 3A, CP12-043, conditional use item 3A, staff.

>> This conditional use permit is to allow fraternity use on an approximately .35 gross acre site which is located on the East side of South 11th street between East San Antonio street and East San Carlos street. The project is a 45 bed fraternity house used in the RM multifamily zoning district. The zoning ordinance requires a conditional use permit for a fraternity use. This project also proposes the rehabilitation and maintenance of the subject building. The proposed renovation of the north and West facades include new exterior paint, ornamental trim bands and rubble work veneer on the exterior. Staff recommends the approval of a fraternity use, with this building remodel. Staff also requests the Planning Commission to consider the exemption in accordance with CEQA. Thank you.

>> Commissioner Bit-Badal: Thank you staff. Is the applicant here? You may come forward and please state your name for the record. And you have up to five minutes to make a presentation.

>> Good evening, commissioners. My name is Deanna Dechmendi, and I am the representative of the applicant and owner of this property, alpha Zi Delta fraternity. Alpha Zi Delta is a women's fraternity founded 120 years ago. We have chapters represented on approximately 118 campuses coast to coast, and our vision is one of inspiring women to realize their potential. Our chapter at San José State is one of our newest chapters having been installed in 2009 and since literally the time of their installation we have been searching for a place for them to call home. It was very clear to us early on in this process, both from our own observations and from talking with neighbors and leaders of the neighborhood associations that we really needed to focus our search, limit our search to properties on 10th and 11th rather than going into more established neighborhoods. And so we

persevered, and fortunately last year we were able to acquire this property at 234 south 11th street. This was previously a single room occupancy of dubious quality. We have done a lot of upgrades and it is now occupied predominantly by our members using only as a boardinghouse at this point for San José State students. We are seeking to return the property to its original use as fraternal housing for our sorority members. Separate tranches and I'll turn it over to Joe Colona.

>> Joe Colona also representing the applicant. We're asking for a use perm and design review to improve the exterior of the building as well as what we did to the interior. Just to walk you through briefly what we're proposing to do is remove the existing rubble facade, rock facade and a portion of the front of the building replace it with a higher quality rock facade that actually addresses the entry rather than the front left of the building and also build a porch over the existing front door which announces the front of the building, currently it's very hard to find the front of the building. We are not adding any square footage but we are adding this cover to announce that. Also seeking to improve the security for the women who live there, by addressing some of the landscape concerns. There are some trees and bushes and things that are good hiding space in return what we are going to do is some planting beds which actually keep people from walking in off of the sidewalks and having to come up on the front where there could be more observed and then more on the architectural front doing some window treatments where we're doing a trim around all the existing windows and doing a band across the front and the driveway side that with would be reminiscent of the top of the cornice of the porch that we're proposing. And just on the conditions like to thank staff of course for working with us and coming up with a set of conditions that we certainly can live with and respond to what we're trying to do. And also, for clarifying tonight that the easement that we're proposing to give we're not actually dedicating tonight as part of this project, but it would be a future easement should the other properties on either side come in and do a redevelopment at some time. We would agree to do an easement along with their easement if it worked out for their development plan as well as ours. So I think that's it unless you have any questions about the design or the use of the property. Glad to answer any of those.

>> Commissioner Bit-Badal: Thank you for your presentation. We do not have any questions at this point. Actually we do have one right now. Commissioner Abelite.

>> Commissioner Abelite: I'm just curious, how do you conclude to hire Dahl and associates to do your architectural work?

>> I've worked with them for many years.

>> Commissioner Abelite: They're great.

>> Commissioner Bit-Badal: Thank you, we do not have any more questions at this point. We do not have any speakers cards from the public on this item so I will close the public hearing, for this project. Staff.

>> No additional comments at this time.

>> No additional comments at this time, Madam Chair.

>> Commissioner Bit-Badal: I do not have questions. Commissioner Cahan.

>> Commissioner Cahan: No questions, I just want to make a motion to approve item 3A as recommended by staff.

>> Commissioner Yob: Second.

>> Commissioner Bit-Badal: Commissioner Yob seconds, thank you for that. I do have a couple of questions to ask staff, of course. One is, it is stated that it was discontinued C.U.P. for this for 18 months. Was it another fraternity or sorority before this that had just a general question, did I miss that somewhere?

>> Thank you, Madam Chair. I believe the previous use was an SRO, single room occupancy.

>> Commissioner Bit-Badal: That's true. And my next question for a minimum of one parking I know this doesn't apply to this project but why sit that we're acquiring, policy question I'm asking for residential care do we require one parking per resident and is that what we do and why are we doing that for fraternity or sorority?

>> Thank you. There's a specific code requirement that identifies fraternities and sororities as specific land use and identifies it as such that one parking space is required per bedroom. And it's different from other types of residential uses, residential care facilities may have different requirements and it has to do with ambulatory nature of the people that might live in that facility and the number of staff people. And so that can vary quite widely. But as far as this particular use is concerned, there's a very set code requirement, this project complies with that requirement.

>> Commissioner Bit-Badal: I understand that, and I'm glad because of the nature of the project, building being so old that it does conform. But I was thinking to the future if sorority comes in fraternity comes in they have to develop one park spot per resident they are only a walk distance from the school, two blocks from the library, grocery, everything downtown it makes sense into the future looking into the policy for reviewing it may be seeing how other cities such as Berkeley or U.C. or Santa Cruz handle fraternity and sorority homes because they can easily commute by bicycle, especially now that Downtown San José is such a bicycle-friendly downtown, with all the striping. That's just something I wanted to bring up because of my observation because I graduated from San José State.

>> Thank you, Madam Chair. I just wanted to interject that we are actually in the process of working on an ordinance that would address our City's parking standards and this is one of the things that we have on our list of different uses to evaluate as part of that. So you should see that sometime in 2013.

>> Commissioner Bit-Badal: That's great news thank you for that. Commissioner Abelite.

>> Commissioner Abelite: I'm going to support the motion, but I have a quick question for staff, has to do with safety and like the fire marshal or the fire code, are they going to have a crack at looking at the building in terms

of fire and safety? The reason I ask is, my fraternity burnt down in my senior year, and we lost the whole thing. I'm just wondering does this trigger fire guys going back through and checking the building?

>> Yes, this would fall under the multiple housing inspection program and so there would be inspections done routinely. I'm not sure how often that's done specifically by the fire department to make sure that things are in compliance. And that would need to comply with the housing code requirements too which is state requirement in terms of how many people they're allowed to put in each bedroom based on the square footage of each bedroom.

>> Commissioner Abelite: Thank you.

>> Commissioner Bit-Badal: I do not see any further questions or comments at this time so we will vote by light. The project is unanimously supported by the Planning Commission. Congratulations. And welcome to Downtown San José. Item 3B. Staff.

