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City of San José Planning Commission meeting.
Wednesday, May 19, 2010

COMMISSIONER JENSEN: If you would like 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 planning 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 card 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 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, 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, please. Let the record reflect that all commissioners are here with the exception of commissioners Cahan and Campos. Item 1, deferrals. Any item scheduled for hearing. This evening for which deferral is being requested will be taken out of order to be heard first on the matter of deferral. A list of staff-recommended deferrals is available on the press table. Staff will provide an update on the items for which deferral is being requested. If you wish to change any of the deferral dates recommended, or speak to the question of deferring these or any other items, you should say so at this time. To effectively manage the Planning Commission agenda, and to be sensitive to the concerns regarding the length of public hearing, the Planning Commission may determine either to proceed with remaining agendized 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. Decision on how to proceed will be heard by the Planning Commission no later than 11:00 p.m. on the matter of deferrals, staff.

ORATOR: Thank you, Madam Chair. As noted on the overhead projection screen, item Y is item CP09-04 nine. A project located at 44 South 11th street. Staff is recommending deferral of that item to may the 26th at the applicant's request. Item number 1B, is an ordinance amendment, PP 10-059, an ordinance to amend title 20 of the municipal code, to add a definition of parking in disdestination areas. This is to be dropped and renoticed. Item C is PD 09-023, a appeal of a director's decision to construct new buildings for retail commercial uses for a project located at Meridian and Hillsdale avenue. That project is being recommended for deferral to may the 26th for applicant and the appellant's request. This concludes staff-recommended deferrals, Madam Chair.

COMMISSIONER JENSEN: Thank you, staff. Is there a motion from the commission? There is a motion and a second to move the recommended deferrals. All those in favor, please say aye. Thank you, that passes unanimously. 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 being 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. There are no consent calendar items this evening. Public hearing. Generally, the public hearing items are considered by the Planning Commission in the order which they appear on the agenda. However, please be advised that the commission may take items out of order to facilitate the agenda such as to accommodate significant public testimony or may defer discussion of items to a later agenda for public hearing time management

purposes. We have one item on the agenda so there's no shifting. Sophistication of a final supplemental environmental impact report. SEIR. Baseball stadium in the Diridon/Arena area, modified project to the 2006 stadium proposal, file PP05-214, to be constructed in the area generally bounded by Julian Street to the north, autumn Street, Bird Avenue and Los Gatos Creek to the east and south, and railroad tracks to the west. Staff.

ORATOR: Thank you, Madam Chair. Let me first introduce our team for this evening, I think. My name is Darryl Boyd I'm a principal planner for the Planning, Building, and Code Enforcement Department. I have with me Reneé Gurza who is senior deputy City Attorney. Andy Faber is our outside legal counsel with Berliner Cohen. Dennis Brown is the preparer of the supplemental EIR, he is with LSA. In the back row of the bull pen we have the transportation team, we have Manuel pineda, acting deputy director of the Department of Transportation. And then Gary Black and Robert Del Rio from Hexagon, they're the traffic consultants. I should also point out that because this is a city project, there is not a private applicant, but this is a city-sponsored project, Dennis Korbiak will be speaking on behalf of the city as the project proponent this evening, just to make that clear. I guess another housekeeping matter, Madam Chair, is that before you, you should have copies of five letters that we've received in the last two days. Some of those were e-mailed to you yesterday as we received them. There should be one copy of a letter from Shasta Hanchett, one from Clark Morrison on behalf of the arena, the sharks, Pillsbury letter representing the San José giants. There is also a letter that was just delivered this evening, from Yolanda Reynolds, and then there's also a letter that came in today from ELI waters. The last letter we got today that you probably did not see, previously there is a letter from the VTA. There are a total of five letters at that time dais for you.

COMMISSIONER JENSEN: I actually count six items. I count Cox castle –

ORATOR: Madam Chair, you're right, there should be six with Yolanda Reynolds letter. That's six. We have a really brief presentation, Madam Chair. Did it freeze, John? There we go. So just a few quick slides, Madam Chair, just to sort of frame the issue and set the context for you before you hear public testimony. And this is much for the benefit of the audience as it is for the Planning Commissioners, firstly just to remind everyone that CEQA requires us to certify a final environmental impact report, in this case the City of San José is both the applicant and the lead agency because it is a city project. EIRs, especially final EIRs are always the City's document even though there may be an outside consultant that assists us in preparing the documents, the documents are the City's document, we control the release and content of such documents. The director of planning and the city's scheme is recognized by the San José municipal code in title 21 as the city's designated CEQA administrator and then under the city's scheme the Planning Commission here in San José suffice our EIRs. Why did we do a supplemental EIR in this particular case? As some of you will remember, because you were here in 2007, there was an EIR, final EIR that you certified in February for a project that was larger than the project that's being analyzed in the supplemental EIR tonight. It was a 45,000 seat stadium. And things were somewhat different at that point in time. There was not necessarily a team, so it was a little more of a business risk if you will on the part of the city to go ahead and prepare that EIR. Since that time, more recently, there was a modified project that's proposed and that's what's analyzed in the document before you tonight, which analyzes a stadium that's reduced in size from 45,000 seats to 32,000 to 36,000 which is a reduction in size between 9,000 and 13,000 seats. Before preparing the supplemental EIR, staff went through the exercise of having an initial study prepared to assess what the potential impacts might be. What would be the appropriate environmental clearance process for the modified project. Initially, there was some thought that the city could do that with an addendum but then through the initial study process it was recognized that there was one previously undisclosed significant freeway segment and traffic impact that hadn't really been adequately analyzed or covered by the prior FEIR. I shouldn't say it wasn't adequately covered but it wasn't really properly disclosed data-wise. And so because of that there was a decision then to go ahead and prepare a supplemental environmental impact report. And then the last bullet on this slide is again just to remind everyone that there is no specific ballpark project being considered tonight. This is as you

will hear in later testimony the primary drivers for the supplemental environmental impact report are a ballot measure and land acquisition, so there is not a specific project tonight. This is a slide that highlights for you what the significant avoidable impacts were as identified in 2007 final EIR and these significant unavoidable impacts are still the case today. There were four freeway segments, there was long term air quality, there were four different instances of significant unavoidable impacts with noise one was regarding West San Fernando traffic, there was the event noise from stadium events, short term construction noise and then at such times that there would be fireworks there would also be significant unavoidable noise impacts. The project includes the demolition of two historic resources. One of which was not previously disclosed in the initial document, but there was a recirculated, focused recirculated document that dealt with the second historic structure. And then there's another historic impact with regard to the Diridon station both in terms of, not to the building itself but because of the context of the surrounding area, because of the changes to that it would affect the Diridon station building a city landmark and on the national register of historic places. There is also nighttime operation for light and glare impacts and then lastly, the only -- the previous five impacts are also cumulative impacts with the addition of visual resources. With the supplemental EIR, as we said, we have those -- the significant unavoidable impacts on the previous slide. With this SEIR, we have the addition of six freeway segments. There is one segment on 680 and five segments on I-80. There is also long-term traffic impacts with the narrowing of Park Avenue. And then a new issue that wasn't previously analyzed because we weren't really aware of it as much at the time has to do with greenhouse gas emissions and that is considered to be in this SEIR before you tonight a cumulative, significant and unavoidable impact. In terms of the process, the notice of preparation went out in mid November, there was a scoping meeting in mid December, the public review period for the draft supplemental was February 12th through the end of March. During that time we had one meeting with the Diridon good neighbor committee where they had the opportunity to make comments, or more specifically ask questions, because the document had not been on the street very long. So primarily, there were technical questions about how we did the analysis that came out of that meeting. And those comments are captured in the First Amendment, and there are responses to those comments. We also held a community meeting on March the 18th. Surprisingly enough, there were very few people who attended the meeting. But we did get some comments, written comments that are also included in the First Amendment. And then we did reply to the comments. Our response to comments went out on May the 7th which is 12 calendar days before your meeting tonight, so we met our legal obligations which is ten days per CEQA. So what all comprises the final SEIR? Well, it's the draft supplemental EIR, the comments we received on the draft document as well as a the persons organizations and entities that commented on the document and lastly the City's responses to the significant issues that were raised in the document, all of those included in the First Amendment as well as the list of organizations and agencies. Fundamentally, staff recommendation is for you to certify the final SEIR, we believe that, and we believe that we've shown in our response to comments that none of the comments we received provided substantially new or different information that would require us to recirculate the document. We feel that we've met that test, and so tonight we're asking that the Planning Commission certify the SEIR, find it complete and in compliance with CEQA and that it reflects the City's independent judgment and analysis of the modified project for the ballpark. With that, I think that concludes my comments, Madam Chair. I don't know if anybody else on our team wanted to say anything or not at this point. If not I think we're ready for you to carry on. Thank you, Madam Chair.

COMMISSIONER JENSEN: Thank you. Do we have any -- I'm going to call the first three names. If you would please come to the bottom of the steps and line up as I call your name Eloy wooders. I'm going to apologize in advance for the really bad way I treat people's names. I'm sorry. The agency has decided it would like to -- Mr. Wooders, if we could ask you to sit down, thank you.

ORATOR: Thank you. Madam Chair and members of the commission my name is Dennis corebiac, I'm with the redevelopment agency, I'm acting for both the city and the redevelopment agency today as a result of direction given by the city council and agency board going back exactly one year ago today. At that time after a series of previous council meetings the city council directed a number of actions for us to

