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>> Commissioner Bit-Badal: Good evening. My name is Edisa Bit-Badal, and I am the chair of the Planning Commission. On behalf of the entire Planning Commission, I would like to welcome you to the Planning Commission public hearing of Wednesday, August 8, 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 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 commissioners' questions will not reduce the speaker's time allowance. The public hearing will then be closed, and the Planning Commission will take action on the item. The planning Commission may request staff to respond to public testimony, ask staff questions, and discuss the item. If you challenge these land use decisions in court, you may be limited to raising only those issues you or someone else raised at this public hearing or in written correspondence delivered to the city at, or prior to, the public hearing. The Planning Commission's actions on rezoning, prezonings, general plan amendments and code amendments is only advisory to the City Council. The City Council will hold public hearings on these items. The first item is roll call. Let the record state that all commissioners are present with the exception of Commissioner Hope Cahan. She unfortunately had an emergency this evening. We're very excited because this is really our first. We have a ceremonial item. For a very special colleague of ours. And that is a recognition of former commissioner Chris Platten. I will actually ask my Planning Commissioners, colleagues to step down by the podium. We have a presentation and a recognition. This evening. Would you please join me. It is not often that we recognize a colleague who has left the commission. Christopher Platten has served the City of San José and residents of San José for ten years, a decade of service. When I was reading the comments that were written by my colleagues I was really touched. And that is why I asked each one, every one of them to be here. As a matter of fact, when I was talking to Commissioner Cahan she was extremely sad she couldn't make it tonight because of a family

emergency. But I wanted to also make sure that you know, she is sending her regards to you. Some of the comments that my colleagues have written are such that you set the gold standard as a Planning Commissioner. That you were a role model. That people look to you and listen to you when you spoke, and everything was silent. And actually, you led the commission, whether you were chair or not. And one comment was very cute, too. They were wondering if you're too bored on Wednesday nights you could always join us or watch us on TV. I am sure if I had gone back and found every one of your colleagues over the last ten years, this board would have been filled with kind comments because truly, commissioner, former Commissioner Platten you have been obviously intelligent. That's a gift that, a God given gift. Crate Orator, I wrote say that is a God given gift, sometimes I'm jealous of that. But more important than that you really, truly, deeply love the City of San José. And nothing exemplified that more than the final night when you talked about the sí se puede neighborhood. And to me, that really touched me. Because to me, it was not about the lobbyists coming before us, it wasn't about the project, it wasn't about the property or the details of each property. What you really talked about were the people who do not have representation, and you were always there for them. And for that I am thanking you personally, and thanking you on behalf of my colleagues here. Because when you were not here, we missed you. And we hope that you will continue to serve the city in any capacity you can find in the future. Because truly, the city, as I wrote, was a better place, because you were here with us so thank you. [applause]

>> In order to curb my emotions I won't say much except outside of my sainted mother, nobody's referred to me as God given in any sense of the word. And I wish my son would be quiet and listen to me perhaps as carefully as the members of the commission. I have extreme fond memories of these men and women here and my former colleagues. I think we are very grateful in this city or should be, for the hard work that the employees of this city performed and hard work performed by the men and women of our community to make this truly, truly, one of the best places to live in the United States of America. And I miss this commission, I love this commission. And I love this city. So thank you. [applause]

>> Commissioner Bit-Badal: Now we're going to continue with the business of the evening. We're looking into item number 2, deferral. Staff.

>> Thank you, Madam Chair. There are no recommended deferrals this evening.

>> Commissioner Bit-Badal: Thank you staff. We're moving on to consent calendar. Staff.

>> Staff would like to make minor change, CT 11-012. The proposal of one redwood tree as was noted in the staff report. The plans have been modified to correct an oversight to address the replacement ratio for the trees so there are four trees that are being replaced to compensate for the loss of the redwood tree, the plans have been revised to accommodate that. This concludes all comments on consent calendar items.

>> Commissioner Bit-Badal: And how many trees are we replacing for this?

>> There will be four trees and the trees will be located along the McKeon frontage.

>> Commissioner Bit-Badal: Do you know what size?

>> They will be 24 inch box replacement trees.

>> Commissioner Bit-Badal: Commissioners? Commissioner Kline.

>> Commissioner Kline: I move to approve consent calendar 3 A.

