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>> Commissioner Cahan: Good evening. My name is Hope Cahan, and I am the chair of the Planning Commission. On behalf of the entire Planning Commission, I would like to welcome you to the Planning Commission public hearing of Wednesday, April 11, 2012. Please remember to turn off your cell phones. Parking ticket validation machine for the garage under City Hall is located at the rear of the chambers. If you want to address the commission, fill out a speaker card located on the table by the door on the parking ticket validation table at the back, and at the bottom of the stairs near the audiovisual technician. Deposit the completed card in the basket near the planning technician. Please include the agenda item number, not the file number, for reference. For example, 4A, not PD 06-023. The procedure for this hearing is as follows: After the staff report, applicants and appellants may make a five-minute presentation. The chair will call out names on the submitted speaker cards in the order received. As your name is called, line up in front of the microphone at front of the chambers. Each speaker will have two minutes. After the public testimony, the applicant and appellant may make closing remarks for an additional five minutes. Planning Commissioners may ask questions for speakers. And response to commissioners' questions will not reduce the speaker's time allowance. The public hearing will then be closed, and the Planning Commission will take action on the item. The planning Commission may request staff to respond to public testimony, ask staff questions, and discuss the item. If you challenge these land use decisions in court, you may be limited to raising only those issues you or someone else raised at this public hearing or in written correspondence delivered to the city, at, or prior to, the public hearing. The Planning Commission's actions on rezoning, prezonings, general plan amendments and code amendments is only advisory to City Council. The City Council will hold public hearings on these items. Okay, or the roll call, let the record show that all commissioners are present except Commissioner Kamkar. The first item of business is deferrals. We have one item, 1A. Staff.

>> Thank you, Madam Chair. We have one item proposed to be deferred, special use permit, SP 11-039. A wireless antenna on a 2.5 gross acre site located at the East side of San Felipe road, 730 feet northerly of delta. Contrary to what is recommended here on the agenda, staff would request of the applicant and appellants have requested this be deferred until may 23rd, 2012. And this concludes staff-recommended deferrals. Thank you.

>> Commissioner Cahan: Thank you. I will entertain a motion on deferrals. A motion, may 23rd, motion 1A passes and we'll move on to the consent calendar. Consent calendar items are considered to be routine and will be adopted by one motion. There will be no separate discussion of these items unless a request is made by a member of the Planning Commission, staff, or the public to have an item removed from the consent calendar and considered separately. And 2A, staff.

>> Actually, the agenda identifies that item 2A, file CP11-059, this is a conditional use permit for a projected located at Union and Woodard, is actually -- should be removed from the consent and actually heard under public hearing item.

>> Commissioner Cahan: Thank you so item 2A will move to become 3C. That leaves us with one item on consent. Motion and second to accept the consent calendar. All in favor, any opposed? Motion passes. And we'll move on to public hearing. Generally the public hearing items are considered by the Planning Commission in the order which they appear on the agenda. However, please be advised that the commission may take items out of order to facilitate the agenda, such as to accommodate significant public testimony or may defer discussion of items to later agendas for public hearing time management purposes. Item 3A, staff.

>> Laurel Prevetti: Thank you, Madam Chair. The first item before you is a proposed amendment to the zoning code to allow for permit extensions as well as reactivations. This is part of a series of reactivations and permit extensions that the state legislature has allowed because of the economic downturn and in San José is essentially carrying forward those allowances to the local level. We did pull this item from your calendar last month because we realized that there were some other property owners who could benefit from the ordinance. So we did broaden it just slightly to accommodate some applications that were in our permit center. So it's a relatively focused proposal for extensions and reactivations as described in the staff report. And staff is available for your questions, either now or after public testimony. Thank you.

>> Commissioner Cahan: Okay and we do have one speaker card on this item. Greg Heaton. If you will come up to the front. And you'll have two municipals. If you'll provide your name first before you begin.

>> Yes my name is Greg heaton. I'm here to support the staff in their efforts to get this passed. We have one of the developments, in particular, in the city that will need this reinstatement of the authority for them to grant i.e. permit adjustment applications and such. And I'm here just to support that for the development. And I appreciate the staff's work on this. And hopefully, that they will get this authority reinstated. Thank you.