>> Thank you, Madam Chair. This conditional use permit is to allow the demolition of two vacant single family residences and associated accessory structures to expand an existing 24.92 gross acre cemetery by approximately 3.8 acres located on the East side of Alexander avenue. The current expansion of the cemetery will involve some grading, landscaping and fencing of the two lots and installation of new landscaping along Alexander avenue to buffer the adjacent residential uses. The proposed expansion will coexist with four single family residences. On the east side of Alexander which will remain and are not associated with this project. This project shall meet all setback requirements for the R-1-8 single family residence in that all burials will be located at a minimum of 25 feet from the front property line along Alexander avenue. All new fencing will be in compliance with the zoning ordinance requirements for size, design and location. The applicant would like to provide an exit driveway to Alexander avenue from within the cemetery site. Staff recommends that a driveway not be approved, because access may be provided from private roadways that currently exist within the interior of the cemetery site because a driveway on Alexander avenue would negatively impact the residential character of the -- to the West of the cemetery. Planning staff recommends that the Planning Commission approve the proposed conditional use

permit, as a proposed expansion of this cemetery and the site improvements are in conformance with the R-1-8 single family residential zoning districts and compatible with the existing neighborhood. The project conforms to the requirements of the California Environmental Quality Act. This concludes the staff report.

>> Commissioner Bit-Badal: Thank you staff for your presentation. Is the applicant here? Would you please come forward and state your name for the record? You have up to five minutes to make a presentation.

>> Will Souza I'm the director of cemeteries our architect Irving Gonzales is also supposed to be here. He's working through traffic. I don't know if we can move, if not I can make the presentation myself but he has some visuals and some submittals he is bringing.

>> Commissioner Bit-Badal: He can go forward. Actually, I think he just arrived. So maybe we will restart the clock.

>> I can start. Because I have the first part here.

>> Commissioner Bit-Badal: Okay, you can start.

>> We appreciate the positive recommendation. We have two concerns, though, related to some changes that were being asked of us. One has to do with the setback requirement. And moving from ten feet to 25 feet. And to apply that retroactively, we've developed the property along Alexander avenue over the past ten years and we already have existing double-vault concrete installation boxes that go up to the fence. So if we were to move fences back that would be taking away existing burial property and would be problematic for us. So we're asking for consideration for that setback requirement. We've been slowly developing the area, and we have the fences even. And in a way that's attractive for the neighborhood to be able to see. This is the way it has been set up and developed over the last ten years. The second area we're asking for some consideration is this exit that we're putting in terms of -- that would go through Alexander avenue. The -- and it has to do with the way traffic runs in a cemetery. So the primary concern is the impact on the neighborhood. And the most traffic we have is during a

burial service and those are controlled situations where the lead car of the coach from the mortuary has a group of traffic that comes influence, usually they enter through capitol and then madden and they are not impacting Alexander avenue. After the service and the exit then people take whatever exit is closest to them. The primary purpose of that roadway is to provide accessibility to the new burial sections. Most of our clients, many are 65 years or older and so being able to walk to the sections is important. If you look at the roadway there's probably sufficient space there for about eight or nine cars. And those are the ones that would exit out Alexander. Other cars would go on what we call St. Joséph's avenue which is our main thoroughfare and that goes to Alum Rock. So we are really seeing or feeling like this will not be a big impact on the neighborhood for burial services. We also have individuals that visit on the weekends or the weekdays their loved ones. There's not much traffic created by that. Those are individual people that come and in that case, too, that gate is exit-only. If needed we could lock it like on a weekend so that people can't even exit through it. The primary purpose of that is for the burial services to allow those cars and the hearse to get in. Some people may say you can create a cul-de-sac or something within the cemetery but it's difficult when you have that large hearse and all the people behind it to bring them down and then back up and around. That's a -- it's just challenging, given the drivers, it's just a much easier thing to have a straight flow. And we share the concern about the neighborhood. I think we really work hard to have good relations with our neighbors and really feel that this traffic is not going to negatively impact them. So asking for your consideration also on the possibility of an exit there off of -- from the cemetery to Alexander. And then even capitol avenue or capitol expressway the other sides of the cemetery doesn't have an exit but it used to have an exit. We used to be able to exit off that area but that's old burial property and so it wasn't a problem because people don't visit those sections. You know we use sections and they're used for a period of time and then there's fewer visiting fewer need for exits. This will be a new section so it's important that we have some services there and have that exit. I used up all our time.

>> Talk about the fencing? Okay. All right. So what we are asking for is that we have a reconsideration of the previously approved C.U.P.s. Actually some of the development on the cemetery actually occurred prior to the last couple of C.U.P.s and hence the fencing that exists out there now and has for about eight to ten years now is actually about six feet back along Alexander avenue right on the corner of Alum Rock and as you hop skip and jump over the other residents that remain, there's a six foot fence there that is actually ten feet back behind the

sidewalk and the difference in the measurement is because there was a wider sidewalk that was required by the city at the time at the corner of Alum Rock and Alexander. I think the cemetery has actually been operating all these years under the assumption that the setbacks and the fencing were all going to align. So they have actually placed vaults in which the caskets are placed for the burials along that area. A 25 foot setback which we understand was a recent rezoning of the area, is sort of a retroactive aspect that would actually be very harmful to their operation and a detriment quite frankly because they lose ground burial and we lose what's already existing there now. I think as we looked at it at some point it was only four properties remaining on the site that are not owned by the cemetery that eventually as you could tell from the block, the intention is for the entire property to become a cemetery. And what we understand is that you want to have that uniform alignment going all the way across. So to actually push things back, it actually goes back to a previous concern that was expressed by a previous planner of having the sort of gap-toothed back and forth. I think everyone benefits by having a smaller setback along the street which will be very well landscaped as we have been approved for in previous projects and also the fact that you have defensible space because it's much smaller. If you have a 25-foot setback that is unusable, it's also sort of a no man's land in terms of where people can approach, if you have heavier denser landscaping, people could hide back there. There is actually no allowed parking along that stretch that doesn't have a house now it's been there for a number of years. So if people are walking home along that area that could also be a security problem where people might be lurking in the bushes as opposed to walk alongside where there's residences where you have eyes out on the street. So --

>> Commissioner Bit-Badal: Thank you.

>> You don't have anybody looking out on --

>> Commissioner Bit-Badal: Thank you so much your time is up right now. But let's see if we have any questions from Planning Commissioners. Commissioner Abelite.

>> Commissioner Abelite: Quick question, you were saying with respect to the setback issue 10 versus 25. Are you saying that you already have -- you have vaults in the ground preset up?

>> Yes.

>> Commissioner Abelite: And are some of those vaults occupied and if so how many -- do you have numbers?

>> There is a --

>> Commissioner Bit-Badal: Could you do me a favor and speak to the --

>> We can pass that down if it helps. I prepared a graphic just on the corner alone where Lavang section is Alexander avenue coming up to Alum Rock. There are 117 burial plots already existing and that's just below that number 28 section there. So the -- and those are all existing plots. There's approximately 117.

