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>> Commissioner Jensen: Good evening. My name is Lisa Jensen, 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, June 22, 2011. Please remember to turn off your cell phones. Or put them on vibrate. The 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, please 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. For example, 4.A, not PD 06-023. The procedure for this hearing is as follows: After the staff report, applicants and appellants may make up to a five-minute presentation. The chair will call out names on the submitted speaker card in the order received. As your name is called, please line up in front of the microphone at front of chambers. Each speaker will have up to two minutes. After public testimony, the applicant and appellant may make closing remarks for an additional five minutes. Planning Commissioners may ask questions of the speakers. A response to commissioner questions will not reduce the speaker's time allowance. The public hearing will then be closed, and the Planning Commission will take action on the item. The planning Commission may request staff to respond to 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 has raised at this public hearing or in written correspondence delivered to the city, at, or prior to, the public hearing. The Planning Commission's action on rezoning, prezonings, general plan amendments and code amendments is advisory only to the City Council. The City Council will hold public hearings on these items. Roll call. Let the record reflect that all commissioners are present. We have a full house. Deferrals. Any item scheduled for hearing this evening for which deferral is being requested will be taken out of order to be heard first on the matter of deferral. A list of staff-recommended deferrals is available on the press table. Staff will provide an update on the items for which deferral is being requested. If you wish to change any of the deferral dates recommended, or speak to the question of deferring these or any other items, you should say so at this time. To effectively manage the Planning Commission agenda, and to be sensitive to concerns regarding the length of public hearing, the Planning Commission may determine either to proceed with the remaining agenda items past 11:00 p.m, continue this hearing to a later date, or defer remaining items to the next regularly scheduled Planning Commission meeting date. The decision on how to proceed will be heard by the Planning

Commission no later than 11:00 p.m. Staff, we currently have no items scheduled for deferral? Thank you. Consent calendar. Consent calendar items are considered to be routine and will be adopted by one motion. There will be no separate discussion of these items unless a request is made by a member of the Planning Commission, staff, or the public to have an item removed from the consent calendar and considered separately. Staff will provide an update on the consent calendar. If you would like to speak to one of these items individually, please come to the podium at this time. We have currently two items scheduled on the consent calendar. A C.U.P. for a social service agency within an existing industrial building and a C.U.P. to allow a drinking establishment associated with a public eating establishment with after midnight use. Do we have any -- I don't see any -- no.

>> Staff does have an update to item 2B. You'll note that I did pass out a memo from our police department as well as the operations plan submitted by the applicant. The police are in their memo stated that they are opposed to the late-night hours. We did read through their memo but that really does not change planning's recommendation. And just to also note that although we are recommending approval of late-night hours till 2:00 a.m., there is a condition in the permit which restricts the outdoor patio to 12:00 midnight. That is for staff comments.

>> Commissioner Platten: Move adoption of consent calendar.

>> Commissioner Jensen: All in favor, passes unanimously. Public hearing items. Generally, the public hearing items are considered by the Planning Commission in the order which they appear on the agenda. However, please be advised that the commission may take items out of order to facilitate the agenda, such as to accommodate significant public testimony or may defer discussion of items to later agendas for public hearing time management purposes. 3A. CP11-022 and ABC 11-005. Conditional use permit and determination of public convenience or necessity to allow the offsale of alcohol limited to beer and wine at a full service grocery store located in an existing 36,560 square foot tenant space in a Approximately 4.11 gross acre shopping center, in the Cn commercial zoning district, located on the southwest corner of Almaden and Branham. staff.

>> Thank you, Madam Chair. As you said, this is a conditional use permit request accompanied with a request for a determination of public convenience and necessity for the offsale of alcohol limited to beer and wine at a full service grocery store. And unfortunately, the findings that the -- need to be made related to the determination of public convenience or necessity do not facilitate a recommendation for approval of this request which is why you're seeing a recommendation for denial. This is the sort of facility that we are supportive of because again we are limited in whether or not we can consider a determination of public convenience or necessity. We have to recommend denial on both issues. So the area where it does not facilitate our further movement through the review of the determination of public convenience or necessity is because the subject site is located within 150 feet of residents, and it's also located within 500 feet of a school site which is the Broadway school to the West of the subject site. We have been contacted by some community members, more specifically, to ask about the proposal. You know they're interested in the fact that orchard is leaving that area. Orchard is moving to a site at Princeton plaza which is at Cuzer Blossom Hill and meridian so we still have them in our community. And we have not heard from the community any option to this request. That concludes staff.

>> Commissioner Jensen: Thank you staff. Is the applicant here? If you would like, you may come down and make up to a five minute presentation. We don't currently have any speaker cards so that would be your opportunity to make a presentation.

>> Good afternoon, my name is Steve Croy and I represent sunflower farmers market. First of all I'd like to thank the commissioners for taking the time to consider the proposal. I want to keep my comments very brief. I know that given the situation with the three criteria required for the findings of PCN and a C.U.P., that approximate residential the Planning Commission has to recommend denial unfortunately. What I do want to share is that we're very excited to be in the community. Sunflower is as a great concept and we really believe that it's going to be a great addition to the neighborhood. It's intended to provide the neighborhood groceries that are organic and natural food based, the concept includes about 40% produce in the store, and the overriding theme is to provide it at very affordable prices. So our concept and our desire to be in the community we feel is very compatible. We feel that the sale of beer and wine is ancillary and complementary to the sale of a wide range of grocery products. And they go hand in hand. So we would like to move forward with the application. But do understand,

the position that Planning Commission is in. And really, I would -- I can answer any questions you have. But don't want to take up too much more of your time and again, thank you for hearing us.

>> Commissioner Jensen: Thank you. At this time the commission doesn't have any questions. Commissioners? We don't have any speaker cards so this is it. Okay, we don't have any questions. But if you could fill out one of the green speaker cards and then give it to staff, that would be great. Thank you very much.

>> Thank you so much.

>> Commissioner Jensen: Staff.

>> Staff has nothing to add.

>> Commissioner Jensen: Okay. Is there a motion to -- Commissioner Kamkar.

>> Commissioner Kamkar: I have a question for staff. We got to close public hearing first.

>> Commissioner Jensen: Is that a motion?

>> Commissioner Kamkar: Yes it is. There is a motion and second, you all those in favor? Commissioner Kamkar.

>> Commissioner Kamkar: I understand there are long's drugs across the street. If you were to apply the same criteria to them, how far they are from residential and school, if they had the permit to sell, what would happen to them when they come back to renew, would they --

>> That's a real hypothetical. They are not in a position of having to come back to renew so again, if there was a application for a new general retailer, if you're suggesting, how would we act on an application for a general retail/pharmacy use it would be consistent with how we've responded to all of those other applications that have come before you.

>> Commissioner Kamkar: So you would recommend denial for them, too, right?

>> Again not seeking specific to the CVS which has bought out Long's across the street, I'm going to again just say that we would analyze each application on its own merits, and take a consistent approach as we've done in the past.

>> Commissioner Kamkar: Okay, thank you.

>> Commissioner Jensen: Thank you, Commissioner Kamkar. Are there any other additional speakers or comments from the commission? Okay, is there a motion? Commissioner Abelite.

>> Commissioner Abelite: Yes I'm ready to make a motion to Deny a conditional use permit and not grant a determination of public convenience or necessity to allow the offsale of alcohol, limited to beer and wine, at a full service grocery store located in an existing 36,560 square foot tenant space in a 4.11 gross acre shopping center in the CN commercial neighborhood zoning district as recommended by staff.

>> Commissioner Platten: Second.

>> Commissioner Jensen: There is a motion and second. Commissioner Kline? No. Would you like to speak to your -- thank you.

>> Commissioner Abelite: No.

>> Commissioner Jensen: I see no speaker lights. So I will just say as we have with all of the other full service grocery stores when we have had to deny, we look forward to hearing that you are appealing our decision. I'm assuming that that's how we're going to vote. May we vote by light? Thank you and that motion passes unanimously. Good luck with council. Moving on. Item 3B. PDC 10-025. A planned development rezoning from the R-1-8 single family residence zoning district to A(PD) planned development zoning district to allow for the development of up to 96 multifamily residential units on a 4.30 gross acre site located at the Northeast corner of North capitol avenue and Sierra road. Staff.

>> Thank you, Madam Chair. Again, as we put forth in the staff report we are recommending approval of this, but with specific conditions. And those conditions be that the building setbacks from havenwood drive be 25 feet for three story buildings, consistent with our residential design guidelines, as well as Buildings building setbacks in the northern property line be 33 feet, consistent with past practice of similar developments in San José. Again, with those conditions staff feels that the project would be consistent with the policies of San José 2020 and that it's consistent with the 12 to 25 dwelling unit per acre land use destination, it's consistent with the growth management major strategy as to change or facilitate an infill development within an urbanized area along an existing light rail line. It's consistent with our housing major strategy as it will maximize an in fill housing strategy, in a form that will be compatible with surrounding development, again predicated on the conditions that we set forth in our recommendation. And that it's consistent with the residential land use policy number 24 as development of this site will provide pedestrian connections with -- throughout the site by connecting the new development with an existing pedestrian network in the surrounding neighborhood. And I think that's pretty much it and I'm available for any questions.

>> Commissioner Jensen: Thank you. Mr. Shanehauer I believe you're speaking on behalf of the applicant. If you would come forward and introduce yourself you may have up to five minutes.

>> Good evening, chair Jensen, members of the commission, my name is Eric Shanehauer, the Shanehauer company represents truemark companies on this application. We're proud to bring before you a very good residential project that's going to make significant improvements to this neighborhood. When we met with

neighbors a number of them were very ecstatic that we were going to eliminate the blighted conditions that exist on this lot now. So they're happy for improvements. In addition, if you visited the site on havenswood you know along internal street in the neighborhood is only half-built. So we will finally be finishing the street adding park strip street trees and sidewalks so that it has a complete street that people can walk on and enjoy. We have substantial agreement with staff on most aspects of the project. We particularly concur with staff that this is an ideal site to provide new housing for people who want to use transit. This site is a thousand feet from two different light rail stations so people can go north or south and there are also four different VTA bus routes within walking distance of the site. It is a location that really we should maximize the opportunity to create housing units and not cut units out of the project. So we've tried to find the balancing point of maximizing units and achieving all the neighborhood compatibility issues. As was mentioned, by staff, there are two setbacks that they feel we should have a little bit more space on, and we would prefer that we keep the plan as presented to you tonight. We feel that it meets the intent of being compatible with the neighborhood. The first setback is along havenswood which is the residential street in the rear. Currently, the way our project lays out is we will finish the pavement of the street. We will add a park strategic plan of seven feet. A sidewalk of four and a half feet, and then a minimum of ten feet of landscaping along the entire frontage. Because our buildings are at an angle to the street it ranges from a low of 10 up to over 20, depending on the exact location. So we feel that there's substantial distance between our units and the existing units. If you were to measure there's about 90 feet between our new buildings and the existing homes. So there clearly is no privacy issue whatsoever with the homes fronting on havenswood and we think our development that has front door stoops and landscaping out on havenswood will create a vibrant and interesting pedestrian environment. The other setback that the staff is concerned about is along the northern boundary adjacent to the sides of these two homes. To show you what the neighboring homes look like this is the home that fronts on north capitol. So I think we're fortunate that these homes have like blank walls on the side of their house. So in terms of their residence, there's minimal opportunity to intrude on any privacy. This is the other home that fronts on havenswood but is next to our site. And the benefit of this property once again is that the house is basically a blank wall with the exception of one window. And then along the rear yard there is -- there are this shrubbery and trees that would create an immediate screening. Now one of those shrubs is on our property. And we would if it's the will of the city and the neighbor, keep that, even though it's not our preferred choice, and keep that so there's immediate screening and then add additional landscaping to the frontage. So we

are hoping that with additional revisions we've been making in the last week that the commission would support our proposed setbacks. And this plan gives you an indication of where our project is at today. So what we've highlighted here is the third floor, which is the key floor in terms of privacy. We've been able to setback the third floor for a total of 28 feet on these two units and 32 on this unit. So the third floor is setback considerably more than previous plans. The second and first floor are 22 feet away, away from the side property line. We're also proposing to eliminate any balconies on the second and third floor for those units facing the yard. We will put the balconies on the back side of those units. And we of course will work with the neighbors to re-do fences and re-do landscaping to create appropriate screening along the property line. So with those proposed changes, we think we will satisfy the privacy needs and we hope that you'll support the plan as we're proposing it tonight. So I'm available for questions, and I will come back and respond after public testimony.

>> Commissioner Jensen: Thank you. We do have a question for you, Commissioner Cahan.

>> Commissioner Cahan: Thank you, Madam Chair. Would like to let the commission and the public know that I did meet with Mr. Shanehauer at the site today to get a really good viewing of where these lines are. And I just have a clarification question for you. When we discussed those balconyless and all that we discussed you just shared right here.

>> Yes.

>> Commissioner Cahan: When we discussed those balconies though you said your plan was to not have balconies on the other side. Did you change that?

>> Well, our architect is working on this continuously and so I learned today after we met that in fact we are able to add the balconies to the back side. Previously, previously we didn't think that would work, but it does. And it's our preference to have private balconies for every unit. This project is fairly generous in terms of open space. Every unit has balconies, and of course we have the common space area in the middle of the project that

creates the park setting, the playground and so forth. And so we want to keep the open space elements of the plan.

>> Commissioner Cahan: And so the balconies on that -- if they were on the other side, are they able to have visibility into the buildings right across from them, and if so, are those bedrooms that they would be looking right into?

>> We don't think that the orientation would be inappropriate. In fact, some of the units already have balconies on the alley side. We have several different floor plans. So some of them already had balconies. The particular three units that we're talking about here just happen to have the balconies on the front side facing the yards. So we don't see any conflict between the balcony being on the driveway side and the units across from it.

>> Commissioner Cahan: But you don't know at this point what they would have visibility of?

>> Most likely yes, the units on the opposite side on one level will be living space, and on the other level will be bedroom space.