engage over that last year. There were four specific things that they asked us to do. One, with regard to a ballpark, to study the site, at autumn and park avenue to determine its ongoing suitability for a major league baseball team. Two, to engage with major league baseball and their territorial analysis to see about the suitability of changing the territorial rights of the Oakland A's to Santa Clara County. Three, to develop all of the environmental and appropriate studies, necessary for those actions to take place, and then, 4, and most importantly over the last year, to engage the community over the next several up to 18 months dealing with all of the issues involved with the ballpark and the Diridon area. And now, with that in mind, let's go back originally to the idea of the ballpark. Since the early 1980s the cities have engaged in a number of processes to try to land a major league baseball team in San José. As a result of that study there were lots of studies in 1980s and 1990s with blue ribbon committees composed at that time of council persons now many of whom are in the state legislature looking at that site. The key site always really focused on the downtown. Why the downtown? Well, clearly there was a trend going on at that time, towards looking at going back to historically how major league baseball evolved in the United States. And that was in town, urban locations that were easy to walk to, that you could use mass transit, that were the hub of activities. Why was that important, and why did that become important to the city? One, it added value to the community, it complemented the downtown, it supported the construction of infrastructure and made multiple use of transportation and other facilities and finally as part of a whole lifestyle of community it created a destination and a place for the spirit of the city. That's what we were looking for in terms of developing this project. And that trend continued in the 1990s with facilities like Coss field in Denver built again in the heart of the downtown. And the next major downtown facility, Camden yards in Baltimore built around a established neighborhood in an area that was considered at that time a major blight in the area. And comparison of older facilities, Wrigleyfield and Fenway park build in 1912 and 1914, and then with the new facilities, Petco park in San Diego and one of the great new parks, Target Field in Minneapolis, which I really urge you to go see if you're going through that town. It's located right next to their arena. So our facility. How has it changed since 2007? One, the original parking garage that was located, immediately South of the facility, the fire training site has been eliminated from analysis. Two, we're looking at narrowing park avenue, downtown and in the rose guard area. 3 we're looking at new parking locations, actually the ones that staff is looking at is located near the arena park and Montgomery and then the size of the facility and the number of attendees has gone down considerably. Parking, I'm not going to talk about parking lot because I'm sure you're going to hear a lot about it tonight. Just to remind you, there are 29,000 parking spaces in the downtown east of the railroad tracks and a lot of those are sure empty in the evenings and weekends. Sorry, I'll catch up here. A little bit more about the good neighbor committee and then I'll wrap up with you. The council designated a 31-member citizens committee to look at the ballpark and the Diridon area. Since that time there has been over 12 committee meetings, tours of the site, active engagement in every one of those meetings and discussions about the issues related to the ball partially park. The committee by the way is slated to put together its recommendations over the next month and I saw the list today. It's over seven pages of things that they feel needs to be done in order to adequately address the new development that's occurring in the Diridon area. They were charged with some key things. One to look at this area, wanted the committee to work collaboratively with business labor environmental groups and other interest groups to work in a collaborative benefit to come to a conclusion for a major league baseball park. We regularly e-mail over 400 people about the site and we actively maintained the Website in the redevelopment agency web area. And finally the guiding principles, I'm going to hold off on that and let you start your discussions. These are the items that the council has addressed for us to engage in major league baseball and the A's and I'll do that on my summary and rebuttal. I think I'm over my five minutes, if there are any questions thank you.

COMMISSIONER JENSEN: Do we -- I'm sorry. We do have a question. Commissioner Zito.

COMMISSIONER ZITO: Thank you, Madam Chair. You had mentioned the existing stadiums in urban areas. And one that comes right to mind is again Oakland stadium and the Oakland coliseum. They're fairly close to each other if I'm not mistaken. How has that worked out?

ORATOR: One, it is not in the heart of downtown Oakland. It is basically a freeway off ramp. It is isolated by a sea of parking. It has no engagement or vomit with the community. All the other new facilities are well integrated into the community. Direct involvement there, getting out of the car going to the stadium or some other location. With all the other facilities, think of our local arena. Which a lot of people do. They come downtown for a game, or another event and they enjoy the walk over to the arena.

COMMISSIONER ZITO: I understand what you're saying from an experience perspective, you know, and that lends more to the discussion of is the ballpark the right thing to do for downtown? That's not what's before us tonight. What's before us tonight is the environmental impact of putting this stadium or something like this in that area, and its proximity to Diridon station and the shark tank and et cetera. That's where my question came from modifier a -- I understand the customer's experience aspect of it being downtown, you don't have to sell me there. My question is, how is it working, the one that I'm most familiar with is Oakland stadium and Oakland Coliseum being close together, from an environmental perspective, and I don't know, maybe you can't speak to this, I don't know, but from an environmental perspective, how has that worked?

ORATOR: I think actually I'd have to defer that item, because I haven't worked in the City of Oakland and haven't worked with their jurisdiction, regarding that facility.

COMMISSIONER ZITO: Okay, fair enough.

COMMISSIONER JENSEN: Thank you, no further questions from the commission, thank you, Mr. Korbiak. Now my apologies, I will butcher everybody's names. Eli Wooders, Peruj Ajunia, Deborah Arrant, please step down to the podium.

ORATOR: Hi, good evening, my name is Eli Wooders. I'm a member of the good neighbor committee. Well, tonight, it's like déjà vu all over again. Because here we are three years later after the last EIR, and we are again discussing an EIR for the same ballpark. But tonight I want to stress, it's not about baseball, it's about a huge development in a small spot right next to residential users. And esteemed Planning Commissioners, you need to plan. Do not accept this as a piecemeal development in this area, because the unintended consequence of sophistication would be that high speed rail, BART and other developments in the Diridon station area will need to have to work around these facts on the ground. And please, do not accept the long list of possible mitigation measures without identified funding. The city and the RDA are broke. And now I would like to address my slide. I think the parking analysis low balls the available space in the parking garages, but that's not the point. The point is that the EIR just assumes that everybody pays for parking. And the magic of a TPMP will just keep the cars out of all the neighborhoods in the yellow circle that are walkable and therefore can be used for street parking. For free, street parking. And nobody apparently can dare to cross this magic red dotted line at the train tracks like a virtual fence. Now I would like to show my second slide which shows in red all the freeway segments that are being impacted according to the EIR and the SEIR and do consider this as a death blow of gridlock to our fragile freeway infrastructure. The neighborhoods are in desperate need to rationally discuss the concerns and needs of the community before the council decides to put a ballpark on the ballot. I refer you to my letter for 15 reasons why I urge you to vote against certification. Thank you very much.

COMMISSIONER JENSEN: Thank you, Mr. Wooder.

COMMISSIONER ZITO: Question.

COMMISSIONER JENSEN: Thank you, Mr. Wooders, we have a question from Commissioner Zito.

COMMISSIONER ZITO: First of all, Mr. Wooders, I want to thank you for your very diligent and deep discussion on the issue. My question is, again, what we're tasked with up here is to essentially certify the adequacy of this EIR, right, not whether or not we agree with it necessarily, right, whether or not it's disclosed all the impacts that a project of this type could possibly impose on us, right? So I guess not having a whole lot of time to read what you wrote here, if you could very quickly give us a synopsis of the way you feel that the EIR did not disclose specifically, not that you don't agree with it. I mean I think we all agree and it was mentioned that there are significant impacts on the freeway segments. It's been disclosed. So while you like it or not is another story, it's not my decision, all right? So can you identify where you feel that the document did not disclose something that's significant?

ORATOR: Okay, first of all we have very short time to look at this huge document.

COMMISSIONER ZITO: Just give me the one or two or three that you know --

ORATOR: For instance the parking analysis, it repeats errors that have been made before. It completely, by not knowing the high speed rail parking demands, it doesn't want to take a reasonable guess at it. It just takes the number zero. Which is the worst possible number you can take. The day game analysis, and combined with the BART parking, where commuters will be using the parking lot at the same time, having -- all this parking being taken up for businesses, that now cannot survive or people would go out for lunch and when they come back the parking is taken. All that sort of impact is not really addressed.

COMMISSIONER ZITO: Okay. We'll ask staff to address it. Thank you very much.

ORATOR: Sure.

COMMISSIONER JENSEN: Thank you.

ORATOR: And it's five times louder. Thank you.

ORATOR: Thank you. My name is Pieuse maxudne. I ask you to consider the full impact of the stadium on San José and oppose the stadium. I've been a tax paying citizen for 20 years. To start off there are a lengthy list of mitigations and it doesn't show how we are going to pay for them. Does that mean that police and fire departments are going to suffer because we are going to pay for the proposed mitigations? At the end of the day, are we simply going to say we are going to pay for the mitigations and let the residents suffer and live with the situations? The entire city is going to suffer when 280, 101 and 87 will hit the -- will get hit with the ballpark gridlock. Imagine, if you live in Almaden valley, and you're trying to go home at night, and you work in North San José, or imagine trying to get to the airport. And do we really think people will want to move to San José, downtown San José, or visit downtown when they realize the nightmare commute on event days simply because traffic issues have not been properly addressed? Yesterday across the country voters had their voices heard loud and clear by politicians that seemed to be spending money we don't have. Interestingly enough here we are talking about spending a whole lot of money that the San José does not have. The city is broke and the redevelopment agency needs to sell its parking lots just to acquire the land for a ballpark. This is not about baseball, it's about common business sense. This is no time for San José to get into the subsidy business and we the taxpayers are not going to put up with more wasteful spending. Judge thank you. We have no questions from the commission, thank you. Ms. Arant.

ORATOR: Good evening. My name is Debra arant and I'm here as the vice president of Shasta Hanchett neighborhood association. You have before you our letter and I just wanted to make a couple of quick points. We ask that you request the formation of a citizen oversight committee similar to the one that was done for the shark tank, that you think very carefully about the funding source of the mitigations recommended. As of this moment there is no funding source. Also as a Planning Commission give

serious thought as to how this development will integrate with the forthcoming high speed rail and BART. A supplemental EIR does not take that into consideration at this point. This development will put our historical neighborhoods at risk. Perhaps there should be some protection measures put in place. And we ask that you think carefully about that. Thank you very much.

COMMISSIONER JENSEN: Thank you. I'm going to call the next three speakers. Phillip Nones, Yolanda Reynolds, and Todd Smith.

ORATOR: Good evening. I'd just like the impact on the neighborhoods and the impact on the economy, I'd like to suggest an alternative. By placing the stadium at 237 and Zanker, it's San José property, co-owned with the Santa Clara and other communities. But we would -- San José would still get the tax benefits with the proper use of the mass transit, the businesses would also thrive downtown. There are no neighborhoods right next to this area. They're looking for a tenant that can provide funds. San José is trying to build with a vision towards the north part of San José, so if you build this stadium they will come. Thank you.

COMMISSIONER JENSEN: Thank you.

ORATOR: Good evening. My name is Yolanda Reynolds and I wish to express my concerns regarding the lack of debts, serious and comprehensive analysis of the anticipated and acknowledged impacts as the consequence of the targeted location for this proposed ballpark. And there's -- I handed out a packet for you. I spent a lot of time, every bit of time I could reading this in the library. Lost one day, because the SEIR was missing from the library, and the librarian nor I could find it anywhere under a seat, being used by -- it was nowhere. Anyway, I wish to highlight just four of the concerns I've expressed in your packet. One, the anticipated congestion of local streets and that of the major freeways which will likely disperse that traffic onto roadways city wide. This likely consequence is not thoroughly analyzed. I looked for that. I could find it nowhere. Number 2, the levels of service ratings seem to be lower than those ratings used in the modification of the City of San José's impact policy by almost a third. That is a huge difference, and something, instead of being a D as it should be under the existing policy, it appears to be a C. I mean it's designated a C. Now, if something was passed, since the time of this adoption, I don't know about it. With regard to noise, it is concluded that there will be significant but unavoidable impacts from sports events as well as concerts. Instead of relying on the city, RDA to bear the expense, transfer that cost of noise abatement to the builder of the stadium by requiring that the stadium have a retractable dome. And if that's too expensive just have him dome it.