>> Commissioner Abelite: I'm sorry are those blank -- again I was passing arounds looking at the exhibit. Are those blank vaults or are those already occupied?

>> Actually we got the details yesterday about the setbacks so I didn't check the maps to be able to see because I just found out now that this is retroactively being applied, I thought it was only on the new areas. I don't know if the vaults-I don't know if they are sold or occupied. We sell ahead, it may be sold or occupied or empty. Those are kind of the three options. I don't know along that line, I haven't looked.

>> Commissioner Abelite: And can you speak to the -- how do you characterize the setback along the end of the property meaning north capitol avenue, like what are the setbacks there?

>> There are none. On madden avenue Alum Rock and capitol the fencing is pretty much at the property line.

>> Commissioner Bit-Badal: Consume sir can you do me a favor and speak in the mic? There are people watching at home. This program is being taped. Thank you.

>> To repeat that answer, Alexander avenue is the only one that has that setback. All of the wrought iron fencing on capitol, Alum Rock, and madden is behind the sidewalk, almost no setback at all.

>> Commissioner Abelite: And again could you explain the saw tooth alignment of the -- I know you said it in your opening statement but just go through that again with me with the colorized map?

>> As you look at parcel 28, where there is a setback there, the sidewalk is wider by about two and a half feet. So the fence is actually only about six and a half to seven and a half feet back from the sidewalk. There's a low fence there of approximately three feet in height. As you start getting into the blue area, there's actually a six foot high fence that runs across and then stops at parcel 9. At that point there's a house. Once you get to parcels 10, 11 and 12, going across, there's a six-foot-high fence with a ten-foot setback behind the sidewalk but the sidewalk there is only five feet wide. And then, we just started removing properties along the blue areas and installed fence as well.

>> Commissioner Abelite: Okay.

>> Prior to align.

>> Commissioner Abelite: I don't have any further questions.

>> Commissioner Bit-Badal: Thank you, Commissioner Abelite. At this point we do not have any more -- actually we do have one -- we do not have any more questions from Planning Commissioners. Thank you so much for your presentation. And we do not have any speaker cards on this item either from the members of the public. So I will close the public hearing portion of this item. Staff.

>> Thank you. Just to kind of clarify some of the items often the exhibit that staff prepared on the screen. The areas in white or gray were the preexisting cemetery, expansion areas. The areas in yellow represent the

remaining single family houses that would be there if this project is approved. The two black -- blacked out parcels are actually the subject site and the parcels in blue represent an expansion that was done as part of a conditional use permit in 2010. As part of the use permit that was done in 2010, there was a requirement at that time, because the R-1-8 zoning was in place which has a 25-foot setback. Had a requirement that burials and fences be setback 25 feet. And so I think in light of the information that the applicant identified for some of the preexisting areas that would reflect say parcel 28, 10, 11 and 12 on the site which were developed before the 2010 conditional use permit, I think those are probably some form of legal nonconforming but I think you know in order to respect the sanctity of the remaining single family houses identity there which are required to provide a 25 foot front setback and landscaping which is by no means a no man's land as maybe was identified by the applicant those should be left as-is and so maybe a modification that I think would probably be appropriate to the resolution would be and the of fencing is addressed on page 6 of the draft resolution, condition number 15 for fencing and maybe it would be appropriate to add to the last sentence of that condition, that all existing fences taller than three feet, three feet is what's allowed in the front setback along Alexander avenue after 2009 be relocated to conform to the 25-foot setback requirement. Again the 2010 conditional use permit for the areas in blue did require a 25-foot setback did require burials to be 25 feet from the property line. And until such point in time, where the code is either changed or the property is rezoned to some designation other than R-1-eight the applicant should comply with the requirements that are in place with the zoning designation. With respect to the driveway on sheet -- on the applicant's plan set, sheet A 1.zero, the 11-by-17 plan sheet size, to the right it does show one of the little blown-up exhibits shows a driveway that provides an egress onto Alexander avenue. The applicant identified that this is important because some of the vistaors to the cemetery are older, and they probably don't have the ability to necessarily walk as far. And that may certainly be a viable argument to providing good access to those areas. But the way this is set up is this is a 12-foot driveway and that 12-foot driveway does not accommodate parking. It would only accommodate the ability for someone to leave. If someone were to park on the premise to visit someone they wouldn't be able to park in that location. The driveway would either be made wider which staff is not advocating to occur or perhaps they ought to consider a different type of circulation pattern going back to, say, sheet A 0.0 which shows the overall excite plan of the site. As you can see there's two main internal roadways that run parallel to Alexander avenue and capitol avenue that are internal to the site and in order to address the interest that the applicant had in terms of providing closer access to burial sites to a roadway, it might

make more sense at some point in time as they develop more of the site to begin the planning stages to perhaps consider building in a third internal roadway parallel to the two other main roadways that would provide the access and provide the park but would retain the character of the neighborhood and not have driveways that come out to Alexander avenue. Staff feels that is totally unnecessary. We've asked a lot of this neighborhood already in terms of the encroachments by this use, and I think it's important to maintain the character of the residential neighborhood that's left, until such point in time the applicant buys out the entire neighborhood. And then maybe it can be reconsidered. To try do everything we can to minimize traffic in large groups even if it is only on occasions to coming out to that street. So that's why staff felt it was very important to not include a condition to the have a driveway come out. That's also consistent with the 2010 conditional use permit which had a similar condition.

>> Commissioner Bit-Badal: Thank you staff. At this point I will entertain a motion on this item. Or if you have any questions of staff it's a good time to ask those questions. Commissioner Abelite.

>> Commissioner Abelite: I still want to talk to staff a little bit about you're talking about buying out the entire neighborhood. Let me step back, I'm sorry. Just with respect to the zoning code itself, a cemetery within an R-1-8 district the setback is?

>> 25 feet.

>> Commissioner Abelite: Throughout the City of San José, is that the standard?

>> Correct. Unless you are talking about a fence that is less than three feet in height but the fences they're asking for are six feet in height so those need to be setback 25 feet from the front setback line along Alexander avenue just as a single family house would have to be set back 25 feet.

>> Commissioner Abelite: So I'm still not clear. If you have a six foot high fence, 25-foot setback, if you have a three-foot-high fence?

>> That can basically be right up to the edge of the sidewalk. That can be within the 25 foot setback area somewhere.

>> Commissioner Abelite: You still have a setback issue with respect to the vaults themselves?

>> That's correct.

>> Commissioner Abelite: No matter what, it's always 25 feet to the vaults?

>> Correct.

>> Commissioner Abelite: Got it. And yet you did talk about, towards the end you were concluding that if the whole neighborhood gets bought out which is a few remnant parcels, I'm sensing the only shift that staff might have would be to do the third set of driveways or the third left-to-right arrangement of a driveway internally only?