>> Commissioner Cahan: So would you have balconies on the second and third floor conceptually? I know you don't have it firm --

>> Yes, yes.

>> Commissioner Cahan: Okay, thank you.

>> Commissioner Jensen: Thank you, Commissioner Cahan. Mr. Shanehauer we have no additional questions for you. Thank you. Motion to close public hearing?

>> Is there any public testimony?

>> Commissioner Jensen: No, there is not.

>> Okay.

>> Commissioner Jensen: Is there a motion to close public testimony?

>> So moved.

>> Commissioner Jensen: I'm sorry, Commissioner Bit-Badal, did you want to speak with --

>> Commissioner Bit-Badal: I just want to disclose that I have met with Mr. Shanehauer as well and he presented the exact same thing as he did today.

>> Commissioner Jensen: There is a motion -- Commissioner Kamkar.

>> Commissioner Kamkar: I did have a question for Mr. Shanehauer.

>> Commissioner Jensen: Thank you.

>> Commissioner Kamkar: I need to ask you about the parking you're proposing, tandem as well as side by side space, depending on the model or the configuration.

>> That's correct, there are two garage types in the plan.

>> Commissioner Kamkar: So approximately how many are we talking about, how many of the 94 units would have tandem, how many would have side by side?

>> Of the 94 units 57 of them have tandem parking.

>> Commissioner Kamkar: 57.

>> And 34 have side by side parking.

>> Commissioner Kamkar: You know my feelings about tandem parking, I feel that's way too many. My question I have for you is regarding the havenswood, is it possible to widen that more so that your parking storage on that street instead of being in line with the flow of traffic, be sort of you know at a 45-degree or even a larger angle so can you fit more rooms on that to mitigate the number of tandems you're proposing on this site?

>> We don't think that that would be beneficial to the neighborhood. In this era of trying to urbanize our city we want to reduce pavement. We want to narrow streets and we don't want to add more vehicle domination to the street. So we don't think that would be good for the new neighbors nor the existing neighbors. And the reality is as we try to increase densities near transit we're going to have to accept alternate forms of how we park. And pert yet, not parking at all. And you just simply can't fit density onto a site without some amount of tandem parking.

>> Commissioner Kamkar: I understand, you know, 10 to 15% makes sense. But I think we're talking about 60% here, 57 out of 94 units? So you know, I just wanted to you know that I -- you know looks like a good project but number of tandem parking bothered me, I tried to not let it bother me but I thought it was way over.

>> Once again, it is a location that is particularly well served by transit. Light rail stations are nearby, four VTA bus routes. We really should be looking at maximizing the number of units. We can increase ridership on our transit system and tandem parking is one-way, to increase the amount of units on a site, while still allowing the homeowner the benefit of a two-car private garage.

>> Commissioner Kamkar: How close -- I'm sorry. Go ahead.

>> I was just going to say, so it's balancing those competing interests.

>> Commissioner Kamkar: Okay. How close is the closest light rail station?

>> We're -- I think we're like the midpoint between the Hostetter and Berryessa station. It's about a thousand feet from the site. So it's a very easy walking distance, it's about two long city blocks to get to the light rail station. And there are several bus routes that weave through the neighborhood different ways. But four of those stops are within a similar walking distance. One of the lines route 61 comes right down the Sierra road so it's very close.

>> Commissioner Kamkar: Okay.

>> And the same consideration there is for the setbacks. You know, to achieve greater setbacks means you either lose parking, lose open space or lose units.

>> Commissioner Kamkar: And I agree, you know, I agree to giving you the setback if you want if you can fit more parking. If I had to choose one or the other, you know I would rather have adequate parking than you know adequate setbacks.

>> Well, achieving that balance is among the reasons, that if you look at the many projects -- that have come forward that are more dense that are three story projects like this one, to get town homes at this density you have to be three stories tall. If you look at the locations where the city has approved those across the city, the city has consistently approved reduced setbacks in order to achieve the density that we want in these kinds of locations. So there are no projects that I was able to find that ever achieved a 2-to-1 setback. There are two projects right in Berryessa that have setbacks similar to ours. Right down north capitol at Grandview there is this existing project where the setback between the three-story building and the single family rear yard --

>> Commissioner Jensen: Thank you, Mr. Shanehauer, I think you've answered Commissioner Kamkar's question regarding tandem parking. Commissioner Kamkar?

>> Commissioner Kamkar: Thank you, yes.

>> Commissioner Jensen: We have another question for you from Commissioner Abelite.

>> Commissioner Abelite: Yes, Mr. Shanehauer I was looking at the proposed setback where you have the sketch depicting the revised red line and the three-story from the two side lots, so that's building 12. I want you to -- I want to refer you to building 1, which is completely on the opposite side on the corner. So it's on the corner of Sierra and havenswood, and I know this is on the fly so I appreciate it may be difficult to answer. But are you able to apply similar sort of setback revision on building 1 as you just did on building 12? The thirds story --

>> In terms of setting the third story back further?

>> Commissioner Abelite: Right, just on that building.

>> I believe that to the extent that building has the same floor plans, as these, those units could be setback further. We have multiple floor plans and we are able -- we are fortunate that in this area we have wider units and because they are wider we are able to pull back the front of them. So yes, some of those units could be pulled back further.

>> Commissioner Abelite: Further?

>> Further, yes.

>> Commissioner Jensen: Thank you, Commissioner Abelite. Thank you, Mr. Shanehauer. We have no further questions. All right there was a motion on the floor and I believe a second. All those in favor of closing public hearing? Thank you. Staff.

>> Thank you. Again, you know, in-fill is only as good as we kind of fit it to the context in which we're developing it. And here it is surrounded by a single family residential neighborhood and there are guidelines that move us in a direction to respect that. So to be consistent, you know, I think staff has in their recommendation been willing to be a little more lenient with the first and second story setbacks as long as we achieve a third story setback, along havenswood if you again look at the proposed development standards. It's not requiring everything to be set back 25 feet, which is consistent with the single family across havenswood but allowing for a reduction in the setbacks of the first and second story to 15, as long as that third story is setback at 25. Same thing with the setback along the northern property line which looks -- interfaces with the rear yards of albeit it's only two homes and yeah there are some blank walls today but there's no requirement that those walls continue to be blank. So again, consistent with our practices of the past two to four to five years, and even more recently with the zoning that we approved, where a similar style development on Monroe, we are seeking to get that third story setback to respect the interface with the rear yards of those existing single family residences at 25 feet. Again, the first and second stories can be set back 15. But you do need to design that third story to be set back 25 feet. And as we've seen in the conceptual architecture, for the more recently designed projects, in fact designed by the same architecture group, they have been able to accomplish that third story setback. So we're pretty solid on that recommendation. If we keep inching away two feet here three feet there, another five feet, those will then be used in future presentations that this is our consistent approach. And the reality is, planning has consistently recommended to have a reasonable setback of these third story elements when there's the interface with the single family rear yard. So again you can see that we are being flexible with the first and second story setbacks. It's the third story setbacks that are the most critical. Because those single families can't, you know, really go to that third story. That's -- that's it really. Like Mr. Shanehauer said, there's no other areas that we're really in disagreement with, so with that I'm available for any questions.

>> Commissioner Jensen: Thank you staff. Commissioner Cahan.

>> Commissioner Cahan: Thank you, Madam Chair. Would you provide me with some explanation, after visiting this site I went down north capitol to the side that he was just -- Mr. Shanehauer was just discussing on grandview and looked at the setbacks there to the side road, not North capitol but to grandview, they were very short

setbacks so they were not the 25 feet. And then going to the back end of the building that backs up to the residential, that was also less than 25 feet. Now granted they had some beautiful redwoods that provided a great screen all the way down. But certainly the setbacks in both areas were much smaller. And it seems like a fairly recent development. And I just kind of -- I understand that we don't want to say, well, we've done it that way so we should continue to do it that way. But also, it seemed rather new and it had been done and I just kind of wanted to hear what the ration a.m. was, and how this project differs from that one because it seemed rather similar.

>> Well, not peeking for the final decision makers because again the final recommendations may be very different from what the final decision is. And the decision makers may have found that that significant screen was something that would remain and provide, you know, the ability to absorb whatever impact that reduced setback would be -- that was the same instance on the Duckat way project that Mr. Shanehauer presented. A screen of pine trees. And even at that the setback was approved at 33 feet. Again, we are really at least from the Planning Department's perspective really working at recommending what we feel is appropriate. Don't have time to research that one but I can't say whether or not that was our recommendation. It was the final decision. And as you saw, there was a significant screen of redwood trees which the final decision might have been based on a sense that that would absorb whatever impact that reduced setback might have.

>> Commissioner Jensen: Thank you staff. Thank you, commissioner Commissioner Cahan. Commissioner Abelite.

>> Commissioner Abelite: For staff, along that third story revised red line that Mr. Shanehauer presented, have you had an opportunity to look at that and see what in your opinion or in staff opinion what that is, how that has mitigated some of the setback issues for you, on that particular lot? Have you had a chance to see what he did?

>> Yeah, I say it on the screen. We're not real fans of an average setback. We want to accomplish it all down the line because again an average, you can have one setback to 50 feet and the other to 15 and you've got an average of 30. You know, so I -- you know our goal is to have, you know, that third story setback, again, be flexible with the first and second story but really accomplish that third-story setback to, because it's that third story

that's going to have the biggest impact. And again don't want to assume that that -- those second stories or living space on the existing single family is going to remain as blank walls. There's nothing which requires that to stay that way. People may want to remodel and now may feel you know like they don't have the ability to really do that because you've got third story elements within, you know, 15 feet of their rear yard or their property line.

>> Commissioner Abelite: And with respect to the third story you know in such proximity to the lands of lamb, generally is the concern about third story, is that -- is the concern to do with people in the third floor looking down into somebody's yard or is it to do with the massing of the building so close to --

>> It's both.

>> Commissioner Abelite: One over the other or --

>> Again it's the feeling of something really being upon you from a massing standpoint. You know don't really know what the behavior habits are of people and don't really want to prescribe that people stand at their windows all day long but the reality is, it's you got a third story, three story building looming over you which gives you a different feeling than if you look up and it's not right there. You know, on you.

>> Commissioner Abelite: Okay, thank you.

>> Commissioner Jensen: Thank you. Commissioner Kamkar.

>> Commissioner Kamkar: Thank you, Madam Chair. I'm looking at page 5.11 of the plan and I'm seeing a garage commendation of 18 foot 10 inches. That's from outside wall to outside wall. Is that -- do you know what the minimum dimensions would be for a side by side garage?

>> What plan -- what sheet?

>> Commissioner Kamkar: At page 5.11, 5-11, that's plan 4 on the upper right-hand corner of the page.

>> So it's got a dimension of 18 feet.

>> Commissioner Kamkar: 18-10.

>> Outside to outside wall. And a garage door is usually about 16 feet wide?

>> Commissioner Kamkar: Right.

>> That appears to be standard.

>> Commissioner Kamkar: So 18 feet inside is the standard dimensions for a side-by-side garage, inside dimensions?

>> Yes, I'm sorry.

>> Commissioner Kamkar: All right, that was it.

>> Commissioner Jensen: Thank you. We have no additional speaker lights. Would somebody like to make a motion? Commissioner Bit-Badal, Commissioner Abelite, Commissioner Bit-Badal, Commissioner Bit-Badal? All right.

>> Commissioner Bit-Badal: Thank you. From what the applicant proposed to me, it seems like isn't projects out there that have had fewer setbacks. So with that I would like to propose a motion to approve the project, without the additional conditions that are set by staff. Let me do that. It would be to Consider the mitigated negative declaration in accordance with CEQA. and with other conditions that provided by the staff. However, what I would like to see is more trees and more privacy created by shrubberies as stated by applicant, to protect both existing

homeowners and the future homeowners in that area. Housing is really important to the City of San José. And this really provides an infill, that's one of the reasons that I do agree with the development. It actually is filling a gap within the neighborhood. An eyesore. And another reason is, it's -- if I had seen 100 people or even actually two people here in the audience, including the residents who are living next to the development, speaking against the project specifically against the setbacks, I probably would have been influenced by that, but reading in the public comment which I truly deeply care about and also listening to the presentation and seeing some other setbacks from other developments I feel that this project will be fine for the community in the long run as well. So that is my motion.

>> Commissioner Jensen: Is there a second?

>> Second.

>> Commissioner Jensen: Commissioner Abelite.

>> Commissioner Abelite: I wasn't clear on the motion with no change to the setbacks as presented by the applicant?

>> Commissioner Jensen: No.

>> Commissioner Abelite: What is your motion?

>> Commissioner Bit-Badal: My voice is a little shot today. Excuse me. It's really as proposed by the applicant without the conditions set by staff.

>> Commissioner Kline: Second would like to ask a friendly amendment to that.

>> Commissioner Jensen: Commissioner Kline.

>> Commissioner Kline: The friendly amendment would be to document that said applicant has agreed to setbacks on the third floor on the north side, and to keep the trees -- and I realize trees die, but I think that's a nice gesture. Also to document that the applicant has agreed to do the setbacks on Sierra and havenswood and that would be like the north setbacks, I think that as well was said too and I believe those buildings are wide enough to do that. If they're not I'm sure the applicant designer is very talented, they can figure a way to do that. With that --

>> Is that a friendly amendment?

>> Commissioner Jensen: Is the amendment accepted by the maker of the motion?

>> Commissioner Bit-Badal: Yes it is.

>> Staff is going to need some clarification of that and also I would like to ask whether or not it also includes the applicant's representation that they were willing to eliminate balconies along --

>> Commissioner Kline: I believe they were switching the balconies along, the applicants.

>> Adjacent with the single family that they --

>> Commissioner Kline: That's correct, they would do that. I hope that would happen on the Sierra and havenswood side too. I think balconies are a very important part of this design.

>> Commissioner Jensen: And I would like to lend to staff and have a clarification of specifically what it is, where the proposal is to extent the setback to the applicant's request where the request is to move balconies and where the request is to -- and what the setback is for the modified ones. Commissioner Kline.