>> Commissioner Bit-Badal: Second? All agreeing please say aye? Not agreeing? I just wanted to make a comment on behalf of Commissioner Cahan who is not here this evening. She wanted her colleagues to know that because of the removal of the tree, 102 inch diameter tree that she was against this and she wanted to just voice her opinion. So I am passing that on. But I'm glad that staff clarified that this evening that the replacement plan for it as we do for most projects when we're removing a tree of that matter. So with that statement, I'm asking

all commissioners to actually already said and actually all agree with the 3.A that needs to move forward because there is a replacement plan for it. Thank you. With that we're moving forward with item 4A. Staff.

>> Thank you, Madam Chair. The proposed conditional use permit is to consider a minor auto repair use at the southwest corner of McKee Road and Vista Avenue. The site was originally developed in 1966 with the service station and three vehicle work bays. The original service station was discontinued in the 1990s. Minor vehicle repair such as oil changes and tire and battery installation currently requires a conditional use permit in the commercial neighborhood zoning district. All servicing and installation is required to be conducted in an enclosed building. The project will not add any additional vehicle work stations beyond those existing. Major auto repair such as engine repair or auto body repainting is not allowed. In addition to the proposed minor auto repair use the applicant is proposing site improvements. The site was developed with a commercial building with three rollup doors. As part of this project the rollup doors will be located away from residential uses and onto the McKee Road frontage. The project also proposes to install a 7-foot masonry wall along the residential property line, and enhanced landscaping along all four property lines. Given the proximity to existing residential uses the proposed hours of operation will be limited to 8 a.m. to 7 p.m. seven days a week. Onsite vehicle parking related to the minor auto repair use will be limited to the 16 parking spaces, three spaces of which are located indoors. Outdoor storage would otherwise not be allowed as part of this permit. The project proposes mitigation measures to minimize any potential compatibility uses with the adjacent residential uses and improvements throughout the site to enhance its overall appearance. For these reasons staff recommends approval of this conditional use permit. This concludes staff report.

>> Commissioner Bit-Badal: Thank you staff. Is the applicant here? Would you please move forward. Behind the podium, yes. You have up to five minutes to make a presentation in of on your project.

>> My name is hip Vo, I'm the applicant on this staff. I'd like to thank all you Planning Commissioners for hearing this item, also the staff of the City of San José. We were across the street at 3495 McKee, my father opened the shop since 1986. Unfortunately due to zoning issues we were forced out of there the past April because the zoning issue says if we didn't have a gas station we're not allowed to have an auto repair shop. So as a last

minute we were forced out of there due to zoning issues. Since my father he passed away four years ago, I've taken over the business. Serving the East foothills and a lot of the San José residents for over 26 years. I've been with him since I was 12 years old. I'd like to keep that tradition, like to keep taking care of my fellow residents and I for another 26 years or so. The community itself has been very close to us. They're very close knit and definitely I'd like to keep that, I'd like to keep the community relationship with them and provide a dependable and reliable service where they can turn to and say hey that's my neighborhood guy, I want to turn to him and that's who I trust. And so the issues that I ask for your consent to approve this so that I cannot only continue my dad's tradition for over 26 years, but also, to help you know of course financially support my mother, my brother and of course my family, the six people that I do support, because nobody in the house works. So I'm really the only one that really works. So I'm just really hoping that you guys can see where I'm coming from as a person who's just trying to survive and trying to make the small business grow in the Eastside of San José. We've been there so long, I've seen so many businesses diminish and leave that area. And a lot of them have are empty, which makes the place, number one, doesn't look desirable. But number 2, I'd like to keep it there and stay with the community, so that when my kids grow up and say, this is what my dad grew up on, and how nice this place is, and what it's all about. Okay, thank you.

>> Commissioner Bit-Badal: Thank you. We have several speakers on this item. So I'm going to start calling out the first three speakers. I'm going to ask you to line up. First, speaker is Robert Walberg. Second one is John enroll. And third person is tran Don eggbert. First speaker please restate your name.

>> Yes, my name is Robert Walberg. I've lived in the neighborhood for over 18 years. And consider this business a great asset to our community. The hip and his family have embraced the community. It would be a great loss if they were not allowed to operate at this location. I go by the station several times a day and it's always kept very neat in appearance and I support the business 100%. Thank you.

>> Commissioner Bit-Badal: Thank you sir. Second speaker is John Pernod.