>> That would probably make sense not that staff is advocating a position in terms of whether or not it's appropriate to buy out those remaining houses but that does afford the opportunity to put in another driveway or I'm sorry another internal driveway that's parallel to the other two main driveways. We do need to keep in mind that the West side of Alexander avenue still does have single family houses on it so the houses that are being bought up are only on one side of the street. So it's not just five or six remaining single family houses that we should be concerned about but it's really the character of the remaining neighborhood, meaning the other side of Alexander avenue as well. But it may be that the issue with the setback of the fence and possible rezoning if the applicant were to buy that and if the applicant were to be able to secure a conditional use permit might make things a little bit different with respect to the fence issue because you're not having to have issues of fences and single family mixed on the same side of the street.

>> Commissioner Abelite: And I don't have any experience with this sort of use as it relates to maybe relocating vaults or things like that. I don't know if that's a -- maybe you may or may not know is that a plausible solution

later on to put in a third row even though there may be vaults occupied, in other words, do cemetery businesses do that? I don't know, I was just curious.

>> I don't know the answer to that, it may be if there's vaults and even if they don't relocate, they could still run driveways within the areas that are identified in blue or in yellow if they eventually pick up those properties. That currently don't have vaults in place and maybe it's not a continuous road that runs the entire north south length of the property. Maybe it's just segments.

>> Commissioner Abelite: Okay, thank you.

>> Commissioner Bit-Badal: Thank you, Commissioner Abelite. Commissioner Kline.

>> Commissioner Kline: Yeah, I'm just trying to get my head around the setback also. I understand the driveway issue, that's clear. It looks like they've got a very small setback at the corner of capitol and Alexander and then they got the some residential and then they've got the similar setback that's consistent with the corner of Alexander and Hamilton. That looks very nice and looks like it has a nice size fence on it. Then get into the properties that we're talking about. And I understand that is residential so you want a 25 foot setback especially if there's a six foot fence. But what would go there? I mine it's not residential. You don't have a driveway there. You would probably landscape it but it would be sitting out there with a fence behind it. What would you imagine that would be in that 25 foot setback?

>> Most likely would probably expect there to have a characteristic similar to the front yards of the single family houses. Probably be primarily lawn which is not an unusual circumstance really in any cemetery that I can think of in the area.

>> Commissioner Kline: So you would have the sidewalk and lawns --

>> 25 foot grassy area a fence maybe you might have some shrubs perhaps closer to the fence.

>> Commissioner Kline: So if they put a three foot fence in there would that be consistent with your --

>> That would be. I'm not sure that that would necessarily achieve the applicant's goal of trying to secure the site. That brings up a different issue but it would meet the zoning criteria. And I think unless that property is zoned something else, it is currently zoned R-1-8 and like it or not it does have a 25 foot setback requirement and we're obliged to adhere to that setback requirement.

>> Commissioner Kline: Unless we can have findings of a specific physical nature that would gift exemptions of some sort.

>> Come in for variance subsequent to this process if that were to occur and should it be possible for staff to make those findings it's premature for us to say at this point.

>> Commissioner Kline: Sure, thank you.

>> Commissioner Bit-Badal: Thank you. Commissioner Kline, and at this point I will entertain a motion. Or more questions. Commissioner Abelite Commissioner Abelite.

>> Commissioner Abelite: I'm going to go ahead and make a motion to approve the project as recommended by staff.

>> Commissioner Bit-Badal: And Commissioner Abelite would you like to speak to your motion?

>> Commissioner Abelite: Just briefly. I want to make sure we maintain consistency with the zoning code and not deviate from that. That's very important. I understand that there is some activity that's happened beyond the code but that may be handled separately later on with a variance at least capture the old ones if the findings were made. With respect to the loop driveway I do sympathize and understand the concern but at the same time, I think

staff's suggestion of using the four lots that are in blue, which would ultimately become seven lots in blue I think, or the three to the right, you could put in like a looped driveway system further in, and that would -- it's possible. And so I do want to respect the residents along Alexander drive to the South and I think the loop is possible. It's not the path of least resistance but I think it's reasonable to ask that and so that's the basis of my motion.

>> Commissioner Bit-Badal: Thank you, Commissioner Cahan would you like to speak to your second? Thank you. I do have one last question actually to ask and it's just a technical planning question. Say that you have hired historical resources consultants. When does it trigger hiring such consultants for evaluation? Is it the age of the house or -- it's on page 6 of the report. And if you don't have the answer, don't worry about it.

>> Madam Chair, the question was, when does the city typically require an applicability to hire an historical consultant.

>> Commissioner Bit-Badal: That's correct.

>> To evaluate the historic value if you will of the structure that's going to be demolished or modified through a project.

>> Commissioner Bit-Badal: Yes.

>> And there isn't a strict numeric number. You may have heard 50 years or have used but there is a degree of subjectivity that is applied as well in terms of looking at or other issues you know part of a district and so forth that could be applied.

>> Commissioner Bit-Badal: Thank you so much for answering that. It was just out of curiosity. Commissioner Kline.

>> Commissioner Kline: Really really difficult decision for me. I understand the business case that the applicants are making and we really have to be consistent with our zoning laws and this is a difficult one. But I think eventually this will work out that you will get probably what you want down the road as properties get purchased out you'll be able to come back and get that line adjustment adjusted but I don't think there's enough evidence right now to make findings for variance so I'll be supporting this motion.

>> Commissioner Bit-Badal: Thank you, Commissioner Kline. I will be supporting this motion as well, part of any kind of development is being good neighbors.

>> Madam Chair just as a clarification just so staff understands the motion towards the beginning I'd indicated that a slight modification to the fencing condition be included to address just changes, for properties developed after 2009. To conform, so that they wouldn't have to move existing fences that predated our first conditional use permit on the site. And so I would -- I was proposing that be included in the resolution. I just want to make sure that's the will of the commission to include that as well.

>> Commissioner Bit-Badal: Thank you for the clarification. Commissioner Abelite.

>> Commissioner Abelite: The maker of the motion desires to fold your comments back into the motion.

>> Thank you.

>> Commissioner Bit-Badal: And Commissioner Cahan.

>> Commissioner Cahan: Yes.

>> Commissioner Bit-Badal: Thank you. Thank you so much for clarifying that. I also agree with the recommendation. Staff has done due diligence and as I was stating part of any development is being a good neighbor for existing neighbors and there are neighbors living across from the existing cemetery and we also

have to keep their best interests in mind as well. So with that we will vote by light. And the motion was unanimously approved by all those who are present. Thank you so much. Now we're going to be moving forward with item 3D. The reason is because staff member for item 3C is not here yet so we're going to move forward with item 3D until -- and switch the agenda a little bit. Staff.