>> Commissioner Kline: Yes I can say that the three buildings on the north side by lands of lamb, and the three units on the corner of havenswood and Sierra, I believe the applicant can help me out, he can jump in at any time.

>> Commissioner Jensen: No, I'm sorry, we have closed the public hearing, the applicant cannot jump in.

>> Commissioner Kline: I could ask the applicant a question. Could I reopen the public hearing to ask --

>> Commissioner Jensen: Is that a motion to reopen?

>> Commissioner Kline: Yes, it is.

>> Commissioner Jensen: Okay, there is a motion and a second. Would you step forward to respond to that question?

>> Commissioner Kline: Could you fill in the details of what the applicant is willing to address as far as the setbacks on building 1 and building 12 and referencing to the balconies, as well?

>> If you turn to the development standards proposed by staff, in the back of the staff report, the --

>> Commissioner Jensen: If you could identify by page number section and item number?

>> I apologize, at the back of the staff report they have Wass called the development standards. They look like this.

>> Commissioner Jensen: That's an unnumbered page, immediately behind the director Horwedel's signature, it's page 10 of the document.

>> And so what we propose in -- let me see -- so you'll see that the staff's primary concern is not the homes next to the existing homes. It's the homes that front on the rear yards. So you can see this item here, setback, three stories setback to single family detached rear yard 33 feet. That's the one where we are proposing that the third floor of these units would be setback 28 feet on this unit and 32 feet on that unit. So --

>> Commissioner Jensen: Can you identify the units by building and unit number?

>> Building 12. It's the three units of building 12 that front if you will on the rear yards. And in writing, it would look like this. So for those units, the first floor would be 22 feet, the second floor would be 22 feet and the third floor would be 28 feet minimum, and we've also noted that second and third floor decks and balconies will be removed, the standard will say there won't be any. So that was our intent, on the area adjacent to the rear yards. In addition, retaining the tree and the shrubs that are there, and adding to that for screening, we agree to do that, since the planting is on our side of the fence. We will keep it there. So that addresses the rear yard privacy issues. With regard to havenswood, there was a question about these units here doing the same type of setback on the wider units and we agree to do that for the side by side units. We know mathematically it will work. So we will set those back.

>> Commissioner Kline: Could you describe which particular units, looks like the far corner one.

>> The center ones for sure.

>> Commissioner Jensen: Mr. Shanehauer could I ask you on the staff development standard I believe you are responding to the items labeled building to easterly property line, havenswood, one story, two story, 25 feet and you say you are okay with those?

>> That's correct those --

>> Commissioner Jensen: You are okay with the staff recommendation for those?

>> It doesn't work because a setback is defined by the very nearest point of a building. And as I explained during the presentation our buildings are at an angle. So we have a few porch pillars that are ten feet even though the majority of the building is at greater distance. So that doesn't work as written. We've proposed as you see in red, to average the setback for each building. Because we're at an angle. So that's how we solved that. So that we ensure you know, if you set a setback at the minimum, then someone could push all the buildings out to the minimum. That's not what any of us desire. By saying an average setback of 15 for that building then the building can be tweaked a bit, and some of the setback will be a little less and the other will be a little bit more so we get the landscaping and the front space that we're looking for along havenswood. So as drafted by staff it doesn't -- it doesn't work. But to Commissioner Kline's suggestion, we can, absolutely, if we retain the first and second floor setbacks, as proposed by us, we can push those third floor backs, on back like we did on the other units against the rear yards.

>> Buildings one is not --

>> I don't know what the dimension would be, I can't calculate it.

>> Commissioner Kline: You didn't design it.

>> But we will implement the same as we did on those units here. And those units achieved a 28-foot setback from property line and a 32-foot setback from property line. That's what the dimension is we're mentioning, from the back of havenswood you'd push the setback back, almost 30 feet.

>> Commissioner Jensen: You're saying the staff recommendation for the third story of havenswood is 25 feet and you're saying you're open to pushing it 28 feet from the property line?

>> The -- not all the third story units. That's the issue here. We can't achieve 25 feet for every third story unit. But the wider floor plans we can. So it is going to have undulation in that third floor. Some will be less than 25. Others

will be 28. Others will be 32. Which is a good thing because it makes the front of this building visually interesting. What we don't want is a flat wall.

>> Commissioner Jensen: Can you put the image of the havenswood units that we're talking about back up? So I don't really see, you had mentioned that there's some sort of peck angle that you were trying to deal with. It looks like those units relatively traditional with respect to the sidewalk?

>> Correct.

>> Commissioner Jensen: Staff, is there a not less than setback that you would be comfortable with?

>> While she's thinking about that can I just answer your question?

>> Just tell me when I can talk.

>> The angled condition is on our end buildings. Now, this building is fairly parallel with the sidewalk. But all of these ends, as you can see, there's sort of a triangle formed at the end because the road is at a slant. That's where you have to choose the narrowest point on a setback to establish it properly. And, you know, for example, the distance here might be 13 feet but the distance here would be 18 or 19 feet.

>> Commissioner Jensen: And what specifically are you proposing for the setback on those?

>> Well, to have no conflicts on havenswood, the nearest porch post is this porch post right here which is ten feet. That particular point. So that setback has to say ten feet. As a minimum. Otherwise, we can't get the corner of this building in the place that it is. And so that's why we suggested the average approach because that forces us, if that's ten feet, the other part of the building has to be back further.

>> Commissioner Jensen: And we've had experience with averaging previously and staff did a nice job of identifying the challenges that we have when we do averaging. So it would behoove you to help us by not doing averaging and by being very specific with what each unit's going to be.

>> Specifically what we are trying to implement is the plan we have here. These are the dimensions. We've submitted this to staff. On February 11th. So if we can have the minimum setbacks as presented in this plan, that works. Plan we're presenting to you is the plan we want to build. It's the plan that the community has seen. Not one person in this neighborhood has ever said, I want bigger setbacks, shorter buildings or anything. We had a community meeting, height, density setback have never come up. It's in your staff report. As can you see tonight, nobody's here. I talked to Mr. Creed who is next door here at the community meeting. He specifically asked me the distance from his house. I told him. He said I'm glad you're cleaning up the ugly lot and I want a new fence.

>> Commissioner Jensen: We're delighted you're building in an urban unit close to transit.

>> The neighborhood is very supportive. We don't understand, the neighborhood is okay, why are we doing things that will reduce units?

>> Commissioner Jensen: I think we have a comment from staff that will help clarify what we're doing here.

>> Again, you know there are ways that they can accomplish these setbacks. They can rearrange units within buildings. We're looking for -- you know, they're basically having side-ons along havenswood across from single-family. So we're really looking to how can we best fit a much denser project into a lower density single family neighborhood, and the areas that we can affect is the perimeter. And we do recognize there is an angle going on here. But yet, that's where their challenge lies. Again we've seen the same architect design buildings that have a two story element at the end. It's two-story unit and then they have the three-stories setback. So there are ways and it was just done. And I don't want to get in a, you know, debate with him, because again, we are consistent in our recommendations relative to interface with single-family. Doesn't necessarily mean it plays itself out in a final decision. But again, there are ways for it to be done. Clearly, you guys have noticed that building 1, there are no

challenges. They can meet the setbacks which even in staff's recommendation have been more lenient relative to the first and second floor. First and second floor we recommend 15 feet. The homes across the street are 25 feet. We're saying well we'll give a little to this but the third story has to be 25 feet. We need that to be consistent, otherwise even that's going to get lost. There are ways that the end units that in essence are a side-on to the single family, need to have that, you know, first and second at 15 and third at 25. Okay? Because again if you really look at their site plan, their siding units are on two single families that are fronting on havenswood. We are really trying to work with that. I know we can work on the architecture on that to give a face to that side of the unit. What we also need to affect is that setback, so that we respect what's going on in the single, and really then, work with that density on the internal part.

>> Let me just say that the only way to --

>> And if I -- do you have any other questions for me?

>> Commissioner Jensen: Thank you, staff.

>> Like I say the only way to remove a story from a project is to remove a unit. The only way is removing units from a prime transit otherred site. When the community isn't here saying it's a bad thing, why not do it.

>> Commissioner Jensen: Thank you, Mr. Shanehauer. Motion to close public hearing? We have a question from Commissioner Cahan.

>> Commissioner Cahan: Thank you, Madam Chair. Mr. Shanehauer did you have a chance to address Commissioner Kline's question of porches and balconies on building one? I didn't hear that discussed. I wanted to make sure you were able to provide him with clarification on where you are planning on putting them.

>> I said the floor plans that are equal to the floor plans next to the single family rear yards in building 12, that we would push the third floor back to the 28 for plan -- 28 feet for plan 8 and 32 feet for plan 7. And the balconies can go onto the back just like we're doing with the rear yards. And that will create more articulation and visual interest on that building.

>> Commissioner Cahan: But you would still have the first floor porch coming out --

>> That's correct. This is the third floor only that we would be setting back, just like we're doing on --

>> Commissioner Cahan: And one thing that you may have said, but I didn't hear it, so I wanted to make sure it was -- came to the attention. When you and I met, we discussed that you would speak with the neighbors about what they would desire for a tree line, and I mentioned to you the question of discuss with them the potential effects that having a very tall tree there might have on their ability to have solar panels on their buildings in the future. So I wanted to just have you relay that information to the commission, your response to that.

>> Yes, I mean we will, as a matter of of course perimeter development, you work with the neighbor. We will work with them to finalize the fence design and we will work with them to choose the final large-screening plants, whatever they may be. And --

>> Commissioner Cahan: Providing them with limitations about solar as well?

>> Exactly.

>> Commissioner Cahan: Because it may not occur to the neighbors to think about that, as something that a big tree might impose upon them.

>> Okay, well, I guess we'll bring that up, but normally they would tell us whether that's their priority, or whether a bigger tree is a priority -- I guess. Should we follow their direction?

>> Commissioner Cahan: My request is, if we get to that point, that you actually let them know that there are possible limitations that a tall tree creates.

>> Notify them of the solar consideration.

>> Commissioner Cahan: Yes. Thank you.

>> Yes.

>> Commissioner Jensen: Thank you, Commissioner Cahan, thank you, Mr. Shanehauer. Motion to close public hearing. There's a motion and second. All those in favor? Staff, you know what the motion is now, are you clear?

>> To be quite honest I don't. I'm not saying that to be obstructionist or whatever. So I really need somebody to detail it out and maybe it's on a building by building basis.

>> Commissioner Jensen: I think that's an excellent idea. Would the America of the motion and the seconder of the motion who had a friendly amendment please clarify, using both the development standard and the plans, identifying building numbers. Commissioner Bit-Badal.

>> Commissioner Bit-Badal: Yes I'm going to ask the developer to provide the exhibit that he has on hand, to provide it to me. I do have notes but I just want to make sure it's consistent. Yes. As the developer proposed, the three story units that are on the northern property line, the first floor will be 20 feet minimum, 22 feet minimum, second floor 22 feet minimum, third floor 28 feet minimum. And he has stated, as it was clarified that the second and third floor decks and balconies will be removed, projections such as ground floor porches and patios are allowed to encroach into setback, and for buildings to easternly property line havenswood drive, we have 15 to 20 feet average. And I would like to keep it as that. Because it's going to be close to impossible for me to tell you exactly what the minimum should be. I would like to leaves with, as stated 15 to 22 feet, I think the applicant

clearly explained that that is something that can work out with the architect, basically it's clear if there's a 15 feet minimum the other area needs to be much larger to create a 15 -- 22 feet average.

>> Can I just note when you say 15 to 22 feet average, you know average is sort of the middle ground.

>> Commissioner Bit-Badal: That's true, that's true.

>> If you are going to say 15, then 15 can go from eight to whatever. So I don't -- I didn't hear the applicant saying that was the intent. But I just would caution you that an average is typically one number and when you give the range of an average, and they go with the lower averages, in theory 15, that can take you down much lower than that.

>> Commissioner Bit-Badal: I'm actually looking at my notes on today's conversation and comparing them. I'm going to go with a 22 foot average here, projections of porches and patios are allowed to encroach into setbacks.

>> How much?

>> Commissioner Bit-Badal: I don't have that number at this point. But maybe, the second, maybe Commissioner Kline can help out as well.

>> Commissioner Jensen: Commissioner Kline.

>> We need to establish when otherwise there's unfettered discussion on the part of the planning director.

>> Commissioner Jensen: Commissioner Kline.

>> Commissioner Kline: I don't have a basis and normally we let the staff and the applicant work out the intent of this commission at that level. That is not going to be required, we can open public hearing again and have the applicant here and do the design here if we want to. It's okay with me.

>> Commissioner Jensen: I don't think designing is the objective of the Planning Commission. Director.

>> Laurel Prevetti: Thank you, Madam Chair. What is before you tonight is your opportunity to provide a recommendation to the city council. So I would suggest that you be as specific as possible. If you are having difficulty with numbers, make sure you articulate exactly what your intention is and what the outcome you would like to see with this project. I appreciate that the applicant had some revised development standards which Commissioner Bit-Badal is reading into the record. To the extent that there are variations that is going to make it very challenging for staff quite honestly to convey your recommendation to our council. So it's just a little bit of advice.

>> Commissioner Jensen: Thank you. Commissioner Abelite.

>> Commissioner Abelite: It seems to me that we have the setback provisions and standards already sitting in Commissioner Bit-Badal's hand, with applicant revised red-line setbacks already established in writing in a very clean document. And I'm assuming that your motion is really adopting that particular set of standards with the amendment Commissioner Kline mentioned with respect to the three-story articulation for those three lots that face the backyard. So it seems to me if I'm not mistaken it seems to me we already have the development standard that works for the applicant as proposed. Right in your hand. So why wouldn't we just use that?

>> Commissioner Bit-Badal: I agree with you.

>> Commissioner Jensen: Commissioner Abelite is referring to the itemized list that the applicant placed up during the second which was a revision of the staff recommended development standards. I don't know if you had sufficient time to review that.