>> John penrod. How are you? Having lived in the neighborhood and community for over 20 years this business is a welcome asset to our community. As it has been for several years. Knowing hip's father and hip has carried on a great tradition for our neighborhood and community. This auto shop is kept in tiptop condition. All the cars are well kept, in an organized fashion within the gated compounds of his facility. There is no noise, daytime or evening, or no harsh lighting in the evening. I drive by several times a day. It looks beautiful. I want to be known that the lady who made this complaint should be more concerned about her own home, and from several neighbors in our neighborhood. I support this business and its location 100%. It's a first class auto hop. I have printed from the Website Yelp customer reviews, all of them are four stars which is the highest a customer can give. I have four pages of that to present. This is a proven asset to the community of East hills. I plead with you to keep this here we really, really enjoy this asset. Thank you.

>> Commissioner Bit-Badal: Thank you, before the next speaker comes forward I'm going to call out the last two superior courts. Robert Brevenberger and Charlie fortas. State your name.

>> I'm Chandon eggbert. I live in the Alum Rock area. I've been living in that area for over four years. I've known hip all that time. He's a very good mechanic and very honest one, I may add. I do believe a minor repair shop at that location is very much required for the neighborhood, for the community. It would be a great loss if he had to move elsewhere. And I do hope the permit will be approved. Thank you.

>> Commissioner Bit-Badal: Thank you, sir. Richard, will you please come forward. And please state your name.

>> My name is Richard Freudenberger, and my wife Tanya and I reside on Mann-Hamilton Road. I'd like to favor and echo a lot of the comments you've already heard concerning the auto repair facility conditional use permit. My family has resided in the Alum Rock area for over 22 years, and during that time we have relied heavily upon hip's operation for the maintenance of our family vehicles. The facility was formerly located literally across the street, within a former gas station, and was operated by, as hip said, his dad track, who passed away several years ago. The family has provided the Alum Rock community with honest reliable and guaranteed auto repair. A rarity,

I think you would agree in today's auto service industry. More importantly they have been an integral part of the community they serve and we are proud to count them as our good friends. We understand there is some opposition to the operation and are somewhat puzzled since the same operation was located less than 150 feet across the street. And is now actually located within a fenced area, and a much more attractive building. We strongly support your approval of the permit so as to maintain an Alum Rock business that has been such a valuable part of our local area. Thank you.

>> Commissioner Bit-Badal: Thank you. Charlie Fortez.

>> Charlie Fortez here. Again I would like to echo what my fellow residents in the neighborhood feel towards Mr. Vo's business. I've been living end of that blue line for 35 years, and I would not trust a single mechanic other than Hip or his father and his establishment to touch any one of my cars, especially knowing my daughter and my wife are driving it. And like a lot of the other people said, you don't find a businessman like the Vo family in this city too often and like your esteemed colleague, that was out of here a while ago, the businesses that make the city great, that's one of them. Thank you.

>> Commissioner Bit-Badal: Thank you so much sir. That was the last speaker for this evening. If the applicant wishes, he can also speak for another five minutes. If not, can you forfeit your time. Yes, absolutely. If you don't mind restating your name and you have five minutes.

>> My name is Hip Vo, the applicant for the auto repair shop on 3490 McKee Road. I'd like to first thank you all, my supporters, that came out to take their time out of their life to come out here to support me and to say how much they appreciate us. I just want to say, my wife, thank you, I love you. Hopefully, you guys approve this, because it means a lot to me and my family. That's it. Thank you. [applause]

>> Commissioner Bit-Badal: Thank you, sir. And with this do we have a motion to close the public hearing? Commissioner Abelite. Oh actually oops sorry, I just realized that Commissioner Abelite had a question

from the applicant. Okay. Would the applicant please return to the podium? I thought Commissioner Abelite wanted to close the public hearing.

>> Commissioner Abelite: Not so fast.

>> Commissioner Bit-Badal: He wanted to actually ask a question.

>> Commissioner Abelite: Thank you. I like the project in general. I just have a couple of questions as it relates to the interface of let's say the city streets and the project itself. Mainly like the planner areas that are going to be built. So that's what I'm going to focus in on and I can't tell from the drawings what may be happening along there. So let's start. So currently there's like six bollards, the bollards are those yellow chained bollards that you could close off the site. And they're right up along the public right-of-way.

>> Where the gates are at?

>> Commissioner Abelite: Yeah. Are those going to go away when you redo the planters?

>> Are you talking about the actual gates, or the bollard --

>> Commissioner Abelite: The bollards, the yellow bollards.