>> Commissioner Cahan: Thank you. Okay, that is our only speaker cart. Motion and second to close public hearing. All in favor? Motion passes. Staff.

>> Laurel Prevetti: No additional comments but available for any questions you might have. Thank you.

>> Commissioner Cahan: Thank you. I see no discussion on the item so I'll entertain a motion. Commissioner Abelite.

>> Commissioner Abelite: Yes I'll make a motion to go ahead and recommend or approve to the city council to take this ordinance and move it into adoption mode.

>> Second.

>> Commissioner Cahan: Motion and second. Would you like the speak to your motion? Commissioner Platten would you like to speak to your second? Okay. And we will vote by light. Okay, and that motion passes with all Planning Commissioners present voting in favor of. Moving on to item 3B. Staff.

>> Thank you, Madam Chair. This is a planned development rezoning from the APD planned development zoning district to the CIC combined industrial commercial PD, planned development zoning district to allow increased enrollment of a private school by 160 students, for a total of 935 students. As well as approximately 7500 square feet of additional building space for the school on approximately seven acres, and the site is located on the north side of East Gish road, 500 feet westerly of Oakland road and the addresses are 711 to 721 East Gish Road. The

project substantially conformed to the conventional CIC district however the campus's front setback for proposed parking is proposed to be five feet from the lot line and the project proposes no minimum front setback for circulation. Whereas the CIC zoning district would require a 20 foot setback for parking and circulation for passenger vehicles and 40 foot setback for buses and trucks. So for this reason the applicant proposes to rezone to CIC-PD, planned development zoning district. So the existing frontage improvements do not need to be altered from the standards set forth under the previously approved planned development zoning. Staff recommends approval of the subject rezoning, because the project is consistent with the envision San José 2040 general plan land use designation of combined industrial-commercial. It conforms to the commercial design guidelines, and with included mitigation measures, in particular measures to address traffic and hazardous materials it is compatible with the surrounding land uses and complies with CEQA. And finally the project would provide an opportunity to intensification and expansion of an existing school facility in an urbanized area of the city. Just to summarize, the community input so far, it's been very minimal. With the exception that we did receive written correspondence early on in the project review from a resident from a nearby mobile home park who has expressed concerns about the additional traffic from the increased student enrollment. And particularly, during morning drop-off. We feel that we have addressed this concern in the traffic mitigation measures, that are included in the general development standards that are drafted, and in particular, we have identified staggered dropoff times which would be worked out more specifically in detail through the accompanied planned development permit, if the zoning's approved. Thank you.

>> Commissioner Cahan: Thank you. Is the applicant -- okay, you will have five minutes to present. And please state your name as you begin.

>> Madam Chairman my name is David Healy and I'm director for Challenger School. I would thank the is member of the Planning Commission for taking the time to hear this, this evening and the effort staff has begun us in going through the project. It is a very complicated project but one I think will benefit San José. Challenger has had a long standing partnership with the City of San José. We have over 4,000 students in the City of San José and on this project alone we'll spend about \$2.5 million. Last year we spent \$3 million on the office building that also sits on this site. With those two combined projects our payroll will increase by about 1 million a year. So the

revenues that we bring into the City of San José we think are significant. But we also are grateful for the partnership that we've had for almost 40 years with the City of San José. So we just wanted to thank you this evening, and we'll be available to answer any questions that you might have. Thank you for your time and for the effort that's gone into reviewing this project. Thank you.

>> Commissioner Cahan: Thank you, Mr. Healy. I do have a question for you about the staggered dropoff.

>> Okay.

>> Commissioner Cahan: It just occurred to me that that meant that there was a different start time for different grade levels and I just wondered if you had some sort of a plan, if you had a parent who had two different children who were starting at different times so they weren't leaving and coming back adding to the congestion.

>> I can let Mr. Walton who is the director of the California region speak more specifically to that. But I can tell you yes, we do accommodate, if a parent has a child that is, for example, in the preschool dropoff but also in the second grade dropoff, which come at a different time, we will accommodate them by taking their student and we hold them, either in the classroom or in the multipurpose room, until their dropoff period is there. But we do supervise them, in fact I don't know if you've ever observed how we do it. No child leaves the car without an adult accompanying them and escorting them to the safety of the confines of the school.