>> Thank you, Madam Chair. The item before you is an ordinance that would amend title 13 and title 20 of the City's Municipal Code specifically amending chapter 1332, tree removal controls and section 20.100.140 and 20.100.220 of chapter 20.100, administration and permits, to amend the tree removal requirements single family residences and order streamlining permitting processes and to further implement the community forest goals and policies set forth within the envision 2040 general plan the CEQA clearance for this project is use of the final environmental impact report that was prepared for the envision San José 2040 general plan, we have a brief staff presentation here, bringing up shortly. But just to, by way of introduction, the city has been considering the need to look at the ordinances that regulate tree removal permit processes for some time for a number of years there's been ongoing staff work on this issue, ongoing community engagement over really several years and then recently, city council has identified this as a higher priority as well. So we're bringing forward this ordinance which would help to streamline the process. In terms of background, if you look at the last several years, as noted in the staff report, there have been about 6,000 of these. And less than 1% of our tree removal permits are actually appealed. So in many cases there's a process with very little that -- very little community interest. And so there seem to be opportunities for fine-tuning that process in a way that would still achieve the City's objectives in terms of regulating tree removals but also reduce cost for homeowners and the city. So that's one of our goals here. Some of the challenges that basically all trees are ordinance-size, 56 inches in circumference or larger as measured two feet above ground have to go through a public hearing process. If you look at other communities that's not a typical approach. We're actually requiring the hearings for more hearings so if you will come to one of our director's hearings in the morning you'll see there's a long list of tree removals on the agenda most of which have no public input, no speakers, and as I mentioned earlier, almost no appeals. In order to make the findings that are in the City's ordinance often requires that the applicant hire an arborist to do a report, there's some cost there that again does not seem to be generating a lot of value in terms of the City's goals or processes. And also, the criteria that are available for staff to consider in the current process are pretty narrowly limited and don't

address some of the issues that we've seen are commonly coming up and we're terming those as unsuitable trees, going into a little bit more of what those are. Here are some examples. You'll see on the left a tree that's clearly -- these may be a little bit extreme examples but it's helpful. The tree is clearly too close to the house. There may be issues between the structure where it's starting to affect the structure. That is something we can look at but again requires that report. Even in cases where it's quite obvious that there are issues. Trees like this are the result in some cases of you know when the subdivision was put in 40, 50 years ago, the developer wanted some landscaping that would grow quickly, and make the homes attractive but over time those trees have grown and gotten really too big for the location they have, you see some trees there, just not a well thought out landscape plan there on the berm, water, irrigation runs off the berm, trees don't get the water they need to grow well, different circumstances like that and in some cases species over long term that are not really suitable for an urban environment. So what the proposal is before you would create a new type of tree removal permit that would be administrative in nature. Basically the applicant -- the homeowner would still be seeking a permit from the city, a tree removal permit as they do today but it wouldn't require a public hearing. The city would still be able to place the same conditions upon the permit that the typical condition is a replacement tree or contribution to our city forest, to pay for a tree that they have a list of areas in the city where they know there is a need for trees and they can go and plant and maintain the tree. So with that condition, staff's analysis is that modification of the tree removal permit would not result in any loss of the City's ability to maintain its community forest. And may in fact actually help us to make -- get more trees with a reduced burden upon homeowners might be coming into compliance with that permit process. And so one more slide. Just want to note for any members of the public that are here tonight, that the item was originally placed on the city council agenda for December 11th. They dropped the evening session for that date so it's going to be pushed to the December 18th city council meeting at 3:00. It will also let the Planning Commission know and others that we are continuing to look at the issue of tree removal permits and have the intention of coming back sometime in 2013. Also note that there subsequent to the staff report there were two items of correspondence from the community that were distributed to the Planning Commission. One was a letter from a San José resident, who's a member of the neighborhoods commission and one is a letter from Anil Barbar who I believe is here tonight with the Santa Clara County association of Realtors and both are in support of this ordinance. So we have the business side and the ordinance side both indicating this is something they see as a positive step forward so thank you.

>> Commissioner Bit-Badal: Thank you staff. We do have one speaker, public speaker on this item. Mr. Anil Babar, would you please come forward and restate your name for the public. You have two minutes to speak.

>> Thank you, and good evening. The association of Realtors represents about 6,000 members in Santa Clara County and we also like to say we represent the interest of homeowners in the county as well. We're supportive of this ordinance. We felt this was a long time coming. Obviously, you know, we could find ways of making this a little easier on homeowners by extending the requirements that have been proposed for the -- just the unsuitable trees to extend to all trees but we are generally in support of this ordinance and like to see it go forward. Thank you.

>> Commissioner Bit-Badal: Thank you sir. Next speaker is Larry Aimes. Would you please come forward state your name for record and you also have two minutes to speak, sir.

>> And just say preservation of large trees is important. It affects the climate for adjacent houses and aesthetics of the neighborhood. But we recognize -- and the existing process generally fine but it is sometimes cumbersome so we also recognize that not all trees can be saved or should be saved and I believe that this process I see here helps streamline the process, and still preserves the needed preservation of -- protection so I support this. Thank you.

>> Commissioner Bit-Badal: Thank you sir. With this I will close the public hearing. Staff, any -- either additional items?

>> No further comments, thank you.

>> Commissioner Bit-Badal: No further comments, thank you. At this point, Commissioner Kline.

>> Commissioner Kline: Make a motion to approve 3D.

>> Commissioner Bit-Badal: And we have a second from Commissioner Cahan. Would you like to speak to your motion Commissioner Kline? And Commissioner Cahan, would you like to speak to your second?

>> Commissioner Cahan: My one comment is, the letter from Mr. Babar discussed the \$300 as being high for our city forest. And I do disagree on that point because not only do they have to purchase the tree, then they have to get people to plant the tree and then they have to maintain the tree after that because often it's in places where there isn't someone that's taking on that or they have to find a volunteer that will take on that tree for a year. And a year is a long time to get commitment from someone to take care of a tree. So I think \$300 is reasonable for planting a tree and maintaining it afterwards.

>> Commissioner Bit-Badal: Thank you, Commissioner Abelite.

>> Commissioner Abelite: Couple of questions for staff. So actually, stepping back, maybe stepping back from this issue but as a Realtor as a member of staff there's a form that every time we buy and sell the house it's called the street tree removal form and frankly it's a little annoying in my business line having to work with it. And I just want to understand what the background was to it and does it really -- does it really serve a purpose in the view of the staff of the city? You know it's just a piece of paper that's jammed into a stack that's already an inch and a half thick when you're doing disclosures. I think it has to do with street trees and people's acknowledgment that the tree is really up to them to maintain. Can you talk about that a little bit in terms of the form?