COMMISSIONER JENSEN: Thank you, Ms. Reynolds, your time is up.

ORATOR: Let me just read the last one please. Traffic and pedestrian control for 36,000 patrons and many more, 55,000 for the simultaneous events will require significant increase in the number of officers. Only approve this SEIR if there's concrete and binding assurances that there will be sufficient funding for both pedestrian and vehicular traffic control without depriving neighborhoods citywide.

COMMISSIONER JENSEN: Thank you, Ms. Reynolds.

ORATOR: Please delay your decision until you read those written comments we have sent in, they are very important. Thank you.

COMMISSIONER JENSEN: Mr. Smith, while you're on your way forward I'm going to call the next three speakers. Jack Wimberly, a representative Willow Glen neighborhood association, and Jay Ross.

ORATOR: Good evening, Madam Chairperson and fellow commissioners. My name is Todd Smith. I'm an attorney with the law firm Pillsbury Winthrop Shaw Pittman. We represent Stand for San José which

is a coalition of individuals and institutions in San José who are concerned for the EIR for this project. We've submitted two letters, March 29th, 2010 comment letter on the SEIR as well as a letter which should be before you now which we urge you to review and consider. Those letters together contain all of the ground upon we contend the SEIR is inadequate. Given the time constraints in public comments, I want to turn directly to Commissioner Zito's comments here. Freeway segments, he says it's disclosed even if you disagree with it it's still been disclosed. I disagree that it's been disclosed. The SEIR identifies the 6 to 7 p.m. time period as the period during which the majority of traffic, the vast majority of traffic is going to be generated by the stadium. The SEIR declines to analyze the impact associated by it, associated with this, based on the idea that the city has a transportation policy which only requires it to analyze traffic impacts between 4:00 and 6:00 p.m. That contention has been rejected by law. There is a case called Mahia versus the city of Los Angeles, in that case the City of Los Angeles did exactly what the City of San José is doing right now, based on a regulatory history of significance. The court said no if there is evidence in the record to suggest that there could be significant impact even outside of the threshold you have to analyze it. I would also point the city to Berkeley Jets over the Bay versus the Port of Oakland, both of those are briefed in our letter. It is simply not true that this SEIR discloses all the potentially significant impacts. It hasn't analyzed freeway segments from 6 to 7 p.m. It concluded an informational analysis of intersection levels of service impacts, but it didn't identify those as significant and unavoidable, and it completely punts on the issue of mitigation of impacts to downtown intersections. Again --

COMMISSIONER JENSEN: Thank you, Mr. Smith, your time is up but we do have a question from Commissioner Zito.

ORATOR: Okay.

COMMISSIONER ZITO: Thank you, Madam Chair about so I'm reading the First Amendment responses and in the, I guess it's the introduction, comments and responses section 3 it does talk about the 6 to 7:00 p.m. informational analysis. Now are you suggesting that that doesn't include the freeways and only includes the city streets?

ORATOR: It doesn't include the freeways. It only includes the intersections. They did no analysis of the freeways from 6 to 7.

COMMISSIONER ZITO: Because you were running out of time you were saying the impacts on the -- it sounded to me in looking at the tables there were pretty elaborate and extensive studies in the downtown. Which were not studied?

ORATOR: Between the 6 to 7 p.m, the impact that would have on downtown intersections. What it did not do is conclude whether those impacts are significant unavoidable or propose any sort of mitigation to lessen if they are significant and unavoidable. That's downtown intersections.

COMMISSIONER ZITO: Your last comment was about mitigation, if I remember correctly. Explain that to me.

ORATOR: Correct. So the city has a policy in its general plan 2020 which says that it acknowledges that under the 2020 buildout scenario all downtown intersections are going to operate at an unacceptable level of service, and therefore we're not going to require any private project proponents to mitigate their contributions to that. Again, it's similar to what they've done with the threshold for significance for traffic analysis. We assert in our letter and you'll see the case law that that position is simply not supportable under CEQA, that the city has an independent duty to identify mitigation measures for project-specific impacts on local intersections and in some cases perhaps require the applicant in this case the city but other private applicants to contribute their fair share to any transportation improvements.

COMMISSIONER ZITO: Or they can say significant and unavoidable.

ORATOR: Or they could but they have a duty to disclose it. If I could just have 30 seconds I could explain the significance of disclosing it and why it's not just jumping through a hoop. The electorate of the City of San José is going to be asked to make a decision at the ballot in November as to whether they should commit precious public resources to help develop what is essentially a private enterprise. How can they make a decision if this document doesn't include all the significant impacts that need to be identified?

COMMISSIONER ZITO: Regardless what's going to happen in the future, the document is required to disclose significant and unavoidable impacts period?

ORATOR: And it hasn't done so related to freeway segments or intersections, in my letter.

COMMISSIONER ZITO: You have answered my questions.

COMMISSIONER JENSEN: We have another question, Commissioner Platten.

COMMISSIONER PLATTEN: Thank you, Mr. Smith. I attempted to carefully, and I appreciate the input, but I have a question for you and I wanted to get your opinion on it. As I read the project and the initial EIR, the project would also consist of an additional parking structure built on preexisting parking lots right next to HP pavilion, am I correct on that? ORATOR: That is one of the three options.

COMMISSIONER PLATTEN: Now one of the things I know being a sharks ticket holder is that we do a pretty good job here in San José dispersing traffic, primarily parking is spread out and there is no for lack of a better term candlestick park problem because of single entry egress and ingress. To your knowledge does the FEIR analyze the impact not to the baseball stadium operations but simply to traffic flows from HP pavilion for events at HP pavilion as a result of the parking industrial?

ORATOR: The SEIR includes what they call a simultaneous event scenario.

COMMISSIONER PLATTEN: That's not what I'm asking, I'm asking about simply the impact of the parking structure at the HP pavilion, because I want to get your opinion on whether or not that is an omission that needs to be corrected in the EIR, since we're talking about, again, for lack of a better term, a Walmart-type scenario blocking the parking which is not now largely massed in a single structure. It is spread throughout the downtown area.

ORATOR: I would answer your question no, that it doesn't adequately identify it. I think that the EIR consultants would say it is assumed in a simultaneous event scenario which is where I was going in my previous answer. But I don't think it has adequately analyzed that issue whatsoever, and also, it's understated the simultaneous event scenario, as we mentioned in our letter, and that the San José arena authority has also discussed in detail in their letter. I would refer you to that letter, as well.

COMMISSIONER PLATTEN: Thank you.

COMMISSIONER JENSEN: Thank you, there are no further questions.

ORATOR: Thank you.

ORATOR: Good evening, Commissioner Jensen, Planning Commission, to speak on another type of EIR which isn't officially reviewed, but an economic impact report and speak through the lens of a downtown

resident and business owner who would be directly impacted in what I consider a positive manner by a ballpark like this. Few things as a downtown resident, I deal with on a daily basis during -- not daily basis but weekly basis during the as soon as of the sharks game, living in the North San José area and as Commissioner Platten mentioned, because of proper planning and the way that it was constructed and analyzed based on successful EIRs it is a very successful arena that hosts downwards of 20,000 people on a given concert as well as sporting events. So secondly I would like to point out that from an economic standpoint in reviewing and looking at how this ballpark impacts and may offset the cost of mitigation required by the city, the long term economic benefits of a ballpark like this for downtown at central business district has pointed out from the redevelopment agency, et cetera, would be sufficient enough to offset immediate costs if there are mitigation costs. So again, as directly impacted resident downtown and also business owner I am over wholly favorable for this ballpark and ask that you consider it. Thank you.

COMMISSIONER JENSEN: Thank you, Mr. Wimberly, before you leave, Mr. Wimberly would you please for the record state your name?

ORATOR: Jang Wimberly.

COMMISSIONER JENSEN: Thank you. My apologizes, my mistake. If you would state your name for the record, as well.

ORATOR: Richard Zepelli, Willow Glen neighborhood association and also a member of the good neighbor committee. No doubt in my mind this is the economic benefit that San José's downtown needs not only the ballpark but also the Diridon station expansion and other things coming downtown. Something we desperately need to support our libraries community centers and everything else in the city. However in the good neighbor committee the item it addressed was the traffic coming from southwest San José and South San José namely the Almaden expressway and the Guadalupe parkway. We already have traffic congestion today at Curtner and 87 and also Almaden expressway and 87 caused by the new plant shopping center and Tuscany hills. In the South valley where I've lived for 35 years, baseball is big, compared to hockey it is bigger and you're going to have a lot of baseball fans that want to come in. Also from Los Gatos, they were speaking in initial launching of this project and what we've learned is, in good neighbor committee is that VTA is going to play a major role in making this work and successful. I've looked at San Francisco stadium and public transportation is really the key to it and they only have 6,000 parking spaces down there. We have 29,000 which is good on the weekends but not on weekdays. Those spaces are gone during the weekdays especially in the evenings. We need to VTA make a commitment to us at that time good neighbor committee and also in the neighborhoods that they will build these satellite parking lots. We talked about the two one on each side of Oakridge mall. The one at Santa Teresa and Tamien. They also spoke of going forward with the San Carlos station. We really need that commitment from them and the VTA has not addressed the good neighbor committee nor the neighborhoods involved. It really has to happen because if it does happen and they can get the commitment for the money it's going to work.

COMMISSIONER JENSEN: Thank you.

ORATOR: If they don't we're going to have problems.

COMMISSIONER JENSEN: Thank you Mr. Zepelli. Mr. Ross, I'd like to call the remaining two speaker cards. If anyone wants to speak after this please submit your cards. Michael Mulcahy and Katherine Matthewson.

ORATOR: Good evening, Madam Chair, members of the commission and staff. My name is Jay Ross I work in Downtown San José, it is a pleasure to see you all, two years as chair I can understand and appreciate the challenge that you face and the task that's before you of trying to certify or address the need

to certify an EIR. From my perspective I think this is a terrific project. I think having a baseball stadium in Downtown San José will provide a tremendous amount of benefit the community just as HP pavilion has provided benefit to the community. But really, the point I want to make tonight is ask and make sure you stay focused on the task before you, and that is, the certification of the supplemental FEIR. You heard the staff report to you initially that there has been no substantially new or different information such that there is any cause not to certify it. To the extent you have any questions based on what you've heard or what you've read here tonight, I certainly hope you will take the opportunity to speak with or ask questions of the staff, they are terrific and they can assure you there's nothing new, I hope you do end up certifying this supplemental EIR. Thank you.

COMMISSIONER JENSEN: Thank you. Mr. Mulcahy.