>> Again that -- nothing that the applicant has presented tonight changes our recommendation. I think what you all are grappling with is how you are going to form your recommendations. So if your recommendation is to present what the applicant is, the best way for you to do that is really, I think in your hands now. Our recommendation will stand. And so you know, I did see it. It doesn't change our recommendation.

>> Commissioner Jensen: Thank you, staff. For myself, as staff pointed out, we have dealt with this averaging of setbacks and lot lines and other things on a number of occasions in the past. It has always been very messy and the resulting projects have generally not turned out as pretty as we expected them to from the drawings that were provided to us at the time of the hearing. I will not be supporting the recommendation. I think that the staff recommendation is respectful to the community, respectful to the existing neighborhood, and takes into account that a three-story building immediately across the street has the issue, the potential of being densely massed and I think the staff recommendation does a very nice job of trying to inform articulation and setback and increase the massing and the imposition that is being provided to the immediate neighbors. Commissioner Bit-Badal.

>> Commissioner Bit-Badal: Just in my closing remarks I want to say that this project has been designed by an architect. And it would have been really difficult for me to change the numbers on the dais, at the dais here. So as I have seen the plan and studied it and read the documents and talked to the applicant I agree with the proposal as proposed. And I'm sure by the time that it goes to the city council, the recommendation goes to the city council, the staff and applicant can even work out the details a little bit more. Because they do have time from the time that our recommendation goes before the city council for the final decision.

>> Commissioner Jensen: Is your recommendation then that we give staff the leeway to make the final determination of the recommendation that goes to council or is your recommendation --

>> Commissioner Bit-Badal: No I'm staying with my original recommendation, I'm just clarifying the reason behind it so there's a little bit more understanding why I'm not you know --

>> Commissioner Jensen: So then that does not give staff the opportunity to work with the applicant on the design. What will be going to city council is the applicant's recommendation.

>> Commissioner Bit-Badal: And of course staff will have time to --

>> Laurel Prevetti: No if I could just clarify we've been working with the applicant. We have gone a long way and both staff and the applicant have acknowledged we're very close on a lot of issues. It's just these couple of setbacks and there really is no -- you know we came as close as we could. And for the reasons articulated earlier, the staff recommendation is what it is. I don't see it changing further.

>> Commissioner Bit-Badal: I still stands by my motion.

>> Commissioner Jensen: Thank you. Commissioner Kline.

>> Commissioner Kline: Just to review that motion was to accept applicant's application with the documentation in your hands and with the verbal comments that would be included in the record as far as building 1, and of course, the tree, and I'll continue to second the motion. It's our recommendation, that this go to city council, that's what we're here to do. Staff has their own recommendation but this is our recommendation. So I'll go ahead to continue to support that.

>> Commissioner Jensen: And again I will not be supporting this motion. I believe that the staff recommendation as I said is respectful of the community and the neighborhood and as they pointed out this architect is a wonderful architect and has made adjustments to other buildings that are similar in nature to the request made by staff previously. Commissioner Cahan.

>> Commissioner Cahan: Thank you, Madam Chair. I think that the applicant has worked hard to -- for a good compromise on the side up against those two houses, including large trees, which can provide an excellent screen. And I support that portion from the applicant's viewpoint. The smaller setbacks on havenswood drive I just

-- I can't quite accept those. I think that they're -- the setbacks are not enough. And therefore, I won't be able to support the motion because of that, those setback issues.

>> Commissioner Jensen: Thank you, Commissioner Cahan. Are there any additional comments from the commission? Seeing none, may we vote by light? And that motion passes on a 4-3 vote, with commissioners Jensen, Cahan and Kamkar voting in opposition.

>> Can I request that we receive the -- okay.

>> Commissioner Jensen: Thank you. Item 3C, ordinance amend. An ordinance of the city of San José amending title 1 of the municipal code by amending section 1.13.050 of chapter 1.13 to exempt a lawful medical marijuana collective from the definition of a public nuisance and amending title 20 of the San José municipal code by amending section 20.10.040 of chapter 20.10 amending section 20.40.100 of chapter 20.40, amending chapter 20.50.100 of chapter 20.50, amending section 20.70.100 of chapter 20.70, adding a new part 9.5 to chapter 20.80, adding a new part 11 to chapter 20.100 and amending section 20.100.200 of chapter 20.100, all to establish land use regulations pertaining to medical marijuana collectives and to establish a related zoning verification certificate process. thank you. Staff.

>> Laurel Prevetti: Thank you, Madam Chair, I'll be presenting the proposed ordinance to you this evening. As you know our city council has been considering how to regulate medical marijuana collectives since late 2009. Last April, this city council adopted a resolution forwarding to you a proposed ordinance with various land use and zoning parameters, and that's really for your consideration tonight. Again you have a role of recommendation to the city council. So what I will be doing is giving an overview of all of the parameters. I would then suggest Madam Chair that we listen to public testimony, the enclosed public testimony, and get various parameters. The city council is very anxious to get your input, so I think it would be appropriate to spend a little bit of time with each type of parameter. I am going to basically walk you through the staff report. So if you would like to follow along, you are welcome to. On page 3 of the staff report that was provided to you last week, we are looking, the city council is considering creating a maximum number of collectives, this would not be in title 20 but

be in another portion of the municipal code. And as it's currently proposed the city council is looking at a maximum of ten collectives, for the entire city. As with a maximum of no more than two per council district. And I'm observing that the commission doesn't have their copies with them, although I was assured it was both e-mailed and mailed to all commissioners last week. So you should have hard copy as well as -- you did get your e-mail copies. Okay. But no hard copies. So -- okay. I guess --

>> Commissioner Jensen: Commissioner Platten is ahead.

>> Laurel Prevetti: All right so --

>> Commissioner Jensen: But I would like to confirm that the commission has had the opportunity to review the proposed ordinance. Excellent, thank you.

>> Laurel Prevetti: Okay, so there's a maximum number that's being proposed. We are also looking at a zoning verification process, and what this means is that it would be a simplified process of does the proposed collective meet all the parameters, yes or no. There means these parameters be very, very clear and make the decision of a yes or a no. This would be something that we would do through our front counter most likely, and there would be no use permit, no noticing, this sort of thing. So all of the operational considerations, for collectives, would be handled through another portion of our Municipal Code and would be handled through a completely separate process. So while the council did consider a use permit, as an option, that was not their recommendation as proposed in the ordinance. So there would be a zoning verification. With respect to applicable zoning districts we had quite a lively discussion and heard lots of testimony and I'm sure you'll hear more tonight about the appropriate zoning districts for collectives. And the council is recommending commercial general as one. The second would be our downtown primary commercial. The third would be our combined industrial commercial. And then the fourth would be the light industrial. And with the light industrial zoning district, the council did ask that we give some additional thought to further protections of the light industrial land. As you know, San José is very eager to continue to foster job generating uses within our industrial areas. So those are the four zoning districts for the proposed ordinance. In terms of additional protections for light industrial land we wanted to create

something that would be consistent with the zoning verifications. So while the council asked for something that would allow for additional discretion on the part of the director, that doesn't really work within a framework of zoning verification. So for your consideration, we thought of two types of protections. One would be not allowing collectives within our enterprise zone which is a zone that's intended for economic development by giving tax breaks to businesses. The other protection we thought of was not within 1,000 feet of a business that either uses or stores hazardous materials. And that was important because as you know there are additional requirements on businesses that handle hazardous materials, that if they are near sensitive populations, and we would argue that patients who need medicinal cannabis would be a sensitive population, they would have to put in extra protections. So those were a couple of protections that we thought of. The distance requirement on page five of the staff report are something that the council's especially interested in your comments. Since we started our discussion of medicinal cannabis, the state legislature adopted a bill that became effective in 2011 that basically took out from local government the consideration of an appropriate distance to schools. So state law says we must keep collectives at least 600 feet from any K-12 school, public or private. Of course we could go beyond that but we couldn't have them any closer. So that's the school provision that's already provided. Council did provide additional distance requirements to what -- to other sensitive uses, and they're proposing 500 feet from child daycare, church with child daycare, a community or recreation center, a park, a library, a substance abuse rehab center or another collective. So that's a fairly big category. They decide on a 150 foot distance from residential uses, that's similar to what we say with the offsale of alcohol. And then, the council did add some additional distance requirements in terms of areas with active pedestrian use. They were concerned about the collectives being located on the ground floor, say in our downtown area, neighborhood business districts, or major shopping centers. And again, we needed to provide some quantification to that, so based on the way the council is discussing Eastridge and the plant, we assume then that that would really be shopping centers that are over 40 acres in size. So essentially, a collective would need to meet all of the distance requirements be in one of the appropriate zoning districts, no more than two per council district, and if they meet all those criteria, they would obtain their zoning verification. Wanted to comment just briefly on cultivation. This ordinance within the zoning code would allow onsite cultivation. It doesn't require it. However within the other portions of the municipal code, the council is very interested in having onsite cultivation, whether indoor or outdoor. We aren't that specific, just onsite cultivation. So that's part of the rationale. As was mentioned in the description of the ordinance, we're also

looking at some other minor amendments to make sure that this ordinance is internally consistent with the rest of the Municipal Code. So with that I know that there are a lot of public testimony. We did get two letters that were distributed to the commission today, via e-mail and hard copy. One from Bart Hickman with Mationi regarding the consideration of the commercial pedestrian zoning district and then a memorandum from Medicinal Cannabis Collectives Coalition, otherwise known as MC3, and they are recommending additional zoning districts, the IP, the industrial park, heavy industrial, HI, also recommending the CP commercial pedestrian and the CN commercial neighborhood and then they've got some recommendations that really pertain to the selection process. So interested in more of a conditional use permit type of process, or a different way of selecting and scoring the ten collectives. And then some other comments regarding cultivation. So those memoranda are distributed to you. We also provided to you a supplemental memo yesterday regarding comments on the negative declaration, what I think is fairly self explanatory. So with that --

>> Commissioner Jensen: Thank you, staff, and I believe our City Attorney would like to lend her voice, as well.

>> If I may just supplement the director's excellent summary and report. For the benefit of the commission and also the members of the public, there is a completely separate not before you amendments to title 6 of our municipal code. Title 6 are police regulations and those will go into more of the onsite operational elements, who can conduct this business in the City of San José. So I just wanted to highlight for the commission the -- that all of those issues are not before you. It's really the location, the local requirements and what the land use processing would be. So in case you're wondering there's a whole myriad of regulations related more to the police issues and the health and safety issues which are not before you and I don't know how much again for the benefit of the public as well to know the scope and the jurisdiction of the Planning Commission. Because there are many regulations involving this area which really aren't within the purview and which aren't before the commission this evening.

>> Commissioner Jensen: Thank you very much. All right we are ready for public testimony. I do have a number of speaker cards. What I'm going to do is call up three names at a time. If you would come up to the bottom of the

stairs and line up in the order in which you have been called, you will have two minutes. By the time the final speaker comes up I will call the next three names. Stanley Oliver Virginia Donaghy and Dawn Cambrin.

>> Good evening, commissioners, thank you. I'm here because I want to state, my office is at 2176 Alameda in San José. I'm next door to 2170 the Alameda, Amsterdam's garden. And it is in fact a public nuisance. Mainly because they don't have enough parking and I have to kick the stoners out of my parking lot. I'm finding lighters, I'm finding broken glass tubing and the other day, I found this promotional -- it's like a red bull promotional Amsterdam's garden energy drink. Now, if they're selling these, it's retail and it's not allowed. And if it's promotional, it's not medicinal. That we're talking about. I don't think people in the city are taking this seriously enough. Based on the column in the paper this morning. There's a lot of crime and money behind these places. If you're not next to one you don't really know what's going on. I'm here to tell the city to stop stalling on this and get on top of these people. Because otherwise, the City of San José and all of its citizens are going to regret it. Thank you.

>> Commissioner Jensen: Thank you and Mr. Oliver, for the record, please if you could introduce yourself into the microphone.

>> Stephen Oliver.

>> Commissioner Jensen: Thank you very much. Ms. Donaghy, if you would introduce yourself as well when you come forward.

>> Yes. Hello, council, I am Virginia Donaghy. I'm president of the purple lotus patient center, a collective here over in district 5. We are next to Regional Medical Center in the the north Jackson medical building. Like as there is many experiences and many points of view in the world, we are very good neighbors. Our building association has grandfathered us in and has appreciated the improvements that we've made on the old building and the fact that we have security guards outside for everyone's mutual benefit. The only thing that I would like to say is in the true spirit of prongs 215 that this is a medical marijuana, for medical patients, that it seems so logical for us to be

located inside of medical buildings. We are not competing with the sale of recreational alcohol. This is compassionate care for people who are ill under doctors supervision. So sometimes I don't understand the confusion of these issues. If this is truly medical, it seems only logical that it should be located next to medical facilities. My sister is much older than I am, in her late 60s and has cancer. And going into the industrial areas is not comfortable for ladies alone at night and going to a building located adjacent to a hospital just seems logical when you're giving people options for alternative care and for different types of medicine. I just wanted to point that out and you can check with any of our neighbors and we are actually good neighbors. So as we all know there's just many ways of being involved. We give a lot, are current in our taxes and do a lot of volunteer efforts in our area. Thank you for your time.

>> Commissioner Jensen: Thank you. We do have a question for you from Commissioner Kamkar.

>> Sure.

>> Commissioner Kamkar: Thank you, Madam Chair. I take it from the testimony you like the hospital zoning, the zoning the hospital is in would be included?

>> Yes.

>> Commissioner Kamkar: How about as far as the number, what do you feel about the number, 10, as far as the limits as to how many can exist?

>> That's an interesting question. I feel most importantly that we want to be able to respond to the patients that are here in San José. To reduce from such a large number to a small number, our concern is just waiting time. All of our patients and most of the councilmen have been papered with our letters. They appreciate that they have a short wait-time, so that is one of my few concerns. And then as far as it benefitting the city of San José with your new taxes, perhaps there may be many benefits not only for each individual patients to continue to have more

locations and less wait time, but it's also as being a contribution as a good business here in the city that is contributing to the tax base.