>> Where the gates are at on vista avenue, that curves right around McKee Road, actually the gate on Vista Avenue will never be open due number 1 to concern of Mrs. Travers, who lives Vista avenue, I also live on vista avenue, also. I understand her concern. Those have been there many years and I've spoken to Mrs. Travers and given her my word that that gate will never be open. Outside of that, once we get approval from -- hopefully we get approval, then we can invest more money to build some more nicer landscape that wraps around from vista to around McKee and then hopefully, whatever you guys condition -- whatever condition you like to put on this to deal with, definitely we'll want to hear and do what needs to be done.

>> Commissioner Abelite: So it seems to me the plans are that you're going to be building some raised planter boxes on the drawings that are in front of me?

>> Yes.

>> Commissioner Abelite: In so doing, it seems to me those planter boxes are going to force you to remove those six yellow bollards, right? So I'm wondering, are they being demolished as part of this project or not?

>> If we have to take off, and that is a --

>> Commissioner Abelite: It is not a question of -- it's not a condition, I just want to know, is that the plan, or do you plan to keep them?

>> The plan is honestly to keep the place very well-kept and to put as much landscape as I can on there.

>> Commissioner Abelite: Understand. The bollards, are you planning to --

>> I'm not too familiar honestly to the bollards that you're asking me, so I really can't --

>> Commissioner Abelite: Oh, these are -- I'm sorry.

>> I'm sorry, that's why I'm not answering your question.

>> Commissioner Abelite: These are yellow posts, they're about three or four feet tall, and they have eyelets where you would normally hook chains to close off --

>> Oh, right outside my driveway, yes.

>> Commissioner Abelite: Those are bollards. And so given that you're doing these landscape pockets, it seems to me that those are going to be dismantled. And I'm not making that a condition of the permit, I'm just asking, that's all.

>> I understand. We will definitely take it, once I start putting the landscape, and if it's easier for us to take it out, we'll definitely -- I'll hire someone to take those out.

>> Commissioner Abelite: Right, okay. Next question is on the vista side there is like an abandoned phone booth there. And I don't know if staff might have to answer that later on. But I would think that you might want to make that phone booth go away completely. I don't think they're ever going to come back.

>> I totally agree. That phone booth attracts a lot of people that are unwanted but as far as I don't know who that probably belongs to, if it was up to me I would have taken that out several years ago when I was across the street. I've been in the area so long, I do see that phone booth attract lot of unwanted people. If it was up to me I'd take that out myself. I don't know who that phone booth belong to, I won't go up and take it out.

>> Commissioner Abelite: I won't make that a condition but I would encourage you to pursue it.

>> I won't take that out myself.

>> Commissioner Abelite: Next question when you do build these raised planters my concern is graffiti on the face of the walls. These planters that are going to be wrapping the whole property that plus the plants are going to make -- you're going to be able to obscure most of the cars that are behind this area but it also create a target, those little walls create a starting for tagging. So my question is what is the finish of the -- those little stucco or what is the finish of those walls going to be? Have you contemplated that yet?

>> I haven't contemplated most likely because there are one right down where McKee road is at, the far side exit next to the dentist office, there are some brake cones that have been raised already. Maybe I can put them all in unison maybe.

>> Commissioner Abelite: Frankly I would encourage stucco walls that are paintable so when they get tagged you can repaint them quickly instead of masonry units that you would have to sandblast off. It wasn't on the drawings, I'm not sure if staff has figured this out yet.

>> If the stucco is the easiest way to take graffiti off, I would take that into consideration.

>> Commissioner Abelite: That would be your cheapest construction too. That's it, those are all the questions I have, thank you so much.

>> Thank you.

>> Commissioner Bit-Badal: Thank you, Commissioner Abelite. Thank you, applicant and at this point I will ask for a motion to close the public hearing. Do we have a second? All agreeing say aye? Thank you. And staff.

>> Thank you, Madam Chair. With response to the telephone booth, there is a provision in the zoning ordinance that indicates amortization of phone booths, and in this case if the existing phone booth does not meet the criteria set forth in the zoning ordinance, which this existing phone booth does not appear to, it shall be removed per the zoning ordinance. And with regards to graffiti, the permit condition includes the standard graffiti removal permit condition as well. That concludes staff comments at this time.

>> Commissioner Bit-Badal: Thank you. I will entertain a motion. Commissioner Kline.