ORATOR: Good evening, Madam Chair and commissioners. My name is Michael Mulcahy. A founding member of baseball San José, and co-chair with former mayor Susan Hammer of baseball for San José. We would first like to recognize the staff who have done an absolute yeoman's job in the EIR in San José. We want to point out a few things. Building a ballpark on this site will give San José a tremendous economic boost, generating more than 1000 full and part-time construction and retail jobs at the ballpark and in neighboring areas. As we face budget cuts at every level of government it is important to remember that the additional tax revenue generated by this project will provide millions of dollars to local schools as well as the City's General Fund that can be used for public safety, seniors, parks and youth and most importantly will not result in any additional taxes on San José residents. From a planning perspective one reason this is the best site in San José for a ballpark is because it will be connected to transit and build on the existing investments that have already been made in decades in Downtown San José. We encourage you to certify the final SEIR this evening for the ballpark this is an important step in a very, very important opportunity for the City of San José. This opportunity represents nearly \$500 million in private investment into downtown.

COMMISSIONER JENSEN: Ms. Matthewson and while you're on your way down I'd like to call our final speaker Mr. Tom Sawyer. If you would state your name as well. ORATOR: My name is Katherine Matthewson. When I heard about the American society of landscape architects tour being given last September which included the Chicago ball parks, I wrote to the San José Diridon staff that it would be a great opportunity for someone from San José to attend. The answer I received back from staff was that the City of San José had no money to do research of best practices ideas for the Diridon ballpark. This is truly appalling given the millions of dollars which will be spent for the ballpark stadium. I have never seen anywhere which puts a major transportation hub like our Diridon major West Coast transportation hub and a ballpark together. This is just not best practices kind of thinking. The sad part is that San José has no money to study other similar situations to see how it might be possible. This is not antiballpark, it is good city planning, thinking. There are a number of mitigation measures that have not been considered. The no parking structures, it was not considered in detail and is a really important thing for global warming. Also, the 155 foot high walls along the creek was not mentioned, and what that would do for the shade. And water conservation measures. There is nothing about keeping water onsite and making the site self-sufficient. Irreversible changes, there's no mention of irreversible land changes for what the City of San José has called the West Coast major transportation hub at Diridon station. And the plan does not really include any ideas for how that they're going to connect. So these are some of the problems I see with the SEIR. Thank you very much.

COMMISSIONER JENSEN: Thank you, Ms. Matthewson. Mr. Sawyer. And if you would also state your name for the record.

ORATOR: Certainly. Tom Sawyer. First of all I'm really amazed at the speed with which this document was turned around. It is over 320 pages and handles at least over 40 comments and I'm sure putting

together the master answers was a bit difficult. What I'd like to -- when I started reading it I realized I thought it was a bit shoddy but no I realized it was a bit rushed. There were some obviously errors. The Amgen bike tour has never been in San José on a weekend. In fact it left today. The -- the advantageous miscounts on available parking keep reappearing. But the really important part is that the traffic analysis seems to completely skip the negative synergy between backup on the intersections coming off the freeways, and the buildup of those cars on the freeway which will reduce the capacity and reduce the speed. There's no mention of that. The freeway study seemed to measure through put, the intersection studies seems to measure blockages. Quick look. The other major lack is that there's no analysis of highway 17 northbound, which has 13% of the traffic coming in. And that's going to hit both the 280 interchange and the Stevens Creek interchange. Think Christmas at valley fair, 80 days during the summer. Secondly it seems to ignore the cut through and bypass of other intersections. When people hit the jammed up intersection at 280 they're going to continue to Bascom and the Alameda. Hedding and Stockton. The simplistic model, apparently simplistic model, seems to have the idea that all people will travel very antlike paths to the ballpark. My experience has been, traffic is fluid. Eventually every street connecting every parking lot will have roughly equal throughput which means a mass of cars all through the downtown and that is not covered in the EIR at all.

COMMISSIONER JENSEN: Thank you, Mr. Sawyer. Your time is up.

ORATOR: I'd also like to remind you that -- sorry.

COMMISSIONER JENSEN: Thank you. Would the applicant like to come and do a five-minute discussion? Super. You have up to five minutes.

ORATOR: I'll try to do it in four.

COMMISSIONER JENSEN: We're going to time you.

ORATOR: I urge you as part of your deliberations tonight to give serious consideration to all the comments you received tonight. We want to make sure that the Commission is certain what they're adopting that this report is adequate and complete. As part of this discussion, again I should emphasize I'm here as the project advocate. The city has done an enormous amount of work, and I really also want to thank the staff. I know they worked nights, weekends, gave up even their holidays to bring this project before you. We have several steps to go through after tonight. Here is kind of the thing. The city council back last year approved a set of guiding principles. This sets a tone for how this project is received. I don't know if you've seen them, I'll repeat them quickly to show you, the stadium has tons positive influence to the city. Second, major league baseball this is something very unusual here compared to other cities and what's happened, will be responsible for financing and building the stadium and improvements on the site. There is no proposed public subsidy beyond the cost of the land for project. Three, if the city or agency recommend a contribution in any form, there must be a vote. For you to certify the EIR tonight will allow the city council in June to use CEQA to be able to adopt a measure that will put this item on the ballot. Four, well, maybe it's the best part, the name of San José has to be part of the team, and then finally, major league baseball will be responsible, in this case it will be the A's, for financing all stadium operating cost related to the activities both within the stadium and without side of the stadium, trash, litter, cleanup, all of the mitigation measures reported in the SEIR, are the responsibility of the developer. With that I'll just give you the final you know what's next coming up before the city here it is hopefully you'll make the decision tonight to certify the EIR. In June we expect the council will look for the potential for a ballot measure. Three we are anxiously awaiting major league baseball and their territorial decision, four a public vote will then be scheduled in November for use of public funds and then if that is successful then the final negotiation of the disposition and development agreement the project review and design before any further action can take place. And with that thank you very much.

COMMISSIONER JENSEN: Thank you and just for the record I'd like you to know you brought it in under two and a half minutes. We have several questions from the commission. Commissioner Zito.

COMMISSIONER ZITO: Thank you, Madam Chair. Can I ask to you flip back to the one previous slide? And that wasn't it. Yeah, that they'd be financing mitigation cost. Are you suggesting that the major league baseball or the team owner would finance all of the mitigation including road widening and intersection improvements and so on?

ORATOR: Yes, there is an example, a base case that assumes autumn street to be built. That is not part of the responsibility, that's a mitigation that's identified already in the downtown strategy EIR first tier of development. I think the staff should respond with regard to the other traffic mitigation items. What we're referring to are the direct things for example in the traffic monitoring mitigation, that PPMP, that is traditionally been the responsibility of the city, in this particular case the cost of that traffic control, the police officers, all the signalization, everything else that goes on during a game, that the city has said we want that to be the responsibility of the team owner. The trash litter cleanups, those are the things that I'm referring to.

COMMISSIONER ZITO: I'm only asking from the consideration point of are these mitigation he disclosed and adequately discussed? Who pays the bill is not part of this EIR. Just for the record.

ORATOR: Not a part of the EIR?

COMMISSIONER ZITO: No no no, I'm just saying how it's funded is not a consideration. It's more has it been discussed are the mitigations disclosed and discussed. That's it, thank you.

COMMISSIONER JENSEN: Thank you. Commissioner Kamkar.

COMMISSIONER KAMKAR: Thank you. Actually Commissioner Zito asked the question I was concerned with I just wanted to make sure I heard you correctly that I guess the A's will bear the cost of the police officers, the traffic impact, parking issues, if you know people illegally park in favor of neighboring residents, who will pay for enforcement of those? Those are some of the issues that I would be concerned with as far as impact to city's General Fund. Did I hear correctly that A's will somehow compensate for this?

ORATOR: Let me explain further. There is generalized recommendations that there needs to be a traffic monitoring plan. As was done with all of the major events downtown and then a regular basis you know with the arena. Those are the kinds of things that are specified. There is other mitigation measures proposed, you know, which are indirectly related to it, whether it be neighborhood park permits and other things. Those have not been -- council did not specify to us how they want those handled. Those are recommended general mitigations which will be negotiated as part of any disposition and development agreement, and also I expect that the good neighbor committee will be making recommendations on that outside of this environmental process. So I cannot commit for the A's for all of the detailed specifics beyond what the generalized statement was of the council.

COMMISSIONER KAMKAR: Thank you.

COMMISSIONER JENSEN: Commissioner Kline.

COMMISSIONER KLINE: This is probably for staff. For the specified questions of EIR. First of all, I have three specific questions, why park avenue is specific unavoidable, two lanes to 1, when I first saw that I said what a great mitigation, not an impact. The concern is I work in downtown, drive up and down

every day. It is single, up to Sunol, double and then becomes single again. A traffic hazard for anyone going in either direction the actual situation really is this is a mitigation for several reasons, it helps traffic flow of keeping it single, number 2 it really prevents my major concern is the residents in Sunol area any traffic or reduces the traffic going back towards Sunol and making a right on Sunol into the residential neighborhoods. And the –

COMMISSIONER JENSEN: Commissioner Kline are your other questions similar and if so would you on --

COMMISSIONER KLINE: Is one question --

COMMISSIONER JENSEN: I would like to close public hearing and allow Mr. Corbiak to sit down. All in favor? Fine. Close public hearing. Commissioner Kline.

COMMISSIONER KLINE: There seems to be a confusion over two times or five times, I've heard that several times in the documentation and third is where exactly is the PG&E station being relocated is it really under the seats of left field? Are you really planning to move it and is there really any mitigation, is that really an impact that is not being disclosed here? We need a lot more information on that. Maybe that is here, and I didn't see it. Those are three questions to start out with.

COMMISSIONER JENSEN: Thank you, Commissioner Kline. Staff.

ORATOR: Actually, Madam Chair, if the project proponent would want to make a comment about the PG&E relocation or not. Then the other comments we'll reply.

ORATOR: Madam Chair, members of the commission, Dennis Korbiak again. The PG&E of course is outlined as a possible acquisition and/or relocation modification of this site. However, from the standpoint of the project, as far as the agency is concerned at this time, we have no intention of buying any of the agency -- excuse me -- of PG&E's substation property. There is one adjacent vacant property owned by PG&E that we will probably be in discussions with them about purchasing. The DOS of relocation is -- we don't think it would make it feasible.

COMMISSIONER JENSEN: Thank you. And if staff would like to continue with Commissioner Kline's other questions.

ORATOR: Thank you, Madam Chair. Actually, Madam Chair, if I may, go through and respond to also the other comments and then follow up with a response to Commissioner Kline's questions.

COMMISSIONER JENSEN: Thank you very much.