>> Commissioner Kamkar: Thank you.

>> But our biggest concern is we feel the medical needs to be addressed, because it is medical marijuana for compassionate care. Why would someone want to drive across town after their doctor's visit to what could be perceived as some creepy industrial area. So there are many ways of looking at things in the world, and I just wanted to really reiterate, medical marijuana patient care, it should be where medical nurse-practitioners and hospitals are located. Thank you.

>> Commissioner Jensen: Mr. Cambrian, as you're coming down, I'm going to call down the next three speakers. Laura Blair, my apologies for what I'm about to do, Mark Matulik, James Anthony.

>> Good evening. My name is Sean Cameron, and I'm with the cannabis patients alliance. I do have a handout for you, presentation. I just wanted to address two of the issues very quickly with you. One the number of permits and two the requirements or potential requirements for onsite cultivation. From the patient standpoint and I think the community standpoint only having ten collectives would be disastrous. All the patients coming from the surrounding communities you would have to have ten megastores of marijuana, basically. What you're allowing is much smaller facilities, a smaller impact on the commune and the neighborhood and also providing the patient with an opportunity to have choice. When the city have limited it to ten permits the patients are robbed of their choice. That's going to be a distinct problem for them, it's going to have an effect on the price of cannabis, it's going to have an effect on the quality, and also on the services provided. There are quite a few things about the dispensary or cultivation operation that may be new to you, so we prepared some information for you to give you some facts and figures and numbers. But I'd like to talk a little bit about the cultivation side right now. According to our calculations based upon both the existing taxes that are being paid and estimates of the number of dispensaries in the city, you're looking at having to have if you reduce it to ten dispensaries, you're looking at ten facilities with the approximate space of 14,000 square feet devoted to cultivation. And this is going to be -- that

would be reduced to 1900 square feet with 73 facilities which is the number that paid measure U taxes during the first month and it would be reduced to only 1100 square foot if it were allowed to exist where it's currently at about 105 dispensaries. Now, those estimates might actually be conservative, because in addition to the space to cultivate the plants you also have to have a nursery to have what they call the mother plants and to create clones. Most of the cannabis that's grown is grown from clones. So you have a mother plant that is kept alive and you take clones off that mother, and those clones --

>> Commissioner Jensen: Thank you, very much. Your time is up. Ms. Blair -- I'm sorry Mr. Cambrian, there is request for questions from Commissioner Abelite. My apologies.

>> Yes.

>> Commissioner Abelite: I just want to clarify what I heard. You say that if we condense the number of sales facilities down to ten, that the grow size is going to be about 14,000 per unit times 10, to handle the same volume as 120 right now?

>> That's correct. And that's using an average of 36 square feet per light to produce a pound of plants.

>> Commissioner Abelite: Was that number determined by did you like audit all of the 120 or --

>> Can I give you the --

>> Commissioner Abelite: I am interested in ultimately getting that report from staff or something. Thank you, I'm good.

>> Commissioner Jensen: Thank you. Thank you, Ms. Blair and if you would introduce yourself.

>> Good evening, I'm Laura Blair and I'm the land use attorney representing the cannabis alliance, you just met the president. Steve learning curve that involves so many technical aspects including cultivation, medical cannabis land use law, and health and safety regulations, we're providing you with a written presentation that discusses the regulatory background, how a dispensary typically operates in California as well as how medical cannabis is cultivated. Particularly with respect to indoor cultivation and what the impacts would be with these regulations if onsite cultivation is required in terms of what types of space dispensaries will have to locate. The medical cannabis patients alliance has several concerns as demonstrated in that written material and I'd like to highlight some of those. Our concern is that a large scale cultivation as contemplated by the ordinance and dispensing uses are incompatible. When you are talking about large scale cultivation you're talking about industrial use which means you need high energy loads and lots of security in limited access. When you're talking about a dispensary use as one of the previous speakers addressed you need accessibility, you need to be on bus routes and you need particular more retail type hours and retail like impacts. When you are requiring large onscale cultivation with large scale retail like dispensing you're going to have a lot of conflicting uses and problems. Also, in terms of the number of permits, right now, there's over 100 dispensaries in San José. And you'll be directing the patient base of those 100 dispensaries down to 10 larger kind of look like large scale retail establishments like Target. And we kind of put the numbers together for you there but we're talking about a 26,000 square feet total, we estimate that it would be 12,000 square feet for the dispensing side because you'd be serving about 55 to 60 patients per hour and at least 14,000 square feet for cultivation. That means you would need approximately 58 parking spaces based on the zoning guidelines of 1 parking space per 200 square feet.

>> Commissioner Jensen: Thank you Ms. Blair your time is up.

>> Thank you.

>> Commissioner Jensen: Mr. Matalouch, would you introduce yourself, so I don't have to do it badly again.

>> Mark Matalouch, I'm here on behalf of the South Bay Healing Center. As well as MC3. Good evening everyone I'm here to discuss the decision of CP and CN zoning to the zoning districts. Currently those are not

allowed but if they were it would allow for more even distribution of these facilities. There would be a reduction in the overconcentration and over intensification of the land. And in addition these spaces provide better public transportation as well as they're located next to medical treatment facilities. Although CP and CN are near some sensitive uses, there are already buffers in the ordinance that require distance from sensitive uses. So I don't see the need for eliminating CP and CN as long as they are in the sensitive use guidelines. Again that would make for more even distribution and probably a better tax revenue for the city. Thank you.

>> Commissioner Jensen: Thank you, Mr. Anthony. As you're coming forward I'm going to invite the next three speakers, Vince Rivero, Jerry Strangess, Patrick Goggia. If you would give it to staff. (inaudible)

>> My name is James Anthony. I'm a former City Attorney for the City of Oakland. I represent MC 3, I'm a registered lobbyist here in San José. I'm primarily responsible for the authorship of not only this memo here with was e-mailed to you today and which hopefully you received by hard copy, but four other memos and a cover letter which was attached to the staff report which I urge you to look at. Despite what your city attorney has mentioned today, title 6 is very much in your purview. These two ordinances are logically intertwined. You have no definition of this use in title 20. It refers to you title 6. Where you find the use defined as collective cultivation in a single site. None of the existing dispensaries do that. The medical cannabis movement is a social movement which last evolved under the threat of federal law enforcement. One thing we know, large cultivation facilities are a target of the federal government. The federal government has demonstrated that it will tolerate small scale distribution. It will not tolerate large scale cultivation. And so the definition and the mandatory onsite cultivation, also not found in title 6, which rather disingenuously only says that cultivation is allowed, I'm sorry, Title 20 says it's allowed, but title 6 says it all has to be on site which nobody can do because in an act of civil disobedience one needs to be careful about what the federal government will tolerate and what they will not. They have been very clear that large scale cultivation will not be tolerated. You're left with something completely unworkable. You need to look at that definition and you need to fix it. Which means you need to reach into title 6. That suggestion is made in one of my earlier memos to the staff report. You have heard from several people how these large cultivation facilities would not be workable. You need to consider why set up an ordinance that isn't going to work?

>> Commissioner Jensen: Thank you, Mr. Anthony your time is up but we do have a question for you from Commissioner Kamkar.

>> Commissioner Kamkar: Thank you, Madam Chair. Okay, I actually agree with you. I think what we're working with you know almost impossible to implement. However what is the alternative? What would you recommend as far as how would you fix what we're trying to accomplish?

>> That's the right question. The question is, what do we have now, because what we have now is working. San José collectives are distributing I would say a minimum of 30 pounds of high-quality medical cannabis to patients in this area every day and possibly as much as 40 or 50 pounds which is about twice of what Oakland's four medical cannabis collectives are doing. Where does that come from? It is cultivated on small scale. One of your staff reports mentioned that the ideal size for medical cannabis is something between a closet or a bedroom or a small garage. That small scale, there are thousands of medical cultivation sites from all the way over California. From Santa Cruz all the way up to Mendocino, very few in San José. So let's look at what works, and let's find a way to address any concern about that.

>> Commissioner Kamkar: You addressed onsite cultivation fixed. How about policing. How about how do you keep I guess the bad element from getting stronghold?

>> Absolutely. And I want to thank staff in their report, Ms. Prevetti for the first time had outlined what those concerns are of the police department which has steadfastly refused know to meet with us for the last three months. There were three of them. The first was a concern about so-called criminal elements. Structurally, the nonlegal criminal cannabis market is very different from the medical cannabis market. It is much larger, the quality is much lower, there is little concern of personal attention small quantities. What they're looking for is to move a lot of low grade cannabis quickly at a low price. You come into a medical cannabis collective as a patient. You join the collective, you're verified if you happen to have some excess medicine would you like to make available to other members of the collective, if it is accepted which 90% it is not, it will be lab tested and you'll be begin a

voucher and asked to come back two weeks later for your payment. This is not how organized crime works. Certainly we can do background checks if that's a requirement on our medical cannabis cultivators and either the collectives or a third party inspector can verify that those sources are medical sources.

>> Commissioner Kamkar: Got it, okay.

>> I'm sorry, and there were two other police concerns outlined by Ms. Prevetti in the staff report. The second was purity which again can be addressed with laboratory testing and the third was the proliferation of so-called grow houses. Given that medical cannabis patients have the right to cultivate cannabis in their homes?

>> Commissioner Jensen: In Anthony, thank you very much.

>> I was just completing my answer to the question.

>> Commissioner Jensen: I believe you've completed your answer to Commissioner Kamkar's question. Guilty was just completing my answer.

>> Commissioner Jensen: Ms. Rivero, if you would introduce yourself when you come forward.

>> Good evening, Vince rivero, 1625 the Alameda, San José California 95786. Good evening, commissioners, Ms. Chair. I'm here to speak on behalf on the -- or on the issue of the zoning land use requirements and from last year plus, I've spent and embarked on -- spent time and embarked on the journey to find the proverbial needle in the haystack, the evolving ordinance in front of you. And the zoning ordinance of the 128 that I've mapped out collectives in the City of San José, the zoning ordinance the land use issue knocks out the majorities of them. Specifically, it goes and tries to squeeze 128 collectives down into ten spots, squeezes compresses them and tries to fit them into these ten spots that are primarily located in three commercial district and one light industrial districts. And seem to jump over the district that bridges the gap best between the commercial districts and the light industrial district which is the industrial park or IP district. And if you add the onsite cultivation issue

on top of the zoning land use issue that we're talking about, then it also knocks out the remaining collectives that do qualify under the four proposed zonings. And the zoning district that best fits the onsite cultivation issue would be the HI. That's the one that from a utility standpoint and from a square footage standpoint can best fit the onsite cultivation issue. So what we're asking here is consider again the industrial park, the heavy industrial, zoning districts, I think can you open up allow a little bit more flexibility in a process that would allow some of these collectives, ten collectives to actually work under the current zoning. Because right now you're knocking all of them out. And that's the big issue. Also would ask that you consider a process that would allow public input such as a C.U.P. something of that nature rather than just a simple yes-no process before us, that essentially is -- provides a simple solution --

>> Commissioner Jensen: Thank you, Mr. Rivero, we do have a question for you from Commissioner Kamkar.

>> Commissioner Kamkar: So I hear what you're saying, I just want to be clear. In addition to let's say heavy industrial or IP zoning, the sensitive receptors that the director talked about those tests still will have to be done, you have to be so many feet from schools from daycare from churches.

>> I've been doing that.

>> Commissioner Kamkar: I just want to be sure of that.

>> When you do that when you apply that to specific addresses, specific collectives, those sensitive receptors knock out near schools and so forth.

>> Commissioner Kamkar: As far as power you're talking about heavy industrial would have to bought --

>> It's right there.

>> Commissioner Kamkar: Okay.

>> Commissioner Jensen: Thank you very much. Mr. Strangess.

>> Thank you, Madam Chair, members of the commission, Jerry Strangess representing MC 3. Thanks to staff, they worked about 18 months on this, this is a very complex, difficult issue and they've really done a great job in trying to put this together. Let's talk about the areas of agreement here. We want fewer collectives. Check. We want better regulations, check. And the ones that don't get a license, we want them shut down. So we're in agreement. That's where we want to get to. That's our objective. Question is, how do get there. Had a chance to visit with some of the commissioners, clearly, a merit-based system is very important. We need to work through that and develop a system with the best collectives and the best locations are the ones that are awarded a permit. We think your C.U.P. process should be part of this process. A C.U.P. allows for the affected neighbors to be able to chime in, as to whether or not the location's appropriate. Most of these facilities have been open for up to a couple years. There's problems with them. You should know. And under the C.U.P. process, people get noticed. There are milk hearings, there are community meetings. They clearly vetted before we go into this evaluation through the City Manager process. We think that's very important. A C.U.P. with a merit based system is the right thing to do here. The letter we sent to you this morning really outlines our recommendations. We would encourage that you consider those. And there's no reason to rush this issue. The council's taken a year and a half, okay? They're not going to meet again until August. If you want to continue this to next month and give yourselves a little bit more time to get your arms around this issue probably a good idea. But appreciate your support. Thank you.

>> Commissioner Jensen: Thank you, Mr. Strangess, we do have a question for you from Commissioner Kamkar.

>> Commissioner Kamkar: Thank you, Madam Chair. I did want to say I met with Mr. Strangess and visited one of the cannabis clubs on -- I believe was it on Charcott Avenue?

>> Yes. (inaudible)

>> Commissioner Kamkar: Two quick questions for you, one is what is your stand on onsite cultivation, what is your stand on increasing the -- the zoning where these collectives can be located as long as the test that the director laid out can be done?

>> In case of the zonings, we think the zonings should be increased. We think the attention should be put on the sensitivity to how close you are to sensitive receptors including IP, HI, CP and CN are additional zoning areas that are appropriate based on public input, based on its relationship to sensitive receptors which is really the issue that I would hope you would be concerned about.