>> Commissioner Cahan: Thank you very much.

>> You bet. Thank you.

>> Commissioner Cahan: And we have no speaker cards on this. Motion to close and a second. All in favor? Aye, okay, that motion passes. And staff do you have any follow-up?

>> Staff is available to answer any questions. Thank you.

>> Commissioner Cahan: Commissioner Bit-Badal.

>> Commissioner Bit-Badal: I would like to put forward a motion to approve as recommended by staff.

>> Second.

>> Commissioner Cahan: Okay, we have a motion and second. I do have a -- oh, Commissioner Abelite.

>> Commissioner Abelite: I just had a quick question for staff as it relates to traffic impact fees and the Tifs and it's just for my education purposes. So in the documents they talk about 19 peak hour trips and each peak hour trip is worth like \$32,000. I mean it's got to be more than just 19 trips in an hour. So can somebody explain the education or the engineering of what that impact means? It must be a big impact, more than just 19 trips.

>> Yes, Madam Chair, the project is within the 101-Oakland-Mayberry transportation development policy. The identified improvements, because of lack of capacity, is the interchange at 101 and Oakland as well as Mayberry. The 19 trips are being sent to the Oakland road interchange with 101. And the 32,000 times the 19 trips generated by the project, these are PM peak hour trips. Our -- need to pay \$32,000 per p.m. peak, \$32,000 per peak hour trip. This amount will be used to fund the construction of those major improvements.

>> Commissioner Cahan: Staff, do the number 19 come because you're looking at the p.m. peak hour, which is much smaller than the a.m.? Is that where that number of, specifically of 19 came from?

>> So the project generates a certain amount of peak hour trips. Right? And based on the distribution of those trips, there are 19 trips that are being sent to the Oakland road interchange.

>> Commissioner Cahan: Commissioner Abelite.

>> Commissioner Abelite: I just want to follow, I still don't think I get it. For this applicant if they would have asked for ten more students and three more car trips going around peak hour, does that mean ten more students would cost another 100,000 in traffic fees? That's what I'm trying to get at. Is there a correlation? One extra parent coming in to pick up is another \$32,000?

>> Actually, madam Chair, if I could clarify. There's going to be more than 19 peak hour trips. The key is how many go through the key corridor that is regulated through the policy. So it's those trips that go through those key areas or key corridors are subject to the traffic fee. So we -- that calculation was fairly easy to determine because there's already an existing school and there's information about the population of that school and where those trips are generated from based on the zip code of the current residents. And so by expanding it approximately 20% you can take a look at that same set of zip codes and basically kind of extrapolate from that where those trips are coming. And so while trips are coming from obviously different parts of town, only some of those trips are actually going through the key corridors that are tripping the need for the traffic fee. So that's why the number is 19, even though the increase in student number's actually much higher.

>> Commissioner Abelite: Got it, thank you.

>> Commissioner Cahan: Staff, can you also explain why the a.m. peak hour was not a factor?

>> Yes, the critical, the critical peak hour based on the study that was done for the transportation development policy was the p.m. That's why we're using the p.m. peak hour.

>> Commissioner Cahan: Is that because there is no a.m. major traffic around there?

>> No, there is, but there is the critical -- the critical peak hours is more in the afternoon, as opposed to in the a.m.

>> Laurel Prevetti: If I may, Madam Chair, San José has several of these kinds of area development policies with their own impact fee. So Evergreen has one, Edenvale has one, certainly North San Jose and now also 101 Mayberry. And each of those policies had to have their own traffic analysis and fee study that was done so it's very specific to the locality and the circumstances. So in this case it's really the p.m. peak that's actually the driver of the fee and drives the amount of the fee. So depending on which policy area you're in the parameters are going to be different, the fees are going to be different, et cetera. So when we're talking about a school which is mostly a.m., which intuitively means well we should be talking more about the a.m. situation, in this case the policy itself is more focused on the evening. So you know, to be fair to the school, the analysis indicated what was the share of trips that were actually affected by this particular policy. And that's where their fee is derived. I hope that helps.