ORATOR: That might be better in terms of flow. First, again, Darryl Boyd, planning staff. I'll respond to some of the more general comments and then other team members particularly with regard to traffic and parking, I'm sure, will have specific responses. Generally, Madam Chair, I think the comments that you heard, the verbal comments that you heard tonight, tend to mirror those that you already received in writing. At least, in my view of the comments that you received, there really isn't anything new that was put on the record verbally, that you hadn't already seen, we hadn't already seen in the written comments that were previously presented to us. I think one comment just generally to remind the commission is again, that this is a supplemental EIR that is picking up on the final EIR that was prepared in 2007, and that this is for a much smaller project than what was previously considered. So it's not the same ballpark. This is a different project that we're analyzing than the 2007 project. There is a lot of comments I think that you've heard both verbally tonight as well as in writing, regarding the high speed rail project and the BART project. As we indicate in our cumulative impact discussion, and in various response to comments

on that same point, in staff's view and in the City's view the high speed rail project is still at a very programmatic level, it is at -- it is in a state of flux to the point where they have not settled in fact on how many parking spaces they need. So that while we do not ignore the high speed rail project in the SEIR, it is just that the level of detail that's available for us to do really technical analysis on is really very speculative at this point. And similarly with -- so high speed rail we do with in a qualitative manner we don't deal with it quantitatively. With the BART project we do do some quantitative analysis in the document and again we respond to the comments around the BART project. There were a lot of questions and comments about funding for mitigation. The project is responsible to mitigate for its impacts. The question of who pays for that mitigation is something that is yet to be negotiated between the city and the A's at some future date but the project's required to mitigate for its own impacts, just to be clear on that. The time for review of the response to comments documents meets the requirements of CEQA. CEQA only requires us to provide that ten calendar days in advance. We did it in 12. We would have liked to have been able to have delivered it a little bit earlier, but that was the best we could do under the circumstances. But we did have a couple of extra days there. Mitigation measures, traffic, we'll let Manuel and the consultants respond to. Again there were some comments that you heard tonight verbally that were more about the project and not necessarily about the EIR. But not really CEQA comments. There was one statement made about perhaps looking at the site on 237 and Zanker, that really doesn't meet the project objectives. The goal really is to get a downtown ballpark. I think that might have even been the first project objective that's listed in the EIR. There's a substantial amount of transportation, traffic circulation and park analysis that we did with this supplemental EIR that really freshens up if you will, redoes the traffic analysis that was previously done. And so we believe that we did do a full analysis, a transportation analysis. We did disclose the significant impacts based upon the City's thresholds of significance in our standard practices as well as the CMP program. There may be disagreement about the conclusions that we reached. But we did identify significant impacts. We did identify mitigation measures. We'll talk more about the downtown level of service policy. I mean fundamentally the City's policy is we don't want to mitigate downtown intersections. There's a desire to have a very urban, pedestrian oriented transit supportive downtown environment. That's part of the reason why this particular site has been targeted for the ballpark location. And so by city policy, we don't want to mitigate impacts to downtown intersections, and we've been following the same practice for 25 or 30 years. So this is nothing new or different. This is our standard methodology that we've used. Yeah and the downtown intersections have been overridden in the proximity, specifically in the proximity of the ballpark project because the downtown core area was expanded in 2005. And so we did override the significant and unavoidable impacts to the downtown intersections previously. So again we feel like we did do an adequate job with traffic and Manuel and others can talk more about it but there's some disagreement about the conclusions that we reached. You heard some things about economics which again are not necessarily environmentally related. Looking to see if there's anything else. The creek is not really directly proximate to the stadium. It would actually be across from the relocated Autumn Street. There was a comment about impacts to the street. The height of the stadium is actually reduced from the previous proposal. That is another serious consideration, is this is not as tall so the shade and chad owe impacts would be reduced. The specific with water quality issues would be something that would be dealt with when we have a specific project design for the ballpark stadium in front of us. The project would be required to comply with our HMP and C3 requirements and so forth, and so the specific mitigations for water quality would be specified as a part of the project that would be the specific project that would be proposed. That's most of the verbal testimony that we got tonight, Madam Chair. I think real quickly if I may to respond to the written letters that we received. Again those letters basically provide no new information or different information than what was previously presented to us. And responded to in our response to comments in the First Amendment. So there is no new information there. So now, if I may Madam Chair go to Commissioner Kline's specific questions. Had was one regarding I think park avenue that we still needed to respond to. And I'm sorry, what was the other one, Commissioner Kline, please?

COMMISSIONER KLINE: One was why park avenue is indicated as an unavoidable impact and not a mitigation. The other one was a noise question about two times versus five times which there seems to be some confusion about, and third, which really hasn't been answered yet is, even if we don't buy PG&E property, where exactly is that PG&E station? On the map it's underneath the third base line, but clearly it can't be there. Those are the three questions.

ORATOR: Let me turn to Manuel to deal with Park Avenue and see if there are transportation related responses, and then we will come back to the noise questions.

ORATOR: Thank you, Darryl, Manuel Pinera with the Department of Transportation. I'm going to try to get through as many questions as I can here. If I miss any, please, I'll know you will let me know. I'll start with park avenue, staff does agree with you that the current configuration of Park Avenue could use some work. The city's ultimate vision of that corridor is a two lane, if you look East and West of the corridor as you have already mentioned we already have the two lane roads way and that is the desire for implementation. When general plan standpoint when you do transportation analysis you look at the overall volumes of a proposed roadway which is four lanes for that section and we analyze built out of the general plan you need to determine where those volumes are going to go. From a general plan standpoint ultimate buildout of the general plan, we anticipate that some of those cars will have to go to other roadways. From an operational standpoint staff does agree with you that ultimately cleaning up that roadway vs. a continuous two lane road with the appropriate movements is really the right solution for the corridor. Wanted to add a couple of notes as it relates to the -- what Darryl added with regards to the six to seven scenario. Just wanted to clarify once again that the City's policies in incongestion management agency look at CEQA impacts for traffic analysis from the peak hour which is 4:00 to 6:00 and baseball stadium peak hour being 5:00 to 6:00. This is the standard we have used for the last 30 years and continued to do so for all projects. However, as part of this project and for informational purposes, as Commissioner Zito mentioned, we did look at both a 6:00 to 7:00 scenario and also looked at a weekday scenario and not only determined what the level of service would be but also determined possible operational improvements that could be implemented if we chose to do so and it does disclose what those could be how they could be incorporated as part of a transportation parking management plan. Wanted to also touch on the downtown exemption. This is something that for those of you who have been with us for a little while as part of the 2005 strategy EIR part of the commitment that the city made to downtown that we don't want to keep expanding downtown intersections to keep accommodating vehicles but we want downtown to be a multimodal environment and we did the appropriate analysis to exempt the downtown core from level of service impacts and level of service mitigations. I did want to add a note regarding the TPMP which is the transportation parking management plan. The City's committed that as part of this project and as we do for any major event projects we will develop a transportation parking management plan working with the owners and adjacent property owners and involved community members to make sure we accommodate traffic and pedestrians as safely and as efficiently as possible. As an example to that I would kind of present to you the success of the HP pavilion TPMP and even as to some of the letters acknowledged both from the community and from the sharks themselves how successful that approach has been and how successful that plan has been in implementation. There were a number of comments with regards to freeway impacts. I just want to double check as Commissioner Zito said and let you know that we did analyze and we did disclose impacts on the freeways and acknowledged that there will be freeway impacts as part of this project. As many of you know impact threshold for freeways in Santa Clara County it's very, very tight and most projects have freeway impacts as part of their analysis. There was a question about the 880 corridor, and whether it was studied east and west of Coleman Avenue, and yes, both of those were studied. As well as the 87 Southbound. There was a concern whether we had looked at additional intersections further South on 87. One of the key components of an environmental analysis for a TIA is that we want to make sure that we carry traffic up to a certain point where we think it's credible. If you go beyond that point and try to guess too much where cars are going to be coming from you start to go with an error factor. So we go with our model results, what we think is a credible amount of traffic and how far that traffic can carry. With regards to

the 87 southbound traffic and cars using the local roadway system, as you know, 87 southbound, it's a reverse commute traffic and actually it's one of the few sections of freeway that doesn't have freeway impacts inbound into the event. I did want to add one last note as it relates to freeways. As you know, as part of this analysis, the average people per car is 2.3 people per car that we analyzed which is very conservative. But that would mean that most of those vehicles would be on the HOV lanes which function fairly well on the freeway. One last note there was concern of freeway analysis as it relates to 6 to 7. We did look at the freeways from 6 to 7 and it is our opinion based on the analysis that we did and the count volume we did that the ambient volumes on 6 to 7 are much less than 5 to 6 scenario and there would not be any additional impacts than those disclosed in the 5 to 6 scenario. There are a few comments about neighborhood parking issues. You know, one of the things we've been successful at as part of the arena is with regards to neighborhood parking and addressing those issues and environmental document does talk about the possibility of permit parking, as a solution to those but I would refer you once again to the successful arena TPMP and we have addressed those issues as part of that process. Let me see there was also a question with regard to parking, and I think Reneé Gurza will add something to that. But I did want to add, as it relates to high speed rail, and you have the same staff here working on high speed rail as you do on this project, high speed rail parking scenarios are still changing, still being modified if you look at the environmental document the original report called for over 8,000 parking spaces. Their latest analysis calls for about 3800 parking spaces within a three mile radius of Diridon station. At this point the analysis for high speed parking and their need is in flux that we really can't make a determination as to what the right number is or where those parking spaces should go. In relation to the BART parking issue as you know we are aggressively pursuing phase 1 of the BART project which is the extension only to Berryessa. Unfortunately there is no schedule or time line for the extension to downtown. And while the BART EIR does look at possible parking opportunities, we haven't determined exactly what the solution for BART parking is going to be. And that's not, we think, any near time line to make that determination. I would say that the BART parking does offer different opportunities and we expect that because of the type of uses you have with HP pavilion or ballpark that some type of short parking would hopefully be an alternative. I would go ahead and pass it over to Reneé to add some additional notes on parking.

ORATOR: Thank you. As Manuel noted the park analysis that was performed as a part of the SEIR is extremely conservative. I just want to highlight that this project that we're asking you to take a look at in this document is 9,000 to 13,000 seats smaller than the project that we asked you to analyze in 2007. So obviously the park impacts would be anticipated to be less with that many fewer seats. Nevertheless, as Manuel noted we used an extremely conservative occupancy vehicle standard of 2.3, whereas major league baseball uses 2.8. And even in a scenario where there's an event at the baseball stadium as well as at the arena that comes up with a parking demand of approximately 19,000 spaces. And in a survey done of park in the downtown in 2005 there were 29,000 spaces I believe Dennis alluded to at the beginning of his presentation. So that's again very conservative because you can imagine that with the economy in 2005, when parking was fairly free, in the downtown, that it would have been -- there would have been more park occupied at that point in time. Yet we stuck with those numbers. The survey done was very conservative. We used a conservative average occupancy rate. We have the TPMP which we think works well and is going to direct people to those spaces so that there's not a lot of cruising around. And just a quick note that even though this is in the downtown which we anticipate is going to have all sorts of public transit available for use to this -- to these events we haven't taken any credit for any public transit. So again the amount of parking that we are anticipating and that was disclosed in the analysis is extremely conservative. We also haven't taken any credit for any possible shared parking that may occur in the future with BART and high speed rail, obviously because we've noted that those scenarios are very speculative but obviously that is also possible in the long run. So again, the parking analysis is extremely conservative, and we think it's very supportable. Thank you.

