

The following transcript is provided for your convenience, but does not represent the official record of this meeting. The transcript is provided by the firm that provides closed captioning services to the City. Because this service is created in real-time as the meeting progresses, it may contain errors and gaps, but is nevertheless very helpful in determining the gist of what occurred during this meeting.

>> Commissioner 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, December 7, 2011. Please remember to turn off your cell phones. Parking ticket validation machine for the garage under City Hall is located at the rear of the chambers. If you want to address the commission, fill out a speaker card located on the table by the door on the parking validation table at the back, and at the bottom of the stairs near the audiovisual technician. Deposit the completed card in the basket near the planning technician. Please include the agenda item number, not the file number, for reference. Example, 4A, not PD 06-023. The procedure for this hearing is as follows: After the staff report, applicants and appellants may make a five-minute presentation. The chair will call out names on 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 of the speakers. Response to the 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 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 actions on rezoning, prezonings, general plan amendments and code amendments is only advisory to the City Council. The City Council will hold public hearings on these items. Roll call. Let the record show that all Planning Commissioners are present. Welcome, everyone. Deferrals. Any item scheduled for hearing this evening for which deferral is being requested will be taken out of order to be heard first on the matter of deferral. A list of staff-recommended deferrals is available on the press table. Staff will provide an update on the items for which deferral is being requested. If you want to change any of the deferral dates recommended or speak to the question of deferring these or any other items you should say so at this time. Staff. PDc 10-002?

>> We have no further recommendations other than to defer PDc 10-002.

>> Commissioner Cahan: Okay do I have a motion? Motion passes to defer item 1A. Consent calendar has no items, staff do you have any additions to that?

>> No.

>> Commissioner Cahan: Public hearing, 3A. Staff.

>> Thank you. Just quickly give some background update. This is a proposed amendment to title 20 the zoning ordinance. To accomplish a couple of things. The first is really to implement city council direction that we received, in October the city council had a session on the City's economic development strategy, and one of the important work program items that came out of that was to look at permit streamlining. So we're with this proposed ordinance, update, moving forward on some of those permit streamlining actions that we know will be of help fostering economic development in the city. The second in that we discussed fairly extensively before is that some of the updates to the ordinance are to bring it in line with the City's newly adopted general plan, envision 2040 general plan, other to advance the City's future in environmental leadership and improve the clarity of the document itself. Since we were here before, the Planning Commission last no and deferred to allow more time for the community input at the request of the community and we've received some comments which we've reviewed. I would say one thing, a number of comments really related to additional items that the community would like to see included in our update to the zoning ordinance so sort of speak to future items we can take into consideration and see how we can advance in the future. There were some requests around how we do notification in general for projects and those are really more procedural things not strictly things that are within the ordinance itself but things we can continue to look at addressing with the community. There was a fair number of comments received related to the main street district that's proposed within the ordinance, a request that we rename it to be the Alum Rock main street zoning district. As it's currently drafted, that district can only be applied within Alum Rock. That's part of the existing ordinance and it's not proposed to be changed. And if that district or a similar district were to be applied elsewhere in the city there would need to be some fairly extensive outreach program around that. We're not proposing to do that at this time. And there is an intention to at some point actually apply the zoning district, that zoning district within Alum Rock and that will have a fair amount of