>> Commissioner Kamkar: Okay, what about online -- on site cultivation?

>> Onsite cultivation, the best that I can tell and being involved with this issue and trying to understand it, does not work. It simply does not work. It's a fatal flaw that this whole ordinance is headed toward a train wreck if this is not removed. You need the ability to have offsite cultivation.

>> Commissioner Kamkar: Okay,

>> It's critical.

>> Commissioner Kamkar: And finally the number, the number 10. If you were king for a day what would you change --

>> The letter we got out to you today, we're suggesting 20, 20 is the number that we think would better support what is the market that is out there now. Being serviced by some 125 collectives, you know, we can -- you can legislate the issue but you can't change the market. The market is there. To take 125 locations and put it into ten is going to have a major impact. We think 20 would lessen that and make it a little bit easier to really provide the safe access to the patients. That's what's really the critical thing here.

>> Commissioner Kamkar: Thank you very much.

>> Commissioner Jensen: Thank you we also have a question for you from Commissioner Abelite.

>> Commissioner Abelite: I'd also like to say I got a tour of the facility with Mr. Strangess and a group from harborside on Friday. My question, you were pretty resolute about not doing onsite cultivation, you know your statement was pretty strong just now. Do you go through some of the reasons why that is?

>> Sure. And if I can, it's an extremely important question and it's a complex question. I'll give it a shot but I would defer to my associate James Anthony on some of the specifics if I don't answer it to your satisfaction, commissioner. Basically, the medicine that's provided to the patients is a very wide variety to deal with the various ailments that the patients have. And in order to do that you need a lot of different kinds of growing operations. One location, given the limitations one location would have, would never be able to meet that specific demand. The amount of medicine that would need to be provided would be very difficult for one location to be able to provide. I think that's the short answer.

>> Commissioner Jensen: Thank you. Mr. Goget, as you're coming up I'm calling up the next speakers, Michael Sena, ace Saldoval, Gregory Bach.

>> Good evening, chair, members of the committee, my name is Patrick Goget, I'm an attorney from San Francisco. I've worked on this issue in a number of jurisdictions around the Bay Area. Regarding the number -- let me just say you're in the midst of a -- you know an important balancing act and I commend the staff on their effort here to strike a balance. And with respect -- and you're looking at the zoning and land use issues and with respect to Commissioner Kamkar's concerns about or questions about the numbers of establishments, you'll have if you limit it to ten we know that in addition to the hundred and some odd collectives that exist in the City of San José, your neighboring jurisdictions don't allow it. So you've got incoming traffic and you're going to have a disproportionate impact on those communities if you limit it to just ten. I think 20 perhaps maybe a little bit more is

a good number to look at. Now as far as balancing the process, we need to -- I strongly urge and encourage a competitive based process. You will get good operators that way. If you go on a first come first served, you're not going to end up with the best operators. I also encourage you to allow folks that have sat on the sidelines over the past 18 months concerns that they be perceived as illegal by coming in and operating they need to have an opportunity to come in as well. Now with respect to just onsite cultivation. One of the major concerns here is it's a security risk. If you have all plants being cultivated onsite as dispensaries they're targets. You need to distribute those. Now, the concern that was issued, that was within the staff report was around how are the -- how is law enforcement going to know that this is a legal cultivation site. Well have permits there, they want to close the system, have the permit for the dispensary that it's connected to at the refinery, finally, I urge you to consider physical barrier exceptions.

>> Commissioner Jensen: Thank you, Mr. Guidi, your time is up. Mr. Senna, Mr. Gaga we have a question for you from Commissioner Platten.

>> Commissioner Platten: You were cut off. Could you just finish your comment with respect to physical barriers.

>> The staff report indicated that there were under the proximity requirements we would be limited to a thousand potential parcels in the city. Those parcels are necessarily reduced by folks that are already leasing them, landlords that are willing to lease them. And as you consider additional districts you ought to consider physical barrier exceptions which achieve the same goal which is to not have folks that you don't want going to them have greater access. So things such as major thoroughfares, fences, walls, waterways, bridges and so forth ought to be considered. Now the concern about this being a zoning verification process and not allowing -- not wanting a discretionary process, included in the process, you could clearly define what those physical barriers are so that the zoning administrator could look at it and say well there's you know a major thoroughfare defined as X Y and Z it would qualify.

>> Commissioner Platten: So that would be easily incorporated in a C.U.P. type process?

>> It would.

>> Commissioner Platten: Thank you.

>> Commissioner Jensen: Thank you Mr. Senna and introduce yourself as you come forward.

>> Good evening, ladies and gentlemen, my name is Matthew Senna, director of Silicon Valley's Americans for Safe Access here representing the sick and suffering patients here in the Silicon Valley. The number of collectives needs to be increase he more than ten for a city and a county of over 2 million people you have a lot of patients coming from surrounding areas like you've already heard. Having ten Costco size collectives is not going to help anybody, going to be a mess in the parking lots and a mess in the surrounding areas. Commercial zones are more accessible to the sick and suffering patients in the area and the light industrial is more secluded and secure. Both can handle the traffic and traffic flow. We're generating jobs and also generating revenue so please help us keep our safe and legal access to sick and suffering patients here in Silicon Valley.

>> Commissioner Jensen: Thank you. Mr. Salvador.

>> Good evening, commissioners, my name is ace Salvador, I'm the operator of a collective, on Hamilton in Willow Glen. There's a number of things that I got into this business for. My father passed away from cancer. I'm not a grower. I couldn't do onsite cultivation. I've tried it, I failed miserably. I know that you think about square footage and things like that I just don't have the capability. I got into this to be able to bring medicine to sick people. The size that I am, it's a smaller operation. Going to ten will put us out of business. Even if I am one of the ten it will put me out of business. We're in a 2,000 square foot building. We could definitely increase that, but if you just made it ten we'd get overflowed and we wouldn't be able to handle it. It [Break in captions]

>> Commissioner Abelite: Your half million unit, is that half million in across all ten?

>> Half million is a low number per each unit, per each.

>> Commissioner Jensen: We have another question from Commissioner Kamkar.

>> Commissioner Kamkar: Thank you, Madam Chair. You alluded to medical cannabis versus the street drug. What are you doing to educate the public? As to I mean your reference to CVS and pharmacy and medicine is greatly but how are you educating the public to there's a difference, we're not talking about getting high, we're talking about getting treated.

>> I'm glad you asked that. In our facility we are the first and only medical cannabis school. We have a classroom with 46 hours of penned curriculum, 23 separate individual two-hour long photoculture classes. We are looking to be a state accredited classes as well. We teach house people to grow their own medical grade cannabis. In asking each club to grow their own, what you are doing besides limiting the quality and quantity of medicine that can be created, you are definitely cricking California state law 11362.775 with regards to cooperative operation models. Currently, valid patients who have a surplus medicine are able to redistribute their medicine for current and accurate cost of growing that medicine. That is -- that is the guise of exactly how it is. However by limiting and making every cooperate grow 100% of their medicine for all of their collective, you are violating the California state law because they can no longer cooperatively or collectively participate in the growing process. One or two people or whoever oversees the facility must do all of that. And that completely negates part of California law.

>> Commissioner Jensen: Thank you, you have another question from Commissioner Cahan.

>> Commissioner Cahan: How much are you able to grow?

>> Right now we have about 28,000 watts of electricity. 28,000 1-watt lights. That doesn't suffice amaybe 10% of our current patient volume. We would literally, you tell this in a few memos of the city as well. We would literally have to take our 6500 square foot facility with currently with school and all dispensing and 40 be foot long counter and all the amenities and cut that down to a very small probably 300 square foot in and out get in shuffle them

out, to have another 6,000 square feet of full production, that 6,000 square feet would probably somewhere in the range of 400 to 500,000 watts of electricity. To put that into perspective so you could understand, you each have toasters and microwaves in your home. Disperse the city not taking any particular drain on the grid. Now taking 500 toasters microwaves and ovens, run them every day, 24 hours a day, 365 days a year, imagine what kind of drain you would put on the power grid. That is what you are asking by doing mandatory onsite cultivation.

>> Commissioner Cahan: How many different types of plant would you able to produce?

>> Not enough. With 28 lights we currently have I'd say probably nine different varieties. Eight different varieties that we currently have. That aside with 3,000 patients going to 10,000, 12,000, 15,000 patients as one of only 10 cooperatives, you would literally have to have 40, 30 to 40 different varieties. It's physically impossible, and the thing you are trying to do is do indoor photoculture farming. Farms have problems, you have bugs, pests, disease, bores, mites, thrips. There are many so you just don't know. So if you have one large grow, imagine this, you have ten clubs in the City of San José. Each of them has major grows. Besides violation of federal law, what if you have an outbreak of thrips or mites, you would literal go from having ten clubs to having nine clubs. You can use an entire crop with failure if you have a major power surge and your plants hermaphrodite, because you lost your power for two days on and off sporadically. That will ruin your entire crop. Now all those patients will go to one of the other nine, flood the market and create back to the black market.

>> Commissioner Cahan: What's the ability of solar to provide some energy there?

>> That would be lovely. We actually have explored solar for our building because of the way the Guadalupe river which our building is backed up to the Guadalupe river with the tree line, we personally for our building wouldn't be able to utilize solar. If there's another way to utilize that on maybe the adjoining parking lot with some rental space or working with the Planning Commission to do some tree pruning I'd be more than happy to consider that and do some investment.

>> Commissioner Cahan: What is your address?

>> 170 south Autumn Street.

>> Commissioner Cahan: Is that industrial park?

>> It is light industrial zoned and we are not in violation in any sensitive use including residential that you have notated in all of yours.

>> Commissioner Cahan: Thank you.

>> Commissioner Jensen: We also have a question for you from Commissioner Kline.

>> Commissioner Kline: Quick question. Do you have or does any of your other collective dealers have multiple sites?

>> We have only one single stand-alone facility.

>> Commissioner Kline: Do you know of any other collectives that have multiple physical sites, physical addresses?

>> I can't speak for others. My collectives, there are some collectives I believe that do have two or three addresses but they are no affiliation to the collective that we deal with.

>> Commissioner Kline: That's correct but you do know of collectives that have multiple physical sites?

>> Commissioner Jensen: That may not be a good question for individual collective because we have heard numbers ranging from 105 to 130 for collectives.

>> Commissioner Kline: Just for industry scuttlebutt. .

>> We've geared our collectives not to have multiple collectives because of the nature of the education service and having -- and teaching our patients to grow to help minimize the A outside or out of town candidates having to come into the City of San José.

>> Commissioner Kline: There is nothing actually in the business model that would prevent you from having multiple collectives, just as REI has multiples. .

>> Ran by the same cooperative model, no.

>> Commissioner Kline: Athank you.

>> Commissioner Jensen: We also have a question for you from Commissioner Abelite.

>> Commissioner Abelite: Sounds like you do grow.

>> We do a install percentage of our onside cultivation, yes.

>> Commissioner Abelite: Can you tell me.

>> Our classroom will never flower, our classroom is what's called mother stock, it's production, probably close to 700 plants. In mother stock in clone phase, that's being used to cut mothers, and in the back we have flowering as well.

>> Commissioner Abelite: So that being said and I'm not an expert by any means, but I think there's like two thresholds --

>> 999, and 9,900.

>> Commissioner Abelite: I thought it was 99 and 999.

>> You're absolutely correct. And by doing 10, we will be in violation of every one of those, every one of the 10 cooperatives that will be in the City of San José will be in violation of about 999 mandatory minimum 10-year felony prison sentence for owner-operators, period.

>> Commissioner Abelite: But it sounds like with 700 plants in-house you are already in violation of the 99 rule, and I think you may be subject to a 5-year term in prison based on that, isn't that right?

>> According to that, you could potentially, since we are cooperatively growing, and right now our membership base is close to 3,000, the actual cumulative number of plants at the city level of six, six times, roughly 3,000 we could technically have up to 18,000 plants cooperatively grown within our facility. I really don't want to try to flaunt that or push that guise because I'm not here to try to be a martyr, I'm here to try to help the patient.

>> Commissioner Abelite: What I'm trying to gauge is you're already putting your self at risk with the 99 plant rule and you're putting yourself at risk for the thousand plant rule already.

>> It is a risk.

>> Commissioner Abelite: Thank you.

>> Commissioner Jensen: Thank you very much, is there a motion to close public hearing? There is a motion and second. All those in favor, thank you. Staff.

>> Laurel Prevetti: Thank you, Madam Chair. As you've heard from the public testimony, there is interest on the part of the speakers to perhaps consider a larger number of collectives in San José. To consider additional zoning

districts, as part of the ordinance. There was really no testimony regarding the physical distance except for physical barriers which could be defined fairly clearly. There was also a suggestion of considering a conditional use permit instead of a zoning verification. And all of those issues would really be things that I know our council would love to hear from you. In terms of onsite cultivation, I know you've heard a lot of testimony on that. That really is and I know that it's very much linked with the physical operations. But I -- I think that since the land use regulations allow it, but don't require it, it's really, I think, beyond what the council would be expecting you to comment on from the testimony that you've heard tonight. So I would -- I think your focus on land use and zoning requirements would probably be of highest value to the council, but if you have other general comments, other observations, et cetera, that we'd be happy to take all those comments to the council, to the extent I would leave those to the commission if you want to create motions for each of those elements, or just have one motion with a variety of comments, staff would be happy to convey your recommendation, whichever you would prefer.

>> Commissioner Jensen: Thank you, director, Commissioner Bit-Badal.

>> Commissioner Bit-Badal: Thank you thank you, Madam Chair. I do have a question about sensory, distance to sensory areas. I wanted to know, what is the largest distance we have from a project to a sensory, high-sensory area such as childcare center, schools and such?

>> Laurel Prevetti: Thank you, Commissioner Bit-Badal. I appreciate your question. Our zoning code is really organized by use. And so we -- if we have distance requirements it's really set forth by use. So I just did a quick scan of the municipal code, and I thought adult uses might be the most restrictive. And for adult uses we do have a distance requirement of 200 feet from residentially zoned property is really the one that I found again the 150 feet from residential uses as partly of our offsale. I know Jean Hamilton has a fabulous facility, as does our attorney with respect to the zoning code but those were the kind of quick ones that I could find.