ORATOR: Madam Chair, I think Dennis Brown will respond to Commissioner Kline's noise question and then I'll close out with the quick comment on PG&E. Thank you.

ORATOR: Yes, thank you. The important aspect of any noise analysis for the environmental effects is the perception of the receptors of the noise. And that is expressed as DBA which is a weighted value that's based on the ability of the human ear to perceive noise. It's based on the wave lengths and the frequencies that we hear as humans. The DBA scale is set up such that as a result of that a change of 3 DBA is the threshold of perception of the human ear. So the questions have been asked about two times and five times noise value. I just want to set a little background here. So the human ear can detect, as a change in the level of noise, about a 3 DBA change so if it goes from 50 to 53 DBA you'd be able to say, oh I've heard an increase in noise. A change from 10 DBA, say from 50 to 60 DBA we would perceive as a doubling of the noise levels. So each 10 incremental increase in decibels of the A weighted values would be perceived by us as a doubling of noise values, and that's the sort of the importance of that particular relationship. And the EIR looks at specifically criteria that the City of San José has for noise values. We looked at that, with this modeling program, and based on the current design factors that we have, we made some assumptions about what that stadium would look like and what noise would be produced by concerts and by baseball games. And then looked at the noise contours out from the baseball stadium and came to a conclusion about the impacts from those activities, and the noise impacts are significant and unavoidable as described in the EIR.

ORATOR: Also if I can make just a purely legal point, some of the testimony that you heard this evening alluded to some cases that deal with the fair argument standard, and I believe the commission is familiar with the fair argument standard. If the city had not done an EIR but had done an addendum or a mitigated neg dec, there are some of the comment letters that you are receiving that seem to indicate that all that someone needs to do is to raise a fair argument that somewhere, somehow, there may be an impact that's different or that would be interpreted differently. And I just wanted to note, it's a purely legal point for the commission? That we did do an EIR, we did do a supplemental EIR so the fair argument standard isn't the standard that applies here. In the EIR context it is okay to have a disagreement amongst experts. You can have different data, you can have different analyses but as a staff we are asserted that we have connected the dots and have put forth reasonable arguments and supported them by substantial evidence in the record. But I just wanted to clarify, it's not the standard at this point is not is there possibly an argument that somebody could make somewhere that we're not in the fair argument realm because we did prepare a supplemental environmental impact report. Thank you.

ORATOR: And finally Madam Chair, with regard to the PG&E substation question, it is included in the supplemental EIR on page 21 as part of the project description. The question relates to the fact that with the prior F EIR there was a lot of discussion about the relocation about the PG&E substation. However, with the modified project, or since the modified project, PG&E's determined that it's not really feasible to relocate the -- relocate the entire substation. So what will happen is that when a specific development proposal comes in we would work with PG&E to see if in fact there's some minor part of the substation that would need to be relocated, or tweaked somehow. But as far as a complete and full relocation of the substation, that's no longer a part of the project. And then the last comment Madam Chair, is just kind of a closing comment, that again, staff has not heard any new information come forward either in the written comments that we've received or the oral testimony tonight, such as new significant impacts or new mitigation measures that we haven't identified. There has been some additional information that we've put on the record to help clarify some of the discussion that was previously included in the SEIR so staff is quite confident that we do not need to relocate -- I'm sorry, relocate -- recirculate this SEIR because as the City Attorney, as René has indicated we have connected the dots. We do have substantial evidence on the record to support our conclusions in the SEIR and with that Madam Chair we turn it back to you for questions. Thank you.

COMMISSIONER JENSEN: Thank you, and I'd like to note that staff did an excellent job of taking notes, much better than I did. I do have two questions. One is specific to Commissioner Platten's question, addressing the new parking structures at the shark tank, and any potential impacts and were

those addressed and then the other is a member of the public raised a question regarding a citizen oversight committee similar to that of the shark tank. And my question to you is, would that be an appropriate item to discuss at this hearing or is that something that would come up when a project was in front of us?

ORATOR: Thank you, Madam Chair. If Commissioner Platten could restate his question please just to make sure we get it correct.

ORATOR: Commissioner Platten: The question is whether or not the EIR or the SEIR addresses potential impacts regardless of the baseball stadium and the construction of a parking structure on the preexisting parking lot next to the pavilion?

ORATOR: The question is whether this supplemental EIR would be adequate to go forward and approve the construction of a parking garage, is --

COMMISSIONER PLATTEN: Whether we've identified or addressed any potential impacts arising from that. I'm concerned just with the adequacy. Is it the issue with regard to the adequacy of the SEIR.

ORATOR: Madam Chair, we believe that we have but again we don't have a specific garage proposal before us so certainly one of the measures that we would take when we had such a proposal would be to compare a specific garage design to this SEIR in order to determine whether or not we felt we did have adequate environmental clearance from this document or not. But based on the level of specificity that we have about the project at this point in time, the analysis in the SEIR is equivalent to that, madam Chair.

ORATOR: Commissioner Jensen: Thank you. And then the other question regarding citizen oversight.

ORATOR: Manuel may need to help me, but I think that's actually part of the TPMP process, is it not?

ORATOR: I would say it's -- as part of a TPMP process and I think there's been a request for a citizen oversight committee as well as through other venues. But as part of a TPMP process we definitely have a community process that we go through as well as a process that discusses with the adjacent property owners and businesses and generators just like at such as the HP pavilion, it's definitely -- I wouldn't call it a community oversight committee, but there is a community process associated with that. Don't see that as a CEQA issue. We do have a -- we are committed to doing a transportation parking management plan. We have done one in the past and that does provide for community input. That's only related to the traffic and parking management for the facility, though.

COMMISSIONER JENSEN: Thank you.

ORATOR: Madam Chair, if I may just add on I guess one thought occurs, that as the Diridon station area planning effort goes forward, certainly because there is high speed rail and BART and so forth there probably will be additional discussion around whether such a committee would be appropriate because really we've got all these ongoing planning efforts going on right now so that is something that would continue to be on the table for consideration if it seemed appropriate through these other processes that we have ongoing right now.

COMMISSIONER JENSEN: Thank you. And we do have questions from the commission, Commissioner Zito.

COMMISSIONER ZITO: Thank you, Madam Chair. I have a couple of questions, and again, it all has to do with adequacy. We've heard a lot of the community come down and make their feelings be known that there wasn't adequate disclosure of certain issues. One of the ones that hit me and I wasn't sure with my

review of the documents is, specifically the day games and the parking impacts considering that you've got most of the parking used downtown during the day, for business purposes. How does that affect the parking scenarios? And parking in general, my question has to do with looking at the revised project, you know at first, we're told that this is essentially an envelope, right, EIR, there is no specific ballpark project being considered so we don't know any of the details, right? My understanding of what we're trying to decide is given the envelope that you've drawn for us and its potential characteristics, environmental characteristics, we have to find out whether the EIR or SEIR is adequate, does that or does that not include the parking changes that were included? For instance I'm looking at the diagram figure 3-2 that essentially removed a former park structure south of the ballpark and included a Montgomery autumn street parking structure and as Commissioner Platten mentioned the potential of increasing the pavilion park structure. Are we assuming that those are the scenarios that would go forward if such a project came forward to us? That's my question.

ORATOR: Others may comment Madam Chair. But with regard, let me speak to parking generally, I think, first. If you go solely by the numbers so to speak, if you look at the parking demand that's projected, from the stadium events because essentially, whether the stadium is full for a baseball game or a concert, it's still full. It doesn't matter what type of event we're talking about. But based on the demand clearly there's enough parking available, much more parking available downtown, as previously stated, as was stated 29,000 spaces and I think between the 32,000 and the 36,000 stadium, we're around 13,000 to 15,000 spaces you know of demand, so clearly, based on the numbers, even accounting for, our analysis even accounts for the spaces being full, other events happening downtown and so forth. So clearly from the numbers standpoint, there is enough supply to meet the parking -- to meet the parking demand. The challenge about the parking issue, and I think that this would be, project would be a great case study because as is indicated in some of the response to comments and so forth the state and the CEQA guidelines pulled the question out of CEQA checklist with regard to parking. I think this is probably a perfect case study for why that is the case. Because whether -- we're dealing with physical environmental impacts. So it is not enough to know whether the equations and the mathematics work or not, it's really what is the potential environmental impact. So that's what we've tried to address as a part of the document. But whether it be for weekday games or for the evening games, we believe that there is or will be adequate parking available for different reasons. Because obviously, if it's a weekday game there will be spaces that are being used, for instance, like in Andy Faber's building. There will be people downtown working that probably will go over to the baseball game and have lunch. So the crowd that's likely to attend a weekday baseball game is not necessarily the same crowd that you would get in an evening game. And so while the events are different. We still believe and conclude that the parking would be adequate. With that I'll let the technical expert talk more about the particulars.

COMMISSIONER ZITO: Go ahead, Manuel.

ORATOR: Specific directly to your question, I think you had two comments. I wanted to go back to the parking structure, and we did, from a traffic perspective, we did look at two parking structure locations. We looked at the autumn Montgomery corridor, we did look at the surface lot, traffic issues sorted with those. I just want to clarify as it relates to the weekday game and the parking associated with that, we did look at that as part of the environmental document, and made a determination in the case of a sell out event, that type of event, we think it's the worst-case scenario, weekday games as well as a different type of attendance, within the three quarter mile radius of the site you would not have sufficient parking for a sellout for all the patrons but you certainly would within the one mile radius of the site. So we -- that's very clear in the EIR and it's analyzed and studied that we have the three quarter mile radius and once you go to the one mile radius it is sufficient parking for a sellout weekday game.