community engagement as part of that process once we can begin that sometime in 2012. So really, what we're doing, staff's proposing to do at this point is sort of cleanup to the ordinance to help set the stage for that initiative in 2012, when we go out to the community to discuss with them further how we can implement and apply that zoning district in Alum Rock. So with that, staff's -- the opinion that there's really no opinion to rename the district, that there's adequate provisions in the ordinance itself. There were questions on setbacks, some of the setback exceptions, in reviewing those there are other regulations in place such as the building code that would address the kinds of concerns that were raised in the various letters. So we don't see an issue there. One related to sort of the application of block averaging question about that, and again, looking at the that's actually an existing provision in the ordinance for some time and hasn't been an issue that's come up so we're confident we can continue to use it as it's drafted or exists currently. There were a number of requests really for more information clarification. We acknowledge this is something that was brought forward fairly quickly to try to respond quickly to the council direction that we had to bring forward some streamlining efforts that we're addressing some well-known issues at the moment. And also, to quickly bring our ordinance is somewhat into alignment with the general plan. So we certainly take those comments seriously and as we look at how we'll continue to bring forward more ordinance changes, and we're expecting to do a number in the next year, calendar year. We're going to be more -- we have more time to make sure that we bring the community into that process, a little more extensively than we're able to do at this time. So that's sort of our response to those comments. And then, just for the record, there are a few adjustments that we're making to the draft ordinance, before we take it to the city council. And really, these are all -- well, the first four are all things that we're pulling back on a little bit. There was in the draft that was brought to the Planning Commission some changes for height regulation industrial and residential districts that we are going to drop from the recommendation for the council, just to allow us more time to do some coordination around that. One of the things in the draft ordinance was to add day care as a commercial support use and reviewing that further, sort of cost-benefits analysis determine there wasn't really much benefit to adding it in that category. So we're recommending dropping that. There were some restrictions for on-site leasing of vehicles included in the draft that, again, criteria that really weren't adding value, sort of in further review. So those are being dropped from the recommended update. And then, there was in the permit adjustment section looking a little bit more closely at potential environmental impacts realized that under CEQA regulations there were some specific uses that should be excluded from the ability to expand through permit

adjustment. So we've added that language into the draft ordinance. The fifth thing on the list was that we were -- at one point the ordinance itemizes appliances that you can have in an accessory structure, doesn't including drying machines, laundry drying machines and further review because those have gas hookups, that's kind of plumbing, we realized that needed to be added to the list, minor cleanup language there and then the last thing was a clean July on some of the section to reflect that the medical marijuana has been suspended while that was addressed. We'll be including that in the draft for the city council after tonight. Thank you.

>> Commissioner Cahan: Thank you. We do have a few speaker cards. And we'll start with -- well, we have three, so Randy kinman, Terry bellandra and Larry Aimes. I know each have two minutes.

>> Thank you. We're going to have half as many people as back here as we do up there. I want to thank you first for the change in 20.80..1165 because Buena Vista is having on going problems. Staff says it's okay but you're talking to the neighborhood that keeps getting told this is knows not a precedent that this is something special that this doesn't mean it's going to happen in the future. And yet five ten years later we're standing before the Planning Commission or the city council saying but that's not what they said before. They said this was going to change. So this is really an Alum Rock main street designation which it is. And the only people that have participated in it are the Alum Rock people. Then those of us who aren't in Alum Rock shouldn't have to worry that this is going to be dropped on us. And the reasons our concerns are raised is in the wording itself it doesn't just say district it says districts periodically so there's an S added to the end of that which applies to us that that main street designation can be dropped in somewhere along the line. We realize that's not the intent. We realize that's not the purpose right now. But we also realize you're not going to be sitting on that side of the dais ten years from now. So we would rather this was cleaned up now rather than waiting down the line. And even though the wording says it's not only meant to be Alum Rock then let's call it what it is, rather than saying it's an apple when it's an orange. So those are our big concerns. We did have a detailed list and we hope that those issues are addressed. But thank you for delaying this and thank you for allowing us to show up tonight.

>> Commissioner Cahan: Thank you.

>> Terry bellandra. I want to say thanks for deferring this item and giving the community the opportunity to digest the code ordinance from the envision 2040 general plan. I do believe that since there has not been any public outreach in any other area of San José other than the Alum Rock area, that every mention of Main Street in this new ordinance must be preceded by Alum Rock, every area of San José will be a unique neighborhood village, and the community who lives there should weigh in before any ordinance plans are adopted. And thank you, Andrew, for your e-mail today. A focus group of neighborhood representatives working with planning staff on the implementation of the new general plan will facilitate the aspired goals. I've also been asked by shipna, the shipna board to thank you as well for the opportunity to participate. Thanks.

>> Commissioner Cahan: Thank you.