>> Commissioner Cahan: It does help. My only thought is potentially in the future we might want to consider looking at the traffic impact of the establishment as well for future analysis. Thank you. And I see no further discussion. So we will vote by light. And that motion passes with all commissioners present in favor. All right. And we'll move on to item 3C. Staff.

>> Thank you, Madam Chair. This is a request for a conditional use permit to allow offsale of alcohol, 24 hour use and expanded gasoline station with retail mini market convenience store use for an existing gasoline service station on some 39 acres, and the site is on the southwest corner of Woodard Road and union avenue. Site address 3707 union avenue. Planning staff is recommending the commission approve the proposed conditional use permit with late night use only until 2:00 a.m. for gasoline sales and retail and only as conditioned by staff without offsale of alcoholic beverages for the following reasons: The project as recommended by staff conforms to the Envision San Jose 2040 land designation of neighborhood community commercial within a commercial center urban village. As recommended by staff, the proposed use will not adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area or impair the utility or value of property of other persons within vicinity of the site or be detrimental to Public Health, safety or general welfare. As recommended by staff with closure by 2:00 a.m., the proposed late night use for gasoline and retail sales is consistent with the city council policy for the evaluation of 24-hour uses. The proposed project is in conformance with CEQA. Staff does not recommend the offsale of alcohol on the site because the proposed offsale of alcohol

will adversely affect peace health safety morals or welfare of persons residing or working in the surrounding area and be detrimental to Public Health, safety or general welfare, it's not needed to enhance an already viable existing commercial area and it's not needed to offer convenience for the neighborhood because a number of offsale establishments and on sale establishments already operate in the area. There was a community meeting held for the proposal, in January. And two persons, both residing at the Sam address, residence attended, as well as council district 9 chief of staff. The attendees concerns were on neighborhood issues not really directly related to the project or site. They did not raise concerns about the use of the facility or proposal for late-night use. Just wanted to call your attention to a revised draft resolution that has been distributed to the commission tonight, that has added some facts. They're numbered 14 through 20, that provide more detailed context regarding the existing establishments near the site that sell alcoholic beverages for offsite or on-site consumption. Thank you.

>> Commissioner Cahan: Thank you. And is the applicant here? Okay, you have five minutes. Please state your name.

>> How are you?

>> Commissioner Cahan: Doing well, thank you.

>> My name's Mike Murray.

>> Commissioner Cahan: Why don't you get up to the microphone. That way we can have you on record.

>> My name is Michael Murray. And Azim Modoresi is the applicant is in the audience. I'm actually his gas supplier. I work for a family-owned company. I live in San Mateo, and Azim asked me to talk about his project today. We live in a mobile society. I think everybody knows that. And as much as your job today, has changed from commissions in the past, I think you guys are looking at more transit-friendly developments, and what have you. However, gas stations are still a necessity, in today's world. Staff has said that they don't have a problem with them staying open until 2:00. Azim would like to open 24 hours. The reason why he wants to open up 24

hours isn't because he wants to have somebody just sit there. His customers have spoken to him, I don't know what time you guys get up in the morning, and leave for work, but you're seeing more and more people get up before 6:00 and leaving the house. You're seeing people 4:30 and 5:00 getting up and going to work and they want to get gas before they go to work or what have you. So we would -- we would really like to see this site open 24 hours. He sees the necessity for it as staff has said. There was a community meeting and the neighbors that were right close to the gas station said they haven't had a problem there. The police department says there's not a problem on the site. Staff is concerned that it's going to create a problem by opening up 24 hours. And cause more police calls to the site. And that just isn't the case at this site. And I believe that the operator, who I've been doing business with for about ten years now, since he opened the site, so 2002, I've been doing business with him, never had a problem that I've heard of at this site. There are sites that I do sell gasoline to that are troubled sites. And this just doesn't seem like one of them. As far as the liquor license goes, today, you're seeing the way gas stations are changing. Our cars are changing. So business models have to change. He's -- AZIM has a garage in there and he doesn't plan on closing the garage. Most of my gas stations today are trying to close their garage. And the reason why is, they're making cars today that last longer, that need to go into the dealership, or the gas station owner has to purchase expensive computer equipment to diagnose the cars. So that's why you're seeing more and more of the convenience stores opened up. And you have seen them, a.m.-p.m, the one across the street, the Chevron right here, he's doing a site transformation right there and he is taking the gas station out and putting in extra mile. As these things go, liquor is one of the things that's a profitable item to sell. So Azim is in this for the long haul and would like the opportunity to sell liquor. They say this is going to impact the area with four, more than four in a thousand foot radius. That's just not the case. You have a beverage and more, what I calculated it, it was a little bit over a thousand feet. Food source is no longer there. It's a dollar store. So the liquor license might be out. However, they would have to come through the same approval process I believe as AZIM's trying to go through right now, to sell offsale of liquor. So he's coming before the board and he thinks that in his area, he will be the third one. Not fifth one. So that's the other side of it. And so we would like the Planning Commission, you folks, to stand with the small businessman who lives in San José, his children goes to school here. He sends his kids to college here, to University of Santa Clara, and San José State. This guy has worked his tail off taking a piece of property that was blighted, what he did to that corner, he paid that corner so much nicer by tearing down the old gas station.