>> Commissioner Kline: Well, I didn't know what a bollard was either, to tell you the absolute truth. I was confused looking through my notes, figuring out what in the world you were talking about. But I have to admit that

I'm totally impressed with the operation. I know some of the issues with doing permits like this, they go to the land et cetera but I just totally blown away that you've got the community to support you in this way. In an auto car service shop. We don't get things like this for things that you know, you imagine would be churches, et cetera. I mean this is really very impressive, what you have been able to accomplished. This is obviously a loyalty, and you are obviously going to be there for a long time. So I'm going to make a motion before talking more to approve this as staff recommends.

>> Commissioner Bit-Badal: We have a second from Commissioner Kamkar. We have actually Commissioner Abelite.

>> Commissioner Abelite: So I'm not going to offer a friendly amendment to the motion but I would offer a friendly set of advice to the applicant, so long as the staff doesn't have an issue with it and that is I would encourage you to build stucco walls along those planter boxes just for maintenance sake and just to get the community look going. I would encourage you to pursue getting rid of the phone booth that doesn't have a phone in it and just vacate it. I understand if you have to keep the bollards there for possible locking off the site so I'm not going to pursue that. That's why I was asking. And the other offer I would make is, the street trees, there's three street trees that are in street tree pockets around your property. Since you're going to have landscapers in here eventually putting in these landscape beds I think for a few hundred dollars they could probably trim up those trees a little bit better. There's a bunch of two-inch shoots that are coming off at the lower half of the tree that could probably be trimmed away and chase the canopies up, and it would just make those trees better. But those are friendly words of advice and you don't need to follow them. So I will support the motion.

>> Commissioner Bit-Badal: Thank you. Commissioner Yob.

>> Commissioner Yob: I also will be supporting the motion. I just wanted to recognize that we did hear you say that you had been speaking with Ms. Travers, the individual that we received the opposition from. And we do appreciate you working with here concerned community members, and this is how the process should work. So thank you for doing that.

>> Commissioner Bit-Badal: Thank you. I do not see any more speaker lights so what I'm going to do is ask for my colleagues to vote by light. The motion passes unanimously. With exception of Commissioner Cahan who is not here. In closing I also would like to congratulate the applicant for job well done over the last many years. It is amazing, as my colleague here stated, that you have gotten neighborhood members to come to speak in support, really, truly, tonight when I saw the cards I was surprised that one after another, they were all for the project, not against the project. So it speaks highly about your operation, what kind of a neighbor you have been, as a business owner to the residents. And I, if I were a mechanic right now operating I would be kind of scared because you have a really great reputation and it's public matter now what your Yelp rating is. With that, congratulations and we hope you continue the great work you're doing and become a successful business owner. Thank you. [applause] We're continuing on to petitions and communications. Staff.

>> Laurel Prevetti: We have none this evening.

>> Commissioner Bit-Badal: Thank you. Referrals from boards and agencies.

>> Laurel Prevetti: We have no referrals.

>> Commissioner Bit-Badal: Thank you. Good and welfare, report from the city council.

>> Laurel Prevetti: I just wanted to report that yesterday afternoon the city council did approve the Santana Row zoning unanimously. And Councilmember Oliverio referred to the planning commission's deliberations and your comments as part of his motions. So thank you, and that concludes staff's report.

>> Commissioner Bit-Badal: Thank you, that's great news for the city. 7B commissioners report from committees, Norman Y. Mineta, Commissioner Cahan is not here to give a report. But do we have -- no, we don't have a report from staff. 7 C, review and approve synopsis from 7-25-12. Do we have second? All approving,

please say aye. The motion passes. 7 D subcommittee formation reports and outstanding business, and do we have a report? None?

>> Laurel Prevetti: No.

>> Commissioner Bit-Badal: And 7 E, commission calendar and study sessions.

>> Laurel Prevetti: I just wanted point out that September 27th is our full-day retreat with the commission. And we would appreciate if you would start giving some thought as to the topics that you would like to pursue as part of that retreat. We often bring in guest speakers or make other arrangements so you know, as much advance notice would definitely be appreciated. I also want to acknowledge the request we received from a couple of commissioners for a tour of the planning office so that way you get a chance to meet our staff and see the operation behind the wall. And we're happy to make that part of the staff retreat. So that way you'll all have a chance to do it. It will be noticed, it will be part of the Brown Act so that way you can see what happens behind the wall. And we look forward to any other topics that you'd like to cover. We typically do invite our council liaison, Councilmember Kalra, to join us so we will definitely be reaching out to him. Thank you.

>> Commissioner Bit-Badal: Thank you. And this evening's session is adjourned.