COMMISSIONER ZITO: So it's disclosed. The next issue is, I got another two-part on traffic. One of which we had a speaker come up and said they cited case law that suggested that specific scenarios have to be disclosed, right? And it's not enough to say that just because your traffic impact study suggests

specific time zones that if you could prove that there's impacts at other times you have to study those and disclose those as well. You mentioned that you did discuss in the SEIR freeway impacts between 6:00 and 7:00 p.m. And going through the document, I noticed the February 2010, the specific supplemental EIR on page 32 you talk about study time periods, I just want to make sure I understand this correctly, the supplemental analysis includes evaluation of traffic conditions for the same three scenarios studied in the 2006 traffic analysis, and you mention them as single event baseball games 5-6 p.m., single-event baseball games 6-7 p.m., and simultaneous events baseball and hockey or basketball, 6:00 to 7:00 p.m. Again I'm reading on page 32. You go further and you discuss the analysis scenarios, existing conditions, background conditions, project conditions, methodology CMP and under methodology you talk about item 3 freeway segments on page 33. I'm sorry I'm rushing through this I don't want to take too much time but I just want to understand. Am I to conclude from this that you in fact did a full study of freeway segments from 6:00 to 7:00 p.m. under those three study scenarios?

ORATOR: Let me clarify as part of the response to comments if you look at page 49 response to comments document, page B-5, 19, hopefully, trying to get the right one, trying to move as quickly as you are with your question, that question regarding 6 to 7 freeway scenario was requested. What we did is, as part of that analysis, we actually had our traffic consultant hexagon look at count data as it relates to the freeway analysis. And look how those volumes those ambient volumes from 6 to 7 related to the 5 to 6 scenario. While we didn't analyze every freeway segment as we would be required for the peak hour analysis based on our policies and the county's policies we did make a determination that based on the count data that we did and looking at the freeway volumes that the 5 to 6 freeway scenario is the worst case scenario for freeway impacts and anything between 6 and 7 would be less than that.

COMMISSIONER ZITO: Okay. Just my own personal opinion on that, the fact that the HOV lanes go until 7 o'clock kind of tells you something, and that no matter how bad you think 5 to 6 is, 7:00 is pretty bad too.

ORATOR: And the purpose -- we would agree, there is definitely traffic between 3 and 4 and 6 and 7. The purpose of the traffic impact analysis as laid out by all our internal guidelines as well as county guidelines is to analyze waste based on the worst case scenario, and that is what we have completed.

COMMISSIONER ZITO: Okay. One of the speakers discussed alternate discussion at 237 and Zanker. I looked through your alternate locations list, I didn't see 237 and Zanker, I was just curious if that was considered, and if not, why? I also could have missed it.

ORATOR: That site was not considered. I can't speak precisely to why because I wasn't here when we made that initial decision. But if I'm not mistaken, the speaker did indicate that it was a piece of property that's currently owned by the City of San José and the City of Santa Clara so that would be probably one reason that that site may not have been considered.

COMMISSIONER JENSEN: If I may I believe the applicant indicated, please correct me if I'm wrong, one of the goals was to have a downtown baseball stadium and 237 does not qualify.

ORATOR: Does not meet project objective.

COMMISSIONER ZITO: Height requirement, that height was 150 feet I believe it is, the new height. Does that include all lights and how they extend over the --

ORATOR: Yes, Madam Chair, that would be the maximum chair of any --

COMMISSIONER ZITO: Attached structure?

ORATOR: Yes. Of the stadium.

COMMISSIONER ZITO: Okay, just a quick kind of -- we have the opportunity with the shark tank and it's been mentioned several times here that we did traffic studies, we did the EIR on the shark tank. At least I'm not aware of any day games of hockey, usually they're at night. That is the only difference --

ORATOR: There are day events that occur at the arena.

COMMISSIONER ZITO: I was just wondering compared to the EIR study if anyone has the historical knowledge of the shark tank compared to what we found the reality to be how have we done?

ORATOR: I hesitate to admit this Madam Chair but that was actually the first EIR I ever worked on. But unfortunately it's been long enough ago I don't remember the particulars. However, many of the comments and so forth that came forward are the same. I think that one of the real differences though, this is just an anecdotal comment I guess is that I think that one of the reasons why we don't see a greater attendance on the part of our neighborhood folks is really a testament to the fact of how well the TPMP program and others have worked for the arena because that was extremely controversial, it was totally an unknown and so I think that it's really -- it's been successful I think Madam Chair.

COMMISSIONER ZITO: Okay, I've got two other questions one real quick. We talked about noise and DBA measurement. I understand through the years on the commission there's actually a difference in the way you study noise. One is the average noise over time and the other is instantaneous noise if you will like bursts. And so my question is this. I understand sort of, maybe enough to be dangerous, on the average kind of noise how you smooth that, right? But let's say we've got a grand slam going out of the park, that's going to generate a little bit of noise especially if it's for the home team, right? So I'm just wondering is that the kind of noise that we are talking about? Has that been disclosed? I mean you could see a probably 50 decibel change at that point.

ORATOR: I believe actually probably we've looked at the envelope there because not only have we looked at the baseball game but we've also looked at a rock concert which would -- I'm not sure that the -- I don't know what the noise level would actually be at those peak moments or could be at those peak moments but the rock concert I believe it was 95 DBA which I don't believe the stadium would you know the fans could make that with the amplified noise compared to the rock concert. There might be those peaks in a noise at a baseball game but I think with the rock concert noise we've covered that and probably exceeded it.

ORATOR: Madam Chair, we did conclude that noise would be significant and unavoidable.

COMMISSIONER ZITO: Unavoidable. The last question I have is, reading the Coleman autumn street improvement project, there is significant overlap in the traffic and -- how can I say -- just physical consistencies. Because autumn street goes all the way down past the park. My question very simply is, is it an assumption of the SEIR that all improvements to Coleman street would be done or would have to be done in order for a project of this type to go forward?

ORATOR: Yes. I don't know if Manuel wants to add but yes. I mean essentially there was you'll see reflected in some of the comments that we received, some people were confused about the relationship between autumn street and the project and we're thinking that on the street mitigation pleasure autumn street is a separate project has its own environmental review as Commissioner Zito has identified and the project analysis for the document assumes the completion of autumn in the background. Anything else you want to say?

ORATOR: I think that was perfect, Darryl.

COMMISSIONER ZITO: So my only -- again, there was a point made from a disclosure perspective, something may come on the ballot in the end of the year, and yada yada yah, right? So my question is, is that if for some reason the acquisition of lands and project going forward for Autumn Street is not complete, does not get done, and they want to go forward with the stadium, how would that occur from an environmental perspective?

ORATOR: I think one of the challenges -- what makes this a little bit awkward perhaps, may not be the best word, but because we don't have a project before us this is exactly the sort of thing if you'll recall for a private development project, we would impose a condition on the project that would say, we did that with a lot of the projects on the 87 corridor for instance that you can't go forward with the construction or perhaps the occupancy of the ballpark until autumn street has been constructed and is operational. But because we don't have a project before us, if we don't have the ability to say conclusively that yes, you know that will happen, but we certainly do say and the intent is that autumn street would need to be functional for the ballpark to go forward.

ORATOR: Commissioner Zito and I think it would help to provide a kind of a status report on where autumn street is. Staff has been working on the autumn street project for a number of years now. Outside this document, 2008 going off memory and we have aggressively pursued the building of this facility working with the redevelopment agency. Currently we have fully designed what we call phase one of that facility and that also has moved towards -- the redevelopment agency has moved forward with the property acquisition as well. We are continuously working on finalizing the design for the rest of the corridor. So the city has been continuously moving forward on the project and doing the pieces required to build it. As you know, for a project of that magnitude, it is required to do in phases, so we continue to be committed to get that constructed, not just as part of the ballpark project. Because it is just part of the background, because as a requirement as part of the strategy 2000 EIR, so it's a citywide priority, not a ballpark priority.

COMMISSIONER ZITO: And I understand that I appreciate that and I know the city is doing its best to get things done. You're right, the EIR was approved back in early 2008. It is moving forward. There's a significant piece of this project already completed but there's also significant pieces of this project that require a lot of land acquisition. And my only question, the reason why I asked the question is because I'm always challenged dealing with EIRs when there are dependencies. And you say it is the EIR adequate given everything else that's going on because it is very rarely you ever have a microcosm happening all by itself right? My question is and you answered, this assumes autumn street is complete in order to meet the mitigation requirements for whatever project like a ballpark would create. And that's what I want to understand. And so if this is not complete what I'm hearing Mr. Boyd say is that somehow or another if a project comes by with similar environmental impacts as the ballpark that there would have to be a -- how can I say, a requirement to finish out what the assumptions were already in the EIR, is that a fair statement?

ORATOR: Maybe another way to say it is that this supplemental EIR identifies conditions as they exist today and the conditions as they exist today is that this project has been approved, it's underway, and the supplemental EIR recognizes that. It does note that if for any reason existing questions as they've been identified in the supplemental EIR change it's specifically noted in there that additional environmental review would be required if, for any reason, a project comes forward and it appears that autumn street would not be completed this EIR notes that a supplemental environmental review would be required. But we did have to identify the existing conditions today which obviously this project has been approved, it's underway, it's partially funded, property acquisition is underway it's moving full steam ahead. We didn't want to ignore those conditions.

ORATOR: If I could provide just two clarifications to that as well. I wanted to clarify that the Autumn Street extension is not a mitigation for the project, but it's assumed under the background conditions. So it is not that it's mitigating an impact that the project has. I also wanted to make it clear that the current phase that we're moving with, through phase 1, actually provides that new connection from Coleman Avenue to Julian Street, and that's based as fully designed redevelopment agency has moved forward with acquisition of that property. So at that point we would have a new connection from autumn to Coleman to the West side of Diridon station. So there's two clarifications for your use.

COMMISSIONER ZITO: And I appreciate that, it's a background not a mitigation. That's important one. Fair enough. There's a piece of property just East of autumn, adjacent to the ballpark, 3.2 part of your letters, I guess it's the last page of D-17, it's the pretty colored one that essentially shows what would be great is essentially a park like environment next to I guess that's Guadalupe park I mean Guadalupe river or maybe it's the -- Los Gatos river or Los Gatos creek. Let me ask it this way. Is the acquisition of that land and environmental mitigation for this ballpark or can that piece of property stay as-is without any need for mitigation?

ORATOR: Commissioner Zito, which graphic were you looking at again, the one with the ballpark?

COMMISSIONER ZITO: The one with the ballpark and it changes to the -- right it shows changes to the project from --

ORATOR: Oh, okay.

COMMISSIONER ZITO: So there's a nice sliver ever land east on autumn right adjacent --

ORATOR: The wider piece that's between Autumn Street and the creek. Yeah.

COMMISSIONER ZITO: So my question is, how important is that in regard to mitigation of any environmental impact?

ORATOR: It's not.

COMMISSIONER ZITO: It's not, so what --

ORATOR: It would be more connected with the Autumn Street project and is actually a part of the Los Gatos Creek trail project.

COMMISSIONER ZITO: So if that doesn't get acquired, and business stay there, there is no change to the environmental report necessary, is that a fair statement?

ORATOR: Yes, sir, I believe that's a fair statement. Without actually looking at the Autumn Street project, did I say that right?