>> Yes, and I think what we have relative to offsale isn't a strict distance requirement. It's a threshold at which we would then need to make certain findings. So again I think the adult uses is what actually holds a strict distance regulation as opposed to a threshold at which point certain findings need to be made.

>> Commissioner Jensen: Thank you, director.

>> Commissioner Bit-Badal: I also want to disclose that I met with Jerry Strangess and did an on side visit of the cannabis club.

>> Commissioner Jensen: Commissioner Cahan.

>> Commissioner Cahan: Thank you, Madam Chair. I also complete with Mr. Strangess to do an onsite visit of a cannabis club.

>> Commissioner Jensen: Thank you, Commissioner Cahan. I'd like to walk through some of the questions that came up during this, and get kind of a staff report. As Mr. Bach noted, what we are doing right now is really a kind of difficult and break through process and we are trying to be caring and compassionate and recognize the need that is here. So there was talk about a request to make it feasible to co-locate within or near medical facilities. Is there anything that would preclude doing so in the proposed amendments, and either title 20 or title 6?

>> Laurel Prevetti: To the extent that a medical office building or medical use is within the zoning districts and meets all the other distance requirements, that type of co-location could certainly happen.

>> Commissioner Jensen: Thank you. There was also a question about putting collectives potentially in violation of a state and/or federal law governing the amount of medical marijuana that could be grown onsite. Do you have a feel for what we might be doing? Counsel?

>> Thank you, Madam Chair. I think the testimony was referring to the City of Oakland. And the recent letters that were exchanged in connection with their proposal to allow large scale manufacturing and grow sites. The Department of Justice although a couple of years ago had indicated that medical marijuana that's in compliance with state laws was not necessarily their highest enforcement priority, certainly when it got to be large

manufacturing sites, that prior letter from the D.O.J. would not apply. So I think that letter exchange with the City of Oakland is what's being referred to. I'm not aware that there is anything in our ordinance that mandates that these facilities be the size that people are talking about. I hear from a practical standpoint why they anticipate that be the case. There is nothing in our ordinance that they be a minimum of several thousand square feet. And there's also as far as I know nothing in the legislative history or the ordinance that indicates that our goal is to accommodate the current demand. I mean I think one of the practical realities might be and I'm sure many of the speakers would not be happy about this, but one practical reality might be that the actual pounds being grown every day in the City of San José, and being I won't say sold but being transacted, might decrease. So I hear a lot of testimony saying, if we are going to accommodate the demands that we are serving right now, and I just want to note for the commission that that's a big if. I'm not certain that that's the goal.

>> Commissioner Jensen: Thank you. There was also a -- there was no as you mentioned an estimate of 30 to 60 pounds per patient, per month. Which -- so that may be where the request is coming. My note from the CP alliance, land use impacts of cultivating and dispensing medical cannabis, that based on the total number of visits on a monthly basis that there are roughly 44,000 patients being served. And so part 1 of the questions that was raised was, what sort of jurisdictional area are we looking at serve being and has staff given consideration to, is this likely to be a -- are we expecting to support the City of San José or are we expecting to support Santa Clara County or are we expecting to support the entire Silicon Valley?

>> And again, the thing I want to note is that with regard to the speakers who are saying we are Forbesing them to violate federal law, I want to state there is nothing in the ordinance that forces that. As far as the number of seriously ill patients, the compassionate laws are really for serious million conditions. So again, I can't speak to how many seriously ill patients reside in the City of San José, versus the City of Santa Clara County versus the City of Morgan hill, versus the Santa Clara County. I know the City of San José is trying to balloons its desire to be a site for compassionate, you know, obtaining and allowing collectives to operate. But again, I don't know if it will be maybe the director has more information. Whether it would be a regional service or if the amount that we're talking about would really service just a very seriously ill patients in the City of San José.

>> Commissioner Jensen: Thank you. Director.

>> Laurel Prevetti: I just want to add that the council has not expressly indicated an interest in serving the larger Silicon Valley or South Bay region. They've been grappling with this issue through a lot of study sessions and other council meetings in terms of what is that balance of compassionate care and local land use control. So I think consistent with what our -- what council has said, about articulation of a goal to accommodate all of the patients in the South Bay, the council has not expressly made that a goal for this ordinance.

>> Commissioner Jensen: Thank you. There was also some discussion regarding separation of grow and dispensary on a per collective basis. Is there any -- was there any direction from council regarding the potential to separate the grow and dispensary perhaps having the grow in a light industrial facility and the dispensary somewhere else?

>> Laurel Prevetti: No. They were very clear that through title six discussion they're interested in onsite cultivation and that's the ordinance that's moving forward.

>> Commissioner Jensen: Okay thank you. There was also some discussion regarding the design of a conditional use permit to allow merit based system, a competitive system, identifying those dispensaries that that are sort of the cream of the crop. Is there a mechanism to design that or could that be a recommendation from us to council?

>> Laurel Prevetti: Those are actually two different elements. So one is how do we determine whether or not a collective meets the zoning and land use regulations that we're discussing? And there's two options there. One is the zoning verification, or second option is the conditional use permit, which we are very familiar with. The council so far has indicated a recommendation towards or a proposal towards the zoning verification. But again this is an area where given your facility with C.U.Ps, you may wish to provide a comment. Separate from the regulatory mechanism or the verification mechanism is the issue of how are we going to select the ten or however many collectives for our city. And the council had a lot of discussion and debate in April about a first come, first served

versus a merit based versus a lottery versus other things. So it's really more of an operational selection process that the council is grappling with. Again that's independent of title 20 and really independent of the land use regulations. The -- one of the points with respect to the conditional use permit, since you may wish to debate this yourself, is that should the council go with ultimately a C.U.P. approach, all conditional use permits run with the land. So you've heard from a fair number of operators tonight. You know we could have good operators for whatever reason go out of business. But that conditional use permit would still be for that property and another operator could come on in. So you know that's another part of the balancing act that council is weighing and why one of the reasons why the zoning verification appeared to be a better vehicle. But again, I know this is something you might wish to discuss.

>> Commissioner Jensen: Thank you. There was also a comment made by one of the speakers that a review, and independent review had been performed by one of the collectives regarding the amount of land, and potential sites available within the City of San José. And that the recommended zoning would not allow for the potential collectives. Do you have a feel for how many potential sites there might be that would conform with the zoning?

>> Laurel Prevetti: We've done some initial analysis of a variety of parameters. And with the proposed ordinance we have approximately 1,000 parcels that are available. Again, the staff report indicated our challenge with some of the databases, with respect to, you know, the rehabilitation centers and some of that sort of thing. So we would, again, not until we get the exact location from a collective and any other information that they would have, would we be able to actually verify it. What we have not yet done is mapped the 100-plus collectives that are current here in San José. We do have a database of them but given other staff priorities, we have not yet mapped them. So I don't know how many existing, unregulated collectives actually happened to be located within the currently expressed parameters. I don't have that information for you.

>> Commissioner Jensen: Thank you. Commissioner Cahan.

>> Commissioner Cahan: Thank you, Madam Chair. I have serious concerns about the discussion of whom we would serve, who we would expect them to serve, how serious a condition is serious enough to validate being

served over someone else. If it's a San José resident versus someone who lives in Los Gatos, but their doctor's in San José near a dispensary. I -- hearing the discussion of, well, we wouldn't expect them necessarily to grow as much as their customer base is or would be raises -- the first thing that came to my mind was, if it was a center that did dialysis, and suddenly we said well, we're cutting down the dialysis centers, and we don't necessarily expect the smaller number to actually meet the needs of the community that needs dialysis, who would we choose would be able to be served with the medical needs? And so to hear that, well, they don't have to be big, because they don't have to meet the needs, who would we limit? Only those that have severe cancer and can barely come in? I don't know what that criteria would be. So --

>> And the city wouldn't regulate that, obviously.

>> Commissioner Cahan: So I think that the expectation of saying that they would not need to be large to service the community is a false -- I don't think that's realistic. [applause]

>> Commissioner Cahan: So we may not be able to actually make any sort of decision on that as a planning. I would recommend that city council take the needs into consideration with the realization that to force them to grow on site would force them to be extremely large, would force severe environmental issues, the amount of electricity, the amount of pull that's used for one pound is obscene, in my mind. And to force this all inside, the security issues, the security issues for the City of San José, I think that we would be doing our community a severe disservice by forcing them to grow everything on side.

>> Commissioner Jensen: Thank you, Commissioner Cahan. And you raised a question about who defines the people who may be getting treated. And I'd like counsel to provide us the legal analysis on that.

>> Thank you, Madam Chair. I think one of the speakers alluded to the health and safety code and the sections around California health and safety code, 11362.775. So the state actually decides who are persons that have valid identification cards or they're designated primary caregivers. And it's those persons who have those identification cards who are within the population that are eligible to join cooperatives or collectives. Again I don't

know how they're currently operating. I mean right now they're not operating legally in the City of San José. So I honestly don't have the information with regard to how many of those identified casing cards are valid, not valid. But it would be the state who regulates who gets to obtain medical marijuana.

>> Commissioner Cahan: Absolutely the state regulates who gets to obtain the cards for medical marijuana. But if we are saying that as a city, we are only going to allow a certain number and we're expecting them to remain small and therefore cutting down the amount of people that they're servicing we are essentially cutting down who is going to be able to be served within our city. Therefore, the decision has to come in of who's going to be served.

>> Commissioner Jensen: And that's part of our question here, Commissioner Cahan. That's why we're here to talk about what the different issues are and see if we have a recommendation that we would like to put forward to council.

>> Commissioner Cahan: So my concern came in with the discussion of well they don't have to be a large facility because they don't actually have to grow enough to serve the community that comes in.

>> I would just like the commission to know the parameters of the ordinance. And I know that there's been a lot of testimony about the fact that they will have to be large. And you may decide, based upon the testimony, that you believe that from a practical perspective. I was just noting for the commission that legally, there is nothing that mandates that they be large. That's the elements before you I just wanted to be sure that you knew.

>> Commissioner Jensen: Thank you, counsel. Commissioner Kamkar. Commissioner Kamkar.

>> Commissioner Kamkar: Thank you, Madam Chair. I'd like the answer to a few of the questions that council raised. Number one, we are the Planning Commission. We are here to plan. And so if the need is there, we need to plan for it. I agree that nothing says they have to be big, but all evidence points that they would have to be big, otherwise we're creating more problems than we're trying to solve. That is number one issue. Number two issue,

there is a person who gets to determine who gets this medicine or not, and that's their doctor. They are trained to make that call and if you don't have a doctor's prescription you're not going to get served. So we don't have to worry about -- it is not our call who gets served, who doesn't get served. If the doctor determines they need this medicine then I think we meet that test. I wholeheartedly believe that because we don't have the regulation in place, the medical cannabis providers are operating illegally because we don't have our act together, it's not that they're doing anything wrong. So please let's not shift the blame on them. I believe they're here trying to meet a need and it's up to us to provide even if it's preliminary conditions, you know and it's going to evolve over time, fine. Nobody says the number we set or the number that we suggest to city council is going to be set in stone. That number can change back and forth. Having said that, I believe ten is too little. I believe it will create more problems than it's trying to solve. I think we should either postpone making this recommendation if it's not absolutely vital to make this recommendation tonight, but if for whatever reason it is, you know, that we need to make our recommendation tonight I'd like to set a motion, I'd like to make a motion that you know we suggest the number at 20. And also, that the requirements to cultivate the plants onsite be removed. Because that would effectively -- that would effectively negate what we're trying to accomplish there. Thank you.

>> Commissioner Jensen: Thank you, Commissioner Kamkar. Thank you. Is -- so there is a motion to set the number of collectives at 20. And not require growing onsite. Is there a second?

>> Commissioner Kamkar: Pardon, not growing everything on site.

>> Commissioner Jensen: Not growing everything. So allow some flexibility. Is there a second? There is a motion and second. Would you like to speak to your motion, Commissioner Kamkar?

>> Commissioner Kamkar: No, I basically spoke my piece.

>> Commissioner Jensen: Thank you. Commissioner Kline.