>> Commissioner Cahan: Thank you, your time is up. If you will wait just a moment. Commissioner Abelite has a question.

>> Commissioner Abelite: This question may not be for you but rather your client.

>> He's not my client.

>> Commissioner Abelite: You're his supplier. It's trivial but there are four trees outside that have been completely let go and gone dead. I'm just wondering if they are in his view his responsibility.

>> The trees in front of the station, are there some dead, I didn't see any.

>> No, actually I maintain it all the time and even I hire the landscaping. They do a good job. Every week, they come to us, and then they take care of that. If you come take a look at it, our station is very clean and very nice, good landscaping too, also.

>> Commissioner Abelite: Actually I agree. Everything inside your sidewalk and back is very well kept. But the street trees that are along the back of the curb, there are four of them that are dead and they're like 15 feet tall and it was a shame to waste that asset. I'm just curious do you view that as your responsibility to maintain those three trees?

>> Those three actually in our location we take care of that. Those are -- we don't have any -- I didn't see any dead trees.

>> Commissioner Abelite: Unless --

>> We'll take a look, correct it, sure why not. We like to make it clean all the time. Because you know I care about the cleaning and --

>> Commissioner Abelite: Okay. Do you think they're alive or do you think they're dead? I'm just curious, have they lost their leaves for some reason and they just --

>> Oh, I know which one you talk, one of them I guess needed to take it out and they put the transfer over there, and then I didn't have access because they took it and they put the concrete on it.

>> Commissioner Abelite: No I'm referring -- anyway --

>> As far as the site goes, where would the trees be north side south side?

>> Commissioner Abelite: The are just back of curb, and they're in four tree pockets, two on the front, fronting Union, and two on the side street. I've got pictures on my iPhone but they're about 15 feet tall. They have double stakes and wrapping around them. It looks like, if I would have guessed, they were planted about three years ago. But to me, they are dead as a door nail. I was just curious, if you felt that was in your purview to take care of?

>> Oh, of course, we do that, if there's really something wrong with that, we take of that. Our plan is to make it clean and very beautiful.

>> Commissioner Abelite: Right. No further questions.

>> Commissioner Cahan: So it sounds like you will look at those trees and see if there's something you can do with them?

>> Will do.

>> Commissioner Cahan: I live in that area, so I'm familiar with your site, it's very well maintained, aside from the tree issue. My concern is when I read that you didn't have a permit to be able to sell like a marketplace, that you had only a vending machine type of permit but that you converted to the marketplace anyway. And I wanted to get your feedback on why you did that.

>> When I see, actually, my permits came, they said convenience store. The reason I applied to expand. I spent a lot of money to expand it. And I did it. I thought maybe because when I take a look at my permit, you know, the permit said, convenience store, too, also. And the reason I did that. I just go follow the permission of that one.

>> Commissioner Cahan: So you were confused by the meaning of what you were allowed to do?

>> No, see, the permit, I saw that, you know, because I didn't have it before. When I received that, I saw it says the convenience store. I thought maybe, actually, approve me as a convenience store, and I did that.

>> Commissioner Cahan: Okay, thank you.