>> Joe Horwedel: A little bit. It is for street trees so our Department of Transportation is the one that receives those. It is, it was created I think it was Councilmember Cortese actually led the effort to create that when he was a councilmember. And the goal was to acknowledge that street trees are an important part of the city that for many years we did not plant street trees in those parts of the city really suffer in how they appear. Recognizing that at property transfer one of the questions was, should a transaction be held up, which some cities do, until a tree is planted or other improvements are made. And the council decided not to go there but the compromise was

to do the disclosure form, where the Realtor, the seller, or the buyer had to go through and acknowledge that what the law is, the number of trees based on what corner lot or regular lot, and if that existed at that property. And theoretically at the transaction, a tree should get -- is supposed to get planted if one does not exist is what through the disclosures. But due to all the cuts in the transportation department and the arborist department they are not following up on those right now. But it is something that has been asked about is, you know, how rigorous should the city be in chasing after those sorts of things. And right now it's a really low priority to do that.

>> Commissioner Abelite: All right. Okay. Within the staff report they also -- you referred to something called the palm haven conservation area. I've never heard of that before. And I don't know if I can identify where it is. But in the report, but am I saying -- am I misstating it? I saw something that's called the palm haven conservation area as if it's like some kind of district or zone within the city.

>> It's an historic district correct off of bird avenue.

>> Commissioner Abelite: Okay.

>> Coe avenue. Which palm trees are characteristic of that district. So where palm trees might be unsuitable in other locations we wanted to note that in some cases they could actually be contributing to the historic character of a neighborhood.

>> Commissioner Abelite: Got it, thank you. No more questions, thanks.

>> Commissioner Bit-Badal: Thank you so much. At this point seems like we don't have any more questions. I just wanted to make a comment. Urban forestry personally it is a priority of mine, but also it been a priority of the city under the green vision when we were talking about planting 100,000 trees, we also have to be mindful of how much of them we are removing existing ones because then the mass does not work out with the number 100,000. But at the same time we need to be reasonable when homeowners are coming forward and they want to

remove unsuitable trees and I thought this was truly a great compromise that staff has come forward with. And I want to thank you for your work on this. So with that we will vote by lights. Thank you again for your time. And this item also is approved, unanimously by all those Planning Commissioners who are present. Now, we're moving forward, item 3C. Staff.

>> Thank you, Madam Chair. This is a proposed development agreement with river view apartment development otherwise known as Irvine corporation, Irvine apartments for a project in North San José that was previously approved in approximately 2007 and as a part of this multiphase development one of the development phases had a high rise component that was allowed on the site. As a part of Irvine buying this development or majority of the development from the previous developer they talked with the city about the concerns they had about building that type of construction. And so through a series of discussions with Irvine, staff looked at options that would allow the site to build out, achieve the goals we've had in North San José about building the park, the retail on this site, but not put a high rise on it. And so through those negotiations, we crafted a development agreement, that would have Irvine essentially incentivizing high rise development elsewhere in the city so that would be a contribution of \$3 million to the city that could be used to pay for incentives that the city has tried to do in other parts of the city but really didn't have the resources to do. In addition, we have negotiated to do on two of the five development blocks, two of the three along North First Street doing taller buildings than what has traditionally been built with the residential North San José normal four story over parking. We are doing some modified type construction that actually put much taller building on this development site than a traditional four story building, as we were look at a five story over essentially a double height retail base with mezzanine loft type units on top and additionally we've worked through our building department to modify one of the other blocks to increase the height on that also beyond the four story over one. Staff is recommending to the Planning Commission ultimately tonight that we accept the development agreement that we think it is achieving our goals of incentivizing places where high rise may be a little bit more accepted by the marketplace, we haven't seen any real interest in this part of North San José, we are seeing in some other parts down by the airport and certainly in downtown so we thought this was kind of a logical swapout for that. Staff is available for questions.

>> Commissioner Bit-Badal: Thank you, staff and I do not see -- it seems like we have no questions from commissioners. And the applicant. You may council forward and you have up to five minutes to make a presentation on your item.

>> Chair members of the Planning Commission Dan Miller representing the Irvine company. We don't really have anything to add at this point. We've reviewed the staff report we're in agreement with the findings I think this is a good compromise between the Irvine company and the city to meet their goals to meet the goals for this particular project it's more in character with this neighborhood in terms of the type of apartment construction that's going on. It allows us to continue to move forward with this project of 1574 units. Also, as part of this development agreement is we're carrying forward the time lines that were in the original satisfaction agreement with the original owner that this project has to commence and complete construction within a particular time frame. So we'll abide by those and continue to move forward with that previously agreed provision between the city and the previous owner. We have done substantial investment in the North San José area continue to do this and this allows us to continue to move forward with that and we're available for any questions you may have. Thank you.

>> Commissioner Bit-Badal: Thank you sir. I do not see any questions from our commissioners. At this point I will close the public hearing portion of the item. Staff do you have any additional comments?

>> Joe Horwedel: No additions.

>> Commissioner Bit-Badal: Thank you. Planning Commissioners at this point I will entertain a motion. Commissioner Kline.

>> Commissioner Kline: I move to approve 3C.

>> Commissioner Bit-Badal: And we have a second from Commissioner Abelite. Would you like to speak to your motion, Commissioner Kline? And Commissioner Abelite. Okay at this point we will vote by light. Thank you and

the project was, the agreement was approved unanimously by all those present. Number 4, petitions and communications, do we have any petitions this evening?

>> Laurel Prevetti: We have none.

>> Commissioner Bit-Badal: Thank you staff. Five, referrals from city council, boards commission he or other agencies.

>> Laurel Prevetti: We have no referrals.

>> Commissioner Bit-Badal: 6. Good and welfare, report from city council, 6A.

>> Laurel Prevetti: 6A, I'd like to just report that last night the city council considered an appeal of the Harker School. This was an item that was appealed directly to the city council because it consisted of two parts one was an appeal of the environmental which is why it went directly to council. And the second appeal had to do with the planned development permit. This is for the children's shelter site currently on union avenue. Some of you may have heard about the appeal. Council did uphold the director's decision to approve the school at that cite and that concludes staff's report.

>> Joe Horwedel: There was one other item is yesterday at council did go and consider an appeal of the EIR for habitat conservation plan. They did uphold the certification of the EIR. Yesterday, at noon, we did receive a second letter, I don't know if I would consider it a protest but from an attorney's firm, representing unnamed parties in San José concerned about the EIR, so staff did go and analyze the issues raised in the second letter, and saw there was nothing new that, what the commission had seen previously in the letters that you had seen from the YCS development project. So we did go through and walk through that with the council. At this point the schedule we're working on for the habitat conservation plan is the date I'm giving is January 29th is the date to come to the city council for the habitat plan. Staff is working on a response to a number of the questions that the council had asked during the study session in I think it was October and subsequent actions be coming through. I

would note and we gave a little bit of an update to the council yesterday that fish and wildlife service and fish and game has written letters to all the other cities in the county about the habitat conservation plan the environmental goals and the mitigations addressed in the plan and asking those communities to acknowledge those issues as they do environmental review in their communities. That letter was followed up with a letter from I think about five or six environmental groups to the same communities. Recognizing the importance of addressing the cumulative impact to endangered species here in the value and the role that those environmental groups would be playing in individual cities to work with those communities to ensure that they were addressing those issues. Meanwhile we are working with the army corps of engineers, on we talked about it at the Planning Commission meeting we have had a subsequent meeting with the army corps in moving forward with wetland permitting, and separate work is under way with the regional water quality control board for their permitting so a lot of stuff is still moving that's partly why we're looking at January to bring this to council rather than this next couple of weeks to council.