>> Hi, I'm Larry Aimes. I too want to thank you for continuing this. Have a little more time to read this. Christmas rush we didn't get a chance to read all of it. It's a rather complicated document but it's important to install -- I mean implement envision 2040 properly. I need to get going on it. I was trying to find things that were missing from it. I'm kind of curious. There was a lot of discussion at envision 2040 about the riparian corridor setback policy, and I only found only one reference to it. Is that in some other document or is it going to happen here later? I have been involved with trails and parks for a long time, the Greenprint, and I didn't see any mention of the Greenprint or the strategic plans for parks in this thing. And also Envision 2040 there was a lot of discussion about historic preservation. I live in a historic area like wanted to see the area not all developed and so I'd like to see historic preservation mentioned someplace, would that be again in this document or some other place? Discuss main streets. Actually there was one member of the public that went to that main street meeting, it was me. Kind of strange to have the presentation have more people than the audience. But I look forward to Lincoln avenue getting the main street designation but it needs to be discussed with the people in that area. So they have a chance to be -- give input on it. Otherwise, thank you very much. There's a lot there, and the village is too and I hope it was done right, I didn't get a chance to read it all but thank you.

>> Commissioner Cahan: Thank you. And the city council is concerned about historic areas, as well as the riparian corridor. So I believe that staff will touch on that for you. So just get an answer for you, thank you. Okay, do I have a motion to close public hearing? Second? All in favor? All right, any opposed, abstaining, okay. Staff.

>> Thank you. So I'll start with that. Riparian corridor policy. The newly adopted general plan includes an action item to update the City's riparian corridor policy which is actually currently a policy study. And to sort of bring it into being a regular council policy. And that, I think that's an important point that between the general plan and the zoning ordinance, there are various policies and other implementation tools that the city uses and so the zoning ordinance doesn't address all, isn't the best tool to address all of those. When you have something that's more tied to like a geographic feature like a riparian area, it sort of makes sense to deal with it on a policy level, that can address that versus the zoning ordinance really sort of gets down to specific properties and what their zoning designation is and how that's used by staff. You know, we appreciate Larry's continued participation and involvement in this. And you know, also related to the Greenprint and historic preservation. Those are goals that we understand are in the general plan and sort of speak to other city policies or other ordinances outside of the zoning ordinances is the way that traditionally and we think best practices wise the city can address those issues. So as mentioned earlier, we're going to continue to be looking at the zoning ordinance updates, work program, that the general plan itself as part of the envision general plan update we anticipated there would be multiple rounds and these were really intended just to be sort of the quick fixes that needed to be done in the near term so we can continue to look at that input going forward. And what the best way is to address those concerns.

>> Commissioner Cahan: And I assume that you will continue to ask for the public input on areas, specifically riparian corridor and historic preservation to make sure that the public feels as though the needs are being immediate as you're improving and changing these things.

>> Right, yes. And one of the things that we -- Terry mentioned was that in the past we've had a neighborhood round table and we're looking for some group like that, that can be representative of the City's various neighborhoods, residents that can participate in that. A lot of our outreach is around specific properties. And sort of geared at bringing people into the process that are neighbors. But when you really have things that are citywide

it's a little bit harder sometimes to get the community engaged. And so we're looking at ways that we can sort of reinvigorate that group and have them come and provide us with useful input and participation in developing these.

>> Commissioner Cahan: Will you be sending out invitations to that? Should the public who's interested contact you immediately and let you know that they want to be a part of that?

>> Yeah and I think these will be open to the general community, and we'll post them on our Website and that sort of thing and then we will be inviting, encouraging people to attend. I mean, frankly in the past, that's one of the issues has been attendance and how do we keep people engaged and interested in being part of this. So we're going to be looking for ways to sort of get a broad group of people to come in and be part of that process. But certainly anyone who wants to is welcome.

>> Commissioner Cahan: Thank you. Commissioner Bit-Badal was your question on this or something else because I think staff might have more. On this.

>> Commissioner Bit-Badal: Specifically one for neighborhood engagement. I think it's a good idea to get the neighborhood commission involved as well because they're already representing different districts and they maybe interested in development and the other one is asking the city council members if they have specific community members in their district who are interested in citywide development. But I think it's a good start with the neighborhood commission. Thank you.

>> Commissioner Cahan: Staff.

>> Laurel Prevetti: Let me just remind the commission that when the city council created the neighborhoods commission, they made it very clear that they did not want the neighborhoods commission to get involved in land use items or in any way duplicate the effort of this Planning Commission. As we get started on the neighborhood outreach to the extent names come from all over the community, that would be fine. And for those watching us on

the Internet tonight, if you're interested, please contact Andrew Crabtree. We're happy to start taking names now but we have to be a little bit cautious how we interact with the neighborhoods commission to be true with the council's intent for that particular body.