>> Welcome. And also, that location used to be very -- not very good shape. And I build it myself, a new one everything like that, clean it and even the city didn't help me do that. City help for those people, they fixed all the facades, something like that and I didn't get any help from them.

>> Commissioner Cahan: It does look very nice and we appreciate your beautification attempts.

>> I would like to say my feed my family and also they keep those people over there to work over there.

>> Commissioner Cahan: Thank you very much.

>> You're more than welcome.

>> Commissioner Cahan: Okay, take a mock to close public comment. Public comment is closed. Staff, do you have any follow-up?

>> Thank you, Madam Chair. Regarding the question of how the convenience store use was started, in fairness to the applicant, the additional square footage was approved by a permit adjustment over the counter by planning staff. And the adjustment was silent on the convenience store use. So it was perhaps a bit ambiguous to the applicant that they were limited to vending machines. Moreover, the original permit did limit sales to vending machines. But subsequent to that original approval, there has been an ordinance change that does allow the convenience store use with food items through issues of a conditional use permit. So I can see, from being sympathetic to the applicant, that there might have been some ambiguity in how the process and uses were explained to him when he got his adjustment approved. Thank you.

>> Commissioner Cahan: Thank you for that explanation. Commissioner Kline.

>> Commissioner Kline: Can you clarify the number of existing liquor licenses, is it three, four, five, and do we know for sure?

>> Thank you, Madam Chair. We look at uses that are allowed for offsale and those uses run with the land. And that's how the city looks at land uses. Separately, the state issues liquor licenses to individual operators. And the way the state works, those licenses are allowed to be transferred through sale or other means to other license holders. Until we get updated information from the state, and we do get our license information from the state, we go with the data that the state has provided as well as our in-house data on what sites within the city have been granted permits for the sale of alcohol for off-site consumption. And for on-site consumption we as well look at our permits that are issued through the city. So that's what we use to assess the area. And that is, as well, why we supplemented our facts in the draft permit resolution to acknowledge not only offsale establishments within 500 feet and 1,000 feet but also the on-sale establishments within the area which there are quite a few. So I hope that answers your question, thank you.

>> Commissioner Cahan: Okay. I see no questions. I'll entertain a motion. Commissioner Abelite.

>> Commissioner Abelite: Yeah I'll go ahead and make a motion to approve the conditional use permit to allow offsale of alcohol as recommended by staff with the hours ending at 2:00 in the morning and no liquor license for this particular location, and I'd also like to add --

>> Commissioner Cahan: Commissioner Abelite, before you go on, staff recommended not to approve the offsale of alcohol.

>> Commissioner Abelite: I'm sorry, I meant to say that. If I did not, I meant to say to not approve the liquor license alcohol component. Past 2:00 a.m. Yeah. So basically I'd like to make a motion to approve staff's recommendation of this project, adding a condition that the applicant replace those four trees if, in fact, they are dead and also, perhaps do a better job of maintaining those trees. The condition is to replace the trees if they're dead. That's the end of my motion. Thank you.

>> Commissioner Cahan: Thank you. We have a motion. And a second. Thank you very much. Any discussion on the item?

>> Commissioner Abelite: Just briefly. I don't think this location is appropriate for liquor license sales just based on knowing the area and the density that's already out there and the makeup of the internals of that store I think it just doesn't lend itself to it. Ordinarily I'd like to support something like the notion of promoting businesses and getting things going but in this particular case I just don't think that location and that facility is appropriate for liquor licenses and also the proximity of this location with its neighbors meld contiguous to the back, I think 2:00 a.m. is really all that should happen out there in terms of gasoline sales. Thank you.

>> Commissioner Cahan: And I agree with Commissioner Abelite's comments there. Additionally, I do think that it's appropriate to have the gas station open until 2:00, because that is really the closest gas location from the

Interstate. Sometimes drivers will find themselves stranded in that area looking for gas. I do think extending those hours is an appropriate thing to do. We have some more commissioners, commissioner Kline.

>> Commissioner Kline: I agree with what all my two fellow commissioners have indicated. I do want to thank the applicant for doing a fantastic job improving the property and I just want to encourage him to continue to do that by looking at other types of income revenue projects that many gas stations are undertaking right now, from sandwich shops to we even see subway shops going into these locations and being quite successful. And I know that is an option if he's just looking at maintaining income or increasing income we see that quite a bit. But at this particular moment I can't support liquor license at that location. But I really want to thank the applicant for doing such a great job in a small business.