ORATOR: Yeah, as part of the Autumn Street EIR, we looked at kind of what we consider the worst case scenario as to what properties we would need to acquire to ultimately build the roadway, and that including clearing everything between the existing Autumn Street all the way to the creek. However as we're going moving forward with design, there are opportunities to build that roadway without that property acquisition. So really what we did with that Autumn Street EIR is we created the flexibility that it needed. We could use those properties for the roadway, but it is not required to get -- to acquire those properties for the roadway.

COMMISSIONER ZITO: Or for mitigation for any environmental impact on the stadium, which is what we were here for. All right. I apologize for the length, but those were the questions I've accumulated over time. So I appreciate the chair's –

COMMISSIONER JENSEN: Well, as noted earlier, it was quite a substantial document. So I appreciate your thoroughness. Commissioner Kamkar.

COMMISSIONER KAMKAR: Thank you. My question also involves Autumn, but not quite South. I'm referring to document C-8 of the responses or of the comments. To the First Amendment, and the question I have is, has the concerns of this business been addressed? Regarding you know, seemed to be a significant-size business and they're right behind HP pavilion. And I understand that the autumn project there is not part of this EIR, but they're interconnected, right next to each other and they affect one another.

ORATOR: Thank you, Madam Chair, he may want to add on because he knows more about the current status. But these comments are not directed to the ballpark EIR. They are hold over or carryover comments from the Autumn Street project. And I believe subsequent to the Autumn Street EIR having bye-bye certified, there have been meetings with this particular business. If you want to add more.

ORATOR: Those comments are for the Autumn Street project not the ballpark project. We are working with the owners with regard to their access concerns. We have had three or four meetings with them. We do not have resolution to their concerns yet. We have different opinions on what the options are and will continue to work through those as part of the Autumn Street extension project.

COMMISSIONER KAMKAR: I understand, thank you for that explanation, it is just one of the lure of this is the economic impact that it brings to our city. And that's why you know, you understand there is unavoidable yet significant impacts. And you know, because of the other side of the equation, you know you understand it's a good project. But if in the process we're going to start affecting significant employers, significant revenue generators for us, I think we need to be a little bit more aggressive in meeting their concerns and making sure that we don't affect them you know while trying to help the city.

ORATOR: Sure, and staff is always concerned about maintaining access to our industrial areas and we're working with them to make sure they still have adequate access to their facilities and I'll try to do that.

COMMISSIONER KAMKAR: Thank you.

COMMISSIONER JENSEN: Thank you, Commissioner Kamkar. I see no further comments from the commission. Thank you, Commissioner Zito.

COMMISSIONER ZITO: I'm ready if it pleases the commission to make a motion.

COMMISSIONER JENSEN: Certainly, please go ahead.

COMMISSIONER ZITO: Given the extensive conversation we had and the responses we received from staff that I would consider the certification that the final supplemental environmental impact report has been performed in accordance to the California Environmental Quality Act, CEQA and that we offsite certify the supplemental EIR.

COMMISSIONER JENSEN: Is there a second? Motion and second. Would you like to speak to your motion?

COMMISSIONER ZITO: Briefly. I am very concerned when we do EIRs that they are adequate. And the issue of an EIR is different than the issue of the project itself. There are a lot of reasons to support or

not support a baseball stadium downtown and that's not the question tonight. I have my personal opinions about whether we should or should not have a baseball stadium but that's not the question. Whether or not this document is complete and adequate and contains all of the analysis necessary, there's nothing that came forth tonight that staff has not been able to address and for that reason I cannot find a reason to not certify it. And under those circumstances, I've put forth my motion.

COMMISSIONER JENSEN: Thank you. And I would just like to comment as mentioned by Commissioner Zito, the commission's role here this evening is a review, discussion and decision on the certification of the supplemental EIR. We are not here to decide whether we like or dislike the idea of a baseball stadium or whether we even like or dislike the impacts as they've been presented to us, but whether or not the SEIR has adequately documented those potential impacts. I would also like to say, as Mr. Wooder -- I'm so sorry what I'm doing with your name -- as he pointed out I was disqualified from the original decision in 2007 and the reason for that was it was my first meeting and I had not had the opportunity to properly review all the documentation and I have since reconstituted myself on that original decision as well as all of the materials that have been presented here, so I am in a position to vote on this item this evening. Thank you, Commissioner Platten.

COMMISSIONER PLATTEN: Thank you, madam chairperson, I absolutely second your comments and Commissioner Zito's comments that any of our votes tonight are not an indication one way or another of the project itself. I however -- and I appreciate the motion put forward by Commissioner Zito. I will not support the motion. I think it's a close-call case with respect to the omissions raised by the letter from counsel on May 19th, today. I imagine this will lead to litigation. I'm not convinced of the Mahia argument at all. I think counsel Gurza has responded to that adequately, but I think there's sufficient omissions that this will be litigated. So I will not support the motion, although it is a close, close decision on my part.

COMMISSIONER JENSEN: Thank you, Commissioner Platten. I see no further requests to speak on the part of the commission so may we vote by Light. I'm sorry, Commissioner Kamkar. Commissioner Kline. I'm sorry.

COMMISSIONER KLINE: I just want to make a comment real quickly. I'm familiar with the SEIR process. Do we have an EIR? It's already been approved, we're looking at the supplemental. In all respects, it looks almost this could have been done with an amendment. We have a major reduction, not 2, 3, 4, 20% reduction in the -- really the scope of -- the major scope of the project which is the seating capacity. That means 20% less traffic, probably 20% less parking although it is hard to know that because of the different options involved. And because of the reduced impacts of that, I don't see any particular issues other than minor mitigation concerns of the residents and neighbors. Not that they're minor, but that has to be handled at the permit level, at the traffic level, which is not really part of this process. But I see no particular reason to deny the certification of the SEIR for those reasons.

COMMISSIONER JENSEN: Thank you, Commissioner Kline. Are there any other commissioners who would like to -- okay seeing none may we vote by light? I'd like to note that that -- that the motion passes, on a 4-1-2 vote with Commissioner Platten voting no and commissioners Campos and Cahan absent. Thank you. Now on to petitions and communications. Public comments to the Planning Commission on nonagendized items. Please fill out a speaker's card and give it to the technician. Each member of the public may address the commission for up to three minutes. The commission cannot take any formal action without the item being properly noticed and placed on an agenda. In response to public comment the Planning Commission is limited to the following options. Responding to comments made or questions posed by members of public or requested staff to report back on a matter on a subsequent hearing or requesting staff to place the item on a subsequent agenda. Do we have any comment cards?

ORATOR: No.

COMMISSIONER JENSEN: Thank you. Referrals from city council, boards, commissions or other agencies.

ORATOR: Laurel Prevetti: There are none this evening.

COMMISSIONER JENSEN: Thank you. Good and welfare report from the city council.

ORATOR: Laurel Prevetti: Just wanted to inform the Planning Commission that last night the city council decided to defer action on the Dove Hill assisted living general plan amendment. They actually requested that we go back and do additional community meetings, bring the matter back before Planning Commission, and then bring it back before city council on June 15th, 2010. So there will be an item to add a general plan hearing to your calendar for June 9th, I believe and that completes staff's report.

COMMISSIONER JENSEN: Thank you staff. Commissioners reports from committees, Norman Y. Mineta, San José international airport noise advisory committee, noting Commissioner Campos is not here I assume we'll hear the next time we meet. Envision 2040 general plan update process. Commissioner Kamkar.

COMMISSIONER KAMKAR: I was going to ask my colleague Commissioner Zito if he could make a report.

COMMISSIONER JENSEN: Certainly.

COMMISSIONER ZITO: Thank you, Madam Chair. The report is that we discussed, again, another meeting this past Monday on urban design guidelines, hospitals, I'm trying to remember there was one other -- yes, land use in general. And pretty extensive discussions on what type of land uses, location of hospitals and so on, would be included in the general plan update.

COMMISSIONER JENSEN: Thank you. And I'd like to note that -- are you --

COMMISSIONER ZITO: Go ahead.

COMMISSIONER JENSEN: I'd like to note there was also a Saturday workshop provided for the public and I had the opportunity to attend and I thought it was a very good workshop. A number of members of the public who had not previously attended commission meetings or task force meetings had the opportunity to be there and review the proposals and have a lot of thoughtful questions answered and comments provided to staff. And I would like to thank staff also for making that opportunity available. Review and approve synopses from April 21st and May 5th of this year. Is there a motion? Has everybody had the chance to review them?

COMMISSIONER ZITO: Madam Chair, I move that we accept as submitted.

COMMISSIONER JENSEN: Thank you. Is there a second? All those in favor? Opposed? Abstain? Okay. Set November 3rd, 2010 as the fall general plan hearing date, and I understand from staff we have an additional general plan meeting coming up on June 9th.

ORATOR: Laurel Prevetti: That's correct, Madam Chair and since that is not adequately noticed on the agenda it will be part of good and welfare next week.

COMMISSIONER JENSEN: Thank you.

COMMISSIONER ZITO: So I move the November 3rd G. P. hearing.

COMMISSIONER JENSEN: Although in favor? Subcommittee reports and outstanding business.

COMMISSIONER ZITO: Madam Chair, I have an item that I would like to put on next meeting's good and welfare. I'd like to discuss a potential update to the Planning Commission, I guess we call them bylaws. And I'll present that to staff and to the commission in the near future. I guess that has to be available ten days before, I'll make sure that that happens.

COMMISSIONER JENSEN: Thank you, Commissioner Zito. Any other comments?

ORATOR: Laurel Prevetti: Madam Chair, if I may, on the issue of bylaws, I just wanted to acknowledge for the commission the work you have done a while ago has been bound, and we are in the process of posting it onto the Website, and it will be e-mailed to each of you so you'll have that prior to Commissioner Zito's proposal.

COMMISSIONER JENSEN: Thank you. And thank you for making them available to everybody. Any other comments? Commissioner Kamkar.

COMMISSIONER KAMKAR: When is the next election for the -- for the Planning Commission officers?

COMMISSIONER JENSEN: Director.

ORATOR: Laurel Prevetti: Thank you. The bylaws stipulate that elections cannot be held any sooner than the first Planning Commission meeting in May and no later than the last commission meeting in June. Staff was anticipating this to be an item for your June 9th meeting.

COMMISSIONER JENSEN: Any additional comments?

COMMISSIONER KAMKAR: Yes, sorry. So for June 9th would be for the actual voting, or June 9th we would be setting a date?

ORATOR: Laurel Prevetti: June 9th would be the voting.

COMMISSIONER KAMKAR: Thank you.

COMMISSIONER JENSEN: Thank you. Any additional comments? Seeing none, this meeting is officially adjourned. Thank you.