>> Let me just add we're really looking for an informal setting where we can have a more extensive discussion too with this group.

>> Commissioner Cahan: Okay, thank you. Did you have any other follow-up? Do you want to revisit the discussion about the main street naming? I think that it's not quite clear what the -- how it's specified and what the difference you know when it says main street district versus districts, how -- what insurance is there that it's just Alum Rock?

>> Right. Well, at this point, as I mentioned, in the -- what was approved by the council, as the main street district, there was a provision put into that, that's in the zoning ordinance currently that we're not altering that says this zoning district, the main street district can only be applied to the Alum Rock area. And it's between certain streets on Alum Rock avenue. And so that is the law, I mean, that is to us that says it, there's any -- to amend that we would have to go through a whole 'nother process like this one tonight with a proposal to amend that. We're not proposing to do that. We don't have that you know intention any time soon. You know we do have an intention that looking at creating an urban village zoning district as a result. The main street district was developed before the general plan update was that far -- was completed and so you know it's a little bit different than the urban village concept that's in the plan. We think it's wise to bring forward an urban village concept. The way the Alum Rock district ended up being designed, it's fairly specific to that geography. And so you know staff's professional judgment that there -- the way it's structured now it's clear, that that's where it applies to the Alum Rock area.

>> Laurel Prevetti: If I may Madam Chair, just add that the work that went into creating the main street district was very focused on the individual blocks and parcels and existing condition out in that Alum Rock corridor. And so it is really tied to this. We certainly appreciate the community's concern and as we get started on creating an urban village zoning district I think this is the place where we would need to be working with the community

around how, is it possible to create an urban village zoning district that can anticipate all of the different variations, and then be applied to different locations, or are we going to go to an urban village for Bascom, an urban village for West San Carlos, et cetera. I think just knowing the amount of work that went into main street, I don't see it being the one that would be then modified and applied to other neighborhoods. I think we would rather start fresh with the urban village zoning district which has yet to be even created.

>> Commissioner Cahan: Thank you. Commissioner Platten.

>> Commissioner Platten: I think that staff's reading of the document is correct. If factually there is one clarification, and that is there are more than one main street districts within the Alum Rock neighborhood business district. If the answer to that is yes then the language in the clause is clear, it applies only to the Alum Rock neighborhood. But if the answer to that is no then we need to grammatically change it. So if staff can answer the question we can settle the issue for ourselves and for the audience.

>> We're certainly -- we're open to going back and looking at if there are references to, if there are references I guess there are to districts, at this point it's one main street district, the Alum Rock main street district.

>> Commissioner Platten: I'm seeing Ms. Prevetti disagreeing.

>> Laurel Prevetti: There is main street ground floor commercial district and main street commercial district so we distinguished between the ground floor what can happen in that kind of situation, so the category is MSG, and MSC. So there are two districts within the main street.

>> Commissioner Platten: I agree with that some the that's how I read it. With that understanding, the plural reference to districts clearly applies only to the Alum Rock neighborhood business district. With that I'm prepared to move adoption of the title 20 zoning code amendment without going into the detailed explanation of it as recommended by staff.

>> Commissioner Cahan: And does your motion include the updates?

>> Commissioner Platten: Includes the updates and includes the CEQA reference to the reuse of the San José 2020 general plan EIR.

>> Second.

>> Commissioner Cahan: I have a motion and a second by Commissioner Bit-Badal and any discussion on that? Seeing none, it appears as though the concern about main street is legally covered for you. So I absolutely appreciate your attention to this. And I hope that you will continue to watch what's happening, to ensure that what you want to see happen is actually happening. And with that, we will vote by light. Okay, motion passes with all commissioners voting in favor. Okay. So that covered 3A. We still have 3B. Staff.

>> No additional staff report.

>> Commissioner Cahan: Okay. And all of our speaker cards were for 3A and B, so that's covered underneath there. I don't think we have any additional speakers for that. So we again close public hearing on 3B? All in favor? Okay, closed, abstaining, all right. So discussion. Commissioner Platten.