>> Commissioner Bit-Badal: Thank you staff. Commissioner Cahan.

>> Commissioner Cahan: Thank you, Madam Chair. I believe it was two meetings ago, I asked the director about the property at Foxworthy and meridian that was a gas station, was discussed that it was going to continue to be a gas station now is actually retail and the easement issue which there doesn't seem to be an ease many now.

>> Joe Horwedel: Right, the project next to Tercini's. So Mike and I talked as soon as we came back from the council meeting and then I didn't write up the memo to explain all of that.

>> Sorry, I wasn't at the meeting but my recollection was that it had to do about getting a reciprocal cross-access easement between the rotten Robbie gas station site and the adjacent commercial site which is a grocery outlet.

>> Commissioner Cahan: It's across the street.

>> Joe Horwedel: That was the small little retail corn he Foxworthy.

>> So the enhance yen today gardens shopping center and I guess it was the Barry Merken project that used to be a Chevron station previously. We did make an requirement as part of that project, for the hacienda gardens project, which was the bigger piece, not the small one on the corner. As this commission may recall, some of the members were on the commission at the time when the rite aid proposal was being considered, which is at the opposite end of the shopping center at the corner of Hillsdale and meridian. One of the things we required as part of that overall project because it was part of an overall planned development, that upon the development of the adjacent little corner piece which was not technically part of the shopping center that we had some provision to be able to integrate that into one site. As a condition of that hacienda gardens project which was part of the rite aid proposal we required that the developer provide an irrevocable offer for cross-access for the benefit of the adjacent property owner on the corner. So that there could be cross-access. And so as we knew because we had been working with the adjacent property owner at the corn they were very interested in cooperating with that to make that happen. Not to share a parking lot necessarily but to provide cross-access so they wouldn't need their own driveways two feet apart from each other or patrons coming in that maybe were dealing with larger items didn't have to drive from shopping center to another one and park in a site that was maybe 50 feet away from where they started out. And so there was made a condition, that was something that was recommended by staff, it was something that this commission felt was important and that was included in the property. Subsequent, though, the property has changed hands. It's now owned by a different developer. That cross-access is in place. And the projects on both sides have been designed in such a way to be able to accommodate that. I think the one issue as I recall was that the smaller piece on the corner was moving ahead rather quickly in terms of their building permit process. Kind of awaiting the outcome of the decision on the rite aid and the cross-access agreement and I think as far as I recall, as the way they've actually developed the property because it's nearing completion already, they have not interconnected the sites. And so everything was put in place to allow that to happen. I think it's one of the things where you can lead a horse to water but you can't make them drink so we did everything we could to try the make that happen. With hacienda gardens project they as far as I know did what they needed to do. The one thing that was made a little bit more difficult as part of that, now that I remember and this is going back now three years it's testing my memory but we did indicate that the developer of hacienda gardens didn't have to offer it up for free. They did have a condition that was added that they had to work with the

adjacent property owner to negotiate a price to purchase that easement from which I don't know, what kind of negotiations there may have occurred. I know there had been negotiation is between the two property owners ahead of time and those really hadn't been going anywhere to make things happen. And so when that condition was added, I think staff had some concerns that maybe we might not be able to effectuate sealing the deal to make that happen. I think that's probably what has come to fruition in this case.

>> Commissioner Cahan: So even though that was something that we wanted, we couldn't make it happen?

>> Well, I think it's where it takes two property owners to cooperate in order to make it happen. The has yen today gardens piece was conditioned to offer that up. The other property owner is willing, the smaller property owner is willing but they have to come to financial terms with hacienda gardens to make that happen.

>> Commissioner Cahan: Now for clarification now it's another poorly designed shopping center where you can't access a portion of it. And in the future for -- because when this came before us, with the rite aid and the question was why wasn't that easement originally in there to begin with and it was that staff meant for it to be in there didn't realize it wasn't in the initial agreement until it was too late and this was our way of trying get it in there. So what can we do in the future? Because it sounds like what you're telling me is that even if it had been part of the condition that it wouldn't have been enforced anyway. But we need that good design of a development.

>> Joe Horwedel: It could be accounted for but we couldn't force it to happen. There wasn't a nexus to go through and say that they have to build it. There was not a traffic impact that would be created on meridian by not building it. Staff tried going down that path but really had two parties that weren't wanting to work together. I think one party wanted to make the happen. The other didn't. And so we kind of pushed them as far as we could without getting ourselves into a predicament on nexus.

>> Commissioner Cahan: So what I'm hearing is in the future we'll just have to make sure it's at the beginning at the very beginning.

>> Renee Gurza: So the director's description is accurate. The bottom line is they're two separate parcels. They don't operate as one center. We want them do. That's why it was set up as the director mentioned, we pushed hard for them to come together and work together. But the bottom line is they're two separate operations. We can't make one force them to allow access by the other. We believe that it would for all the obvious reasons it would be convenient if they could each access the other site. But you know when they come in as one large proposed development, we do that. Even though there's numerous parcels. For example I'm thinking of we're working on one right now oh what's the one Westgate where it's several. The normal situation is where there's several parcels and they come in but they're operating as one shopping center we do it. We do cross access easements all times. In this particular case they aren't operating as one shopping center and they're two separate legal parcels. So although from a design perspective and a practical design perspective, I think staff understands what you're saying but they can't pretty as one integrated use and we can't force one property owner to give access to the other property owner.

>> Joe Horwedel: And the other complication is that larger center went through bankruptcy and then you have another whole layer of complexity which comes along with that which didn't help as it was in the middle of construction.

>> Commissioner Cahan: Thank you.

>> Commissioner Bit-Badal: Thank you. And I believe we're done with 6A. Moving on to 6B. Commissioners report from committees, Norman Y. Mineta San José international airport noise advisory committee. Commissioner Cahan.

>> Commissioner Cahan: We didn't meet so no report.

>> Commissioner Bit-Badal: 6 credit C review and approve synopsis from 11-14-12. Motion by Councilmember Abelite and second from Commissioner Yob. All those approving please say aye, and the item passes. Item 6D, subcommittee formation reports and outstanding business. As you can see, this is the first time we have a line

item, particular subcommittees. So I'm going to move forward with 6D 1. Urban design shopping center retrofit subcommittee.