>> Commissioner Cahan: Commissioner Platten.

>> Commissioner Platten: If it is the consensus I think or the sense of the commission, with respect to no offsale alcohol use and I don't have a problem with that, I join Commissioner Kline, because of location and because the police department has indicated it's not a high crime area I'm going to ask the maker of the motion if he would be willing to amend to 3:00 a.m. on operational hours.

>> Commissioner Abelite: That would be fine. I'm willing to amend go to 3:00 a.m. as mitigation for liquor.

>> Commissioner Cahan: Commissioner Bit-Badal.

>> Commissioner Bit-Badal: I would like to thank commissioners for the motion and also the amendment because I personally would like to see it be 24 hours, because I was that commuter who did need gas at 4:00 in the morning or 5:00 in the morning as I was going to work. But at this point I think 3:00 is a good compromise and in the future maybe they can come back, with good faith we can maybe extend it to 24 hours. The reason is again location of the gas station is close to the freeway, and being a single woman driver on the freeway when you need

gas you want to get to the closest location and sometimes you cannot find 24-hour uses when you need it. So because of that I will approve the current motion as stated. Thank you.

>> Commissioner Cahan: Okay, seeing no further discussion we will vote by light. Okay, motion passes, with all commissioners present voting in favor of. Okay. Petitions and communications.

>> Laurel Prevetti: I see none.

>> Commissioner Cahan: Okay, referrals from city council, boards commissions and other agencies.

>> Laurel Prevetti: We have none.

>> Commissioner Cahan: Good and welfare, report from city council.

>> Laurel Prevetti: City council has been amending the zoning code per your recommendation. You have seen several ordinances come your way and those have all been approved by the city council and they have also been very much supportive of your other recommendation for the zoning actions as well, so thank you.

>> Commissioner Cahan: Commissioner Abelite.

>> Commissioner Abelite: Could perhaps staff share with us the payday ordinance zoning and all the e-mails that we're getting on this?

>> Laurel Prevetti: Yes and I appreciate the commission alerting us. Because those e-mails are not part of the public record unless they come to us. So we have not been receiving -- we saw a couple, maybe three or four, but it sounds like you've received quite a number more. So maybe if one of you could forward the set to me, that would be great, so we have them for the public record. The payday lending ordinance has been noticed for your

next public hearing on April 25th, so you will have an opportunity to review that proposal and make a recommendation to the city council for its consideration.

>> Councilmember Campos: Thank you, commissioner report from committees. The Norman Y. Mineta San José international airport noise advisory committee has not met, so I have no report. Review synopsis from 3-21-12, Commissioner Platten, did you have a chance to look at that? Okay, so Commissioner Platten will be abstaining on that one. Commissioner Bit-Badal.

>> Commissioner Bit-Badal: Motion to approve.

>> Second.

>> Commissioner Cahan: I have a motion and second to approve. All in favor, and one abstention. Okay, that passes. Subcommittee formation, reports and outstanding business. Seeing none, commission calendar and study sessions?

>> Laurel Prevetti: Just a reminder that last time, the commission did cancel the study session that was scheduled on May 2nd and instead, we will be considering the capital improvement program as part of your regular session, starting at 5:30. So an hour earlier than normal on May 2nd. So make sure that that's on all of your calendars. And then, if I may, Madam Chair, the deadline to apply for Planning Commission, for those of you who are eligible for reapplication and potential reappointment is Friday, May 11th. The -- I sent out the e-mail to all of you yesterday. And there is an online form. And if you're having any difficulties with that, to please contact Dennis Hawkins of the Clerk's office. We encourage all who are eligible to certainly reapply. Thank you.

>> Commissioner Cahan: And we usually have a meal at those study sessions so I assume because we are meeting in here, that there will not be a meal. Please eat before that session.

>> Laurel Prevetti: If you want to bring a beverage, just be discrete about it. It's probably not advisable to be eating at the dais. Thank you.

>> Commissioner Cahan: Thank you, with that we are adjourned.