>> Commissioner Platten: Move we've considered the approval of the ordinance amending title 20 of the code as indicated in staff's report, recommend adoption as indicated in the report.

>> Second.

>> Commissioner Cahan: A motion and a second by Commissioner Bit-Badal no discussion on that so we will vote by light. Okay and 3B passes with all commissioners voting in favor. And that includes our public hearing. 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 the agenda. In response to public comment, the commission is limited to the following options: Responding to statements made or questions posed by members of the public or requesting staff to report back on a matter at a subsequent meeting, or directing staff to place the item on a future agenda. Seeing none, referrals from city council, boards, commissions or other agencies.

>> Laurel Prevetti: We have none.

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

>> Laurel Prevetti: Thank you, Madam Chair. The city council heard two appeals regarding grocery stores yesterday and they proved the offsale of alcohol for both of them. In addition, I wanted to just bring to your attention that the City Clerk is going to be starting a stakeholder outreach process regarding boards and commissions. And there is a report that is available linked to today's Rules Committee. It's item H-4, and some of those proposals do affect the Planning Commission. So I do recommend that you take a look at them. And we may want to set up some time for a future agenda to discuss them. At this point they're really just exploring different possibilities in terms of consolidation. Elimination. Obviously the Planning Commission is a charter commission so it is a little bit distinct. So you will see those charter commissions called out separately but I wanted to bring it to your attention because the process is now underway. Thank you.

>> Renee Gurza: And if I could also add to the director's report. In particular, the ability for the Planning Commission to amend its bylaws was wrapped into this larger effort. So if the commission is wondering what happened to the proposed amendments to it's bylaws that the commission was prepared to take action on last June, it was folded into this overall review of board and commission practices. So this effort is beginning. I don't know if the City Clerk will provide dates that each item will be considered, because if they do, the commission previously had dedicated to Commissioner Kline the ability to attend that hearing on that item to explain why the commission desired to amend its bylaws. So we'll try to track it and then when that element is being taken up for discussion, we'll try to alert Commissioner Kline.

>> Commissioner Cahan: Okay, commissioners report from committees. Norman Y. Mineta San José international airport noise advisory committee. I have no report. Review and synopsis from 11-2 and 11-16. We will need to take those separately. So from the November 2nd meeting, Commissioner Abelite and Commissioner Kamkar were absent. I don't know if you had a chance to review the meeting. Okay. So Commissioner Kamkar did review the meeting. So he will be able to vote on that. And I will entertain a motion for November 2nd. Okay I have a motion from Commissioner Bit-Badal and a second from Commissioner Kamkar.

>> Commissioner Platten: Madam Chair, just point of order I will be voting yea on the motion but only respect to items 3B and following.

>> Commissioner Cahan: Thank you. Okay, so all in favor. And the opposed, we have one abstention from Commissioner Abelite and as Commissioner Platten explained his is just for 3B and later. 3A too. Okay so that motion passes. And now, for November 16th. We had Commissioner Kamkar and Commissioner Kline were not there, did you have a chance to review that meeting?

>> Commissioner Kline: I actually saw it on TV while it was going on. (inaudible).

>> Commissioner Cahan: Okay, Commissioner Kamkar.

>> Commissioner Kamkar: Sorry. I would have abstained from voting on 3B had I been here. So I'm taking an abstention and voting on item 3B but I'm voting on item --

>> Commissioner Cahan: I think that what we're just voting on is whether this is an accurate description of what happened at the meeting.

>> Commissioner Kamkar: Okay.

>> Commissioner Cahan: So you don't have to abstain from any particular part.

>> Commissioner Kamkar: Okay.

>> Commissioner Cahan: Unless you don't agree with the way this is written from what happened at the meeting.

>> Commissioner Kamkar: Okay, in that case, then, I will be voting.

>> Commissioner Cahan: Okay, and we had a motion from Commissioner Platten, second from Commissioner Abelite, and all in favor, any opposed or abstaining? That passes. Subcommittee formation reports and outstanding business? Seeing none, commission calendar and study session?

>> Laurel Prevetti: No report.

>> Commissioner Cahan: Thank you. I will take a motion to adjourn. Motion and second. All in favor? We are adjourned.