>> Laurel Prevetti: Thank you. Staff did invite the members of this subcommittee to join us for a discussion of a preliminary review application for the 1 south Market Street project that is going to be coming into our office here very shortly. Commissioner Abelite was able to be part of that discussion. We also invited the urban design committee from the historic landmarks commission. Members of the architectural review committee. One member was able to be there as well as staff and members of spur. It was a really good conversation and we really appreciated the participation and we've subsequently provided those details to the applicant and he's busy preparing his submittal for a site development permit to the city. So we're hoping, we're trying to figure out in addition to the shopping center retrofit and the work that we will be doing on the urban village zoning how else we can engage the subcommittee so if it's the will of the commission as these opportunities present themselves we would very much like to extend those invitations to the subcommittee and I just want to offer if the subcommittee member had any other comments.

>> Commissioner Abelite: Actually I thought just to characterize it it is not a commonly done meeting in this particular case but it's a high rise building also the mayor's office was there represented by Ru Weerakoon and office of economic development and there's a lot of interest in moving the project forward and at the same time there were noteworthy criticisms of some of the architectural elements and I think the developer took those you know and made note of them. And I'm curious to see what it's going to come in at in terms of a project. I think about 20 people were there and I also want to emphasize that it did go through an architectural review committee which is part of our code or requirements for a project of this size, so the project has already been vetted with an ARC and is going to go back through that again from what I understand or may already have. Other than that your characterization is very proper, very well done.

>> Commissioner Bit-Badal: Thank you for attending that meeting. I'm look forward to the next meeting as I had a conflict on that evening. Item 6D 2 riparian subcommittee, Commissioner Kamkar is not here this evening. Staff.

>> Laurel Prevetti: Madam Chair, that committee also used to be two commission members and we will be reconstituting this subcommittee because one of our items on the work plan is to look at codifying or formalizing the riparian policy that was one of the action items that council put forward when they did their priority setting so we are interested and certainly could have a one member subcommittee but if there is another commission member that is interested in joining vice chair Kamkar we would welcome that.

>> Commissioner Bit-Badal: Commissioner Cahan or Commissioner Kline? Commissioner Cahan has shown interest. So it would be great to have two Planning Commissioners on a committee. Thank you for accepting that. Item 6D 3 bylaws subcommittee, this is a subcommittee that Commissioner Yob and I are leading and there's one more member who's going to be joining us, that's commissioner Platten, I've asked him to join it and he has accepted it. We will resume our first meeting in January. I will let you know the date by next week, due to commissioner -- former commissioner, I keep on calling him commissioner, I'm used to that, former commissioner Platten. We will begin our subcommittee meeting in January and I will let you know of a date next week. And we have no other comments. Item 6 E commission calendar and study session. I met with staff about a couple of weeks ago and as you recall, at two committee meetings ago I asked if you have any interest in adding study session for the next year at least the first six months of 2013. I haven't heard anything from Planning Commissioners although that's not late. You can still come forward with ideas next week. There's no cutoff time for that. But I did come up with three myself. And discussed that with staff so I'm going to go through them. I want to give staff ample time to get the information together, and those study sessions will again be add 5:00 as they are before our meeting so we don't have to take an extra day off from work or activities. I was hoping we could look into North San José developments as I'm reading the paper we are having a lot of projects that will be coming forward. It would be great to have an overview of projects coming through the pipeline in 2013 and look at holistic view of North San José so I would like to see that. I think it really helps, as individual projects are coming forward and we have the general idea of what is going on so it's going to really help us make a decision as individual projects are coming forward. Another item that I thought was important is the village plans. I know we have subcommittee members on that but I know as a whole all Planning Commissioners have shown interest in this. It would be great to have a little bit more information on the villages and how it's going an one particular study

session on urban villages plans and how those are going and potential financing of them. And also, another item that I thought into the future project if that's possible, too. Giving you more work. Diridon housing plan surrounding Diridon. I don't know if the plan is coming forward any time soon but would be great to learn more about it if you do have more information on that. So those are the three items I was thinking about, again, if you have other items that you are interested in, please let us know in advance, so staff will have ample time to prepare. And I also will encourage you these study sessions are really meant to help us make better decisions into the future. So I encourage Planning Commissioners to be present at those study sessions. And with that I don't see any -- Commissioner Yob.

>> Commissioner Yob: I just had a question for staff as a member of the CIP committee that was formed. I know we made some recommendations as part of that work, and as I'm looking at the calendar and thinking about what's coming up again, I'm just wondering what's going on in connection with the recommendations. I know that staff was going to do some additional study on that just curious where that is.

>> Laurel Prevetti: Thank you. We shared the CIP subcommittee's report with the budget office and they accepted the work. They actually did some follow-up research themselves and talk to the city of Sacramento and they liked what they saw so they very much appreciated your efforts. I met with them earlier this week and we talked about how we might organize really three things. Do three things differently. Within the CIP budget document itself, each category or investment area would have an explicit statement about general plan conformance and how specifically how that group of investments is helping to bring the city closer to the vision in the general plan. So they're working with each of the departments that are involved with that, and planning staff will have a chance to review it and make sure that in fact it does conform. So that's the first thing. The second is that planning staff will be doing a much more detailed cover memo now. You basically just get the statement that says you need to find consistency part of the charter and then we give you the charter section and that's pretty much it for our analysis. What we intend to do for 2013 is work with the budget office, to answer the question about what are the new investments specifically and how do those advance the general plan? So they took very much to heart your interest in the new investments. So you'll see that more explicitly in the cover memo. And then third we talked about the actual presentation that the budget office leaves with the other departments on the

CIP. We already have that study session on your calendar for May of 2013 and they're going to do a much more streamlined presentation. Still talk about all the different sources of money, how the money intends to be distributed but again really focus on the new investment. So that way you can really add value where the CIP needs probably the most amount of work. So I think the CIP subcommittee should really be proud of its efforts because the organization just really grabbed hold of your recommendation, did some additional work and has embraced them. If the committee feels there's more work to be done I did not put it on the list because I thought from the retreat we were finished but if there are additional things you feel would need additional follow up we would be happy to keep that subcommittee alive. Thank you.

>> Commissioner Bit-Badal: Commissioner Yob.

>> Commissioner Yob: I just wanted to thank you for the additional work that you did and also offer on behalf of the committee if you need any additional support as you're following through with it that we're certainly available to you so you can certainly ask us to reconvene and we would be happy to do that. Just one more comment. I think I noticed that on the agenda administrative hearing is designated, and I just wanted to thank staff because that was in response to some concerns we had at the retreat. So thank you for doing the work of putting that on the agenda. I think it's helpful.

>> Commissioner Bit-Badal: Thank you and with that we will adjourn this evening's session. Have a great evening.