>> Commissioner Kline: Usually when you're doing ordinances especially ordinances that are brand-new, which this is, and rather risk breaking, usually work with industry, because you're trying to allow the industry to do something that is legal, with the least impact on the community as possible. This ordinance seems to be doing the reverse, this ordinance is basically based to make sure businesses fail. That is my sense in reading the ordinance. There's nothing in here that looks like it's a collaborative between the government and the business, to make sure the business works. That's my experience in creating model ordinances. This is not a model ordinance. It needs a lot of work. I don't know how the ten units work, I have no clue how that will work in reality. How do you choose the ten? What's the process? That has to be in the ordinance procedures some way, size, shape, distance between each other, just randomly ten doesn't make sense. What happens if those ten get bought out by one association that owns all of them, right? There's no restrictions, we can't ordinance that in a city ordinance. It could very easily happen there that we have a monopoly. That doesn't make sense. What happens if a couple of those fail, what is the procedure to replace them? None of that actually is things that you normally see in an ordinance structure. So I think this ordinance is wrong, and I think it is counterintuitive to what 215 wanted to do, which is small collectives who are really family coming together to support each other. We're basically creating something quite different there. In practice, in ordinances you can say in theory, but we all know what in reality ordinances have a major impact. There's no way we can stand by and say we're going to let a legal medical requirement go unmet. That -- when there's obviously resources to meet it. That doesn't make any sense either. Because we know that's going to get met. It's just going to get met in an unregulated unsafe very corrupt and cruel way. That makes no sense either. We've gotten to this point because we know this is safer, more honest, more direct, better for the patient, better for the doctor. So this course we're going down is good and this ordinance seems like it is a way to go backwards. And I just think that it needs a heck of a lot more work. Separating cultivation, and saying in this ordinance, title 20 that yeah, it's allowed but title 6 saying no, it's required, that you know we're basically being two faced here. We really can't do that, we have to be straight faced, we've got to be honest with the people. If cultivation is allowed that's really going to be a different type of enterprise than what is going on here. And I don't think, like someone said, the best placed product for this is in medical offices. I can't see medical offices growing plants, I just don't see that happening. So yeah, there is a lot of problems with this ordinance and I don't know if we can actually fix by saying 20. I don't know if 20 is the right number. Why 20? Why not 30, why not five? I mean this doesn't make any sense as an ordinance. There is a lot

of things that are built into title 6, we don't get to play here, but not using cash, as far as I understand, cash is legal tender, be used for all private debts, private or public debts. I don't know why these are trying to prevent something that we know works, the public knows works, and what we're trying to do here is create an ordinance that gives us safer, cleaner, better processes. This ordinance is not going to work. I would not support this ordinance at 20. Because I don't see any -- any quantitative analysis saying 20 is right, never, not close to it. Ordinances don't have to be perfect if they go, come back fix them change them. But to create ordinances that have a chance of working for a chance for the industry to be successful. If you are somehow hoodwink it and making the industry not successful, I don't want to be part of that, that's not what we're supposed to be doing. So I would not support the 20. I think this really has to be setback. It has to be worked on a lot more, perhaps a subcommittee of city council, staff, industry leaders that can get down and build an ordinance that makes a sense for the community, and that's why a lot of ordinances are done and why it is not done here, I'm not sure. But doing it in front of a whole bunch of Planning Commissioners with a camera on them is nuts. Because we're too public, it's too emotional, a lot of people have too much at stake. It has to be done in a committee room, with pencil and paper, figuring out what works for the industry and what works for the community. I wouldn't be able to support this for 20 although I like the intent of an ordinance in general.

>> Commissioner Jensen: Thank you, Commissioner Kline. Director, would you like to respond? [applause]

>> Commissioner Jensen: Please, please, thank you.

>> Laurel Prevetti: Certainly appreciate Commissioner Kline's interest and concern about how the ordinance came to be from a process perspective. In addition to the council -- the formal meetings, of committee meetings, at the Rules Committee where there was initial discussion, we did do community meetings, especially last summer, where we had small breakout groups and were able to have discussions with patients, as well as collective businesses, as well as other interest groups. We've also done at least one that I was a part of meeting with the MC 3 group to better understand the needs, could there have been more outreach? There could always be more outreach in any effort that we do. I think those of you who have been with the 2040 process know that very well. So when have we done enough? When have we really exhausted that? You know, it's always a

question for us. You know, we're at a point in this process where the council has asked for your opinion and has asked for your recommendation. And if part of your recommendation to the council is to continue to work, that the city is not yet ready to enter into regulations, you know, that could be part of your recommendation. I would just say that, you know, the issue with respect to, you know, how can we have an ordinance that's designed to succeed, a lot of the issues that you raised around the process for choosing, what happens if a collective gets bought out, what's the process for replacement, those are the kind of details that we've been discussing more as part of the title 6, the operational considerations, how do we make sure that there's good management, security, et cetera. So those are issues that are being tackled outside the land use venues, so really the land use purview are where are the best locations geographically to serve the patients, and balance patient needs, with perhaps issues and concerns of neighborhoods. So that's really why we didn't open up both ordinances to the commission. Because it is a -- it's -- there's a lot of detail to go through it. And I would give our counsel an opportunity to comment on a custom of the other things. We share the goal of safe access, affordable access. We also want to put on the record the council did consider a moratorium. So there are other approaches that other communities have taken with this issue. So safe legal access is one option. There's other communities that have decided that this is not an operation that they want to see in their communities. So that's another choice.

>> Commissioner Jensen: Thank you, director. Counsel.

>> I guess just to add to the director's comments. The unique thing about the ordinance in front of you is that it was council-initiated. And as the director noted the city council has been grappling with these very difficult issues. I think the testimony has just been spot-on. So I want to thank the community for really keeping their comments primarily focused on the land use issues. The council did a whole host of outreach before this draft ordinance came to you. And so the type of discussion you're having, the kind of debate that you're having is exactly I think what the council is looking for. So the ordinance that's coming to you is a little bit different. Normally you see things that are private property owner initiated or industry initiated. This is something where maybe more outreach should have been done or maybe more concessions should have been made to the industry. I can't speak to that. But I did want to note for you that the draft ordinance that you have before you is one that council looked at, and said please send it on to the Planning Commission and let's get their thoughts. So you're definitely

not shy about doing that. And again, the great thing about this hearing is that the testimony has been on point and your deliberations are on point and this is what the city council's looking for. But I just wanted to note the unique aspect of this. It's the council sending you an ordinance and saying please give us your comments.

>> Commissioner Jensen: Thank you, counsel. Commissioner Platten.

>> Commissioner Platten: It is appropriate that the council send this to the Planning Commission because one of the fundamental points of merit with the Planning Commission is to serve as a vetting organization and organism for the democratic process. And that's why we have all taken the oath to sit on this commission. I completely concur with Commissioner Kline's comments. I could no more support this tonight than I could support the motion put forward by Commissioner Kamkar. Because I've got no basis to know if ten or 20 is the right number or not. I do have a basis however based upon the testimony we've heard tonight to note that there's a lot of problems with the approach. A lot of problems with the approach. And it's somewhat amusing to sit here tonight because normally, we're confronted with economic conditions where we're read statistics that show that San José residents don't spend all their money in San José they leave to go to other communities. Evidently, in this particular industry residents from outside San José, to spend their money and Commissioner Kline is quite correct, that greenbacks are greenbacks, and that's good for the economy. This is a business, and it's a business based on medical need, it's authorized by the state of California. Unless we can find a way to defer this matter to recommend to the council that a new study approach be launched, that industry be invited in, for example, with MC 3 I think the memo that they've distribute id tonight has a lot of merit but we don't have any specifics to an ordinance that I would like to see language from the industry on. So unless we can do that and find a way to defer and tell the council okay, here's our recommendation let's study it more I won't vote to support this ordinance. I won't vote to support anything that has to do with any ordinance because we don't have the facts to work on.

>> Commissioner Jensen: Thank you, Commissioner Platten. Commissioner Cahan.

>> Commissioner Cahan: Thank you, Madam Chair. I wanted to make a friendly amendment to the motion, though I'm not sure that the motion is going to go anywhere. So friendly amendment that the selection process be

merit-based. And the locations include IP, CP, CN, heavy industrial, those, that they would meet the sensitive receptor requirements, making sure that medical facilities are included, the areas arounds medical facilities. And john if this is possible but to include a C.U.P. that is renewable, so if the facility does change hands it does end up coming back again so that we can evaluate the new owner.

>> Commissioner Kamkar: I would accept all those amendments.

>> Commissioner Jensen: And the seconder of the motion?

>> We're in.

>> Commissioner Jensen: Good, it's been so long I've forgotten already. Just for clarification, the commercial general might put it in violation of some of the distance requirements including the one from the state. Would you be willing to remove that?

>> Commissioner Cahan: And the reason why I added that, I noticed that nurseries were permitted in CP, C and CG. And I understand that nurseries are growing a different product. But they are growing a product and so it seems as though anywhere that they are able to agree plant then one of these facilities should be able to grow a plant in the same location so long as it meets the sensitive receptors, the distances.

>> Commissioner Jensen: Thank you, Commissioner Cahan. Commissioner Abelite.

>> Commissioner Abelite: I'm going to go ahead and make -- I'd actually like to go ahead and make a substitute motion. I -- I'll speak to why, I'll make my motion first and it's not going to be particularly well crafted but in general what I want to offer to the commission and to the public tonight is I've learned that in the last few days that we don't remotely at least I don't remotely possess enough knowledge to make an intelligent call on any of this. And my motion would be I think we should defer this issue for a later time. I think we should spend time gathering information amongst ourselves. We need to become intelligent on the matter. The city council's been on it for

maybe a year and there's been plenty of outside work on it but with all due respect, I only got the project on Friday. I wasn't going to work on it in advance. I did go to a -- let me make a motion. I'd like to make a motion that we defer any action tonight whatsoever. I think the motion should include us spending time gathering information and the commissioners should submit a list of questions maybe back to staff so the next time we can reconvene a lot of those questions can be answered and then we can really engage in a healthy debate and that debate period could maybe be used to shape a policy of zoning. And maybe at that time we can go ahead and give staff instruction to move forward with shape of that final zoning document that we could act on in a subsequent meeting. So I don't know if my motion needs to be any more clear than that. But that's the gist of it.

>> Commissioner Jensen: Thank you. There's a motion and second. And would you like to speak to your motion?

>> Commissioner Abelite: Yes, I partially already went into it but like I said, city council's been taking public testimony for over a year. I'd like to have the opportunity to go back and watch a lot of those videos, there's a lot of good content in there. I will tell that you my visited to harbor side on Friday was really enlightening. And it was enlightening in the sense that it told me how much I really don't know. And I want to get this right. And I plan on spending a lot of time learning about this before I you know I reengage on the matter and I want the time to do it. I also think that it's appropriate that title 6 be presented to us because I think it's totally intertwined with what the zoning policy is, I think they're married lock step and I don't have a handle on title 6 and I'd like to have a presentation from the police department or the City Manager or whatever is appropriate, I think it's appropriate that we hear title 6, even though we're not acting on it it's part of the formula and I want to understand it. We have time. City council is not going to go back into session until August. This is -- the industry is already functioning, the needs are already being met and if it takes an extra two or three months to do so, so be it. We're not holding back medicine to the patients that need it. And I think it would be wise that we just move forward and take our time and get it right. I know the industry is probably a little frustrated because we've been going on for a long time for them. But it's getting to a point where we really do want to get it right and I think you're hearing it from a lot of people here, so I think they would support it. So anyway those are my comments on my motion.

>> Commissioner Jensen: Thank you, Commissioner Abelite. Commissioner Kline. For the record the substitute motion takes the place of the original motion and would need to be voted on first before hearing the other motion and of course that would depend on the outcome. Commissioner Kline.

>> Commissioner Kline: My initial reaction is to support this motion. However I think what will happen is when we come back we'll be facing the same issues we are facing now. I would much prefer to deny this and taking it back to staff and put together to city council put together a stakeholders meeting with some Planning Commissioners I hope because land use isn't so critical here and redraft the ordinance with stakeholder input and bring it back within a period of about six months. We might get to that point anyway after we defer, we may be right back there and education time might be fine. So I'm not necessarily going against this motion. I just think at the end of the day, we got to include the industry and we can't do it from this podium. It's too difficult to hand-draft ordinances here. So only staff in conjunction with the industry and public policy makers can do that in a locked room someplace, a public access room but literally sitting down and crafting things. That would be my preferred thing but I'll go along with this because I think it's educational and we do have time.

>> Commissioner Jensen: Thank you, director.

>> Laurel Prevetti: I just want the commission to know that the council is expecting to take up this ordinance on August 9th.

>> Commissioner Jensen: Thank you, director. Commissioner Bit-Badal.

>> Commissioner Bit-Badal: Thank you, mayor. Thank you, Madam Chair. I absolutely agree with Commissioner Abelite's motion. That's 80 seconded it. I have zero knowledge of medical cannabis other than what I had read in the newspaper. So it was important for me to read as much as I could about it including the staff report which I did read online and made a visit to a site, which was also really enlightening thing. And I also feel that we cannot come to the best solution for the whole community tonight. I feel that I have read some information about other cities and I have read information about other states. But I personally as a commissioner can do a little bit more to learn,

educate myself so I can make the best decision for the City of San José and its residents. And tonight for example, when the motion came, and then amendment came, I really could not move forward with that motion. And I was thinking to myself well who is going to put a different motion? And what would that look like? Would that look like something I want to see in the City of San José? And I really could not -- I mean it's 9:30 at night and I know by 12:00 we're not going to come to that conclusion that could you get seven people to agree to the best possible solution for the City of San José. So I personally think it's to the benefit of the residents, of ourselves, and decision maker such as the city council members and the mayor, and also, medical cannabis users, patients, that we give ourselves two more weeks at least, and I think within next meeting which is going to be in July, we can have a little bit more information. I understand in giving our questions to staff and getting all feedback from staff, and would be really essential and will help us make a better decision, basically. Thank you.

>> Commissioner Jensen: Thank you, Commissioner Bit-Badal. Director, could you respond with, and I don't expect any accuracy to any great degree on this. But what do you think in terms of a time line for if we were to defer this, how long would it take to accomplish all that Commissioner Abelite has requested?

>> Laurel Prevetti: Well, I appreciate the idea of submitting questions in advance so if we're targeting the July 13th meeting per Commissioner Bit-Badal's comment just now, we typically get the packet out the week before, so that would be July 6th. We've got a 4th of July holiday. So we would basically need to get all of your questions within the next few days, so that way we could start working on them to the best of our ability. You know the ability for commissioners to educate yourselves by watching video or reading all the other materials, we did provide you the links to all of the different -- to the Website that's comprehensive, through the City Manager's office, so you know, that's just your own study time. So I can't speak to what your other obligations might be. The opportunity to invite a knowledgeable staff member to talk about title 6, whether it's the police chief or other member of the city staff, we might be able to arrange that for the July 13th meeting. We would certainly do our best, so you would have that. I think again, we would need to put that in context, so you would understand how title 6 operates. But again our council was asking for your comments on tiled 20 which is really the zoning regulations. So I think most of this, we could do you know and to Commissioner Kline's earlier comments about really working with stakeholder groups and the industry to craft an ordinance, that's a different approach that the council did not ask

of the Planning Commission. But again, that's -- those are all valid comments that we would be happy to provide to our council, so you understand that you have the best interest of the community at heart and you want to make good solid decision making and I think that's the spirit that I'm hearing coming from the commission.

>> Commissioner Jensen: Thank you, director. So I will not be supporting the motion for deferral. For the following reasons. I hear very clearly what the industry has been saying, in terms of increasing the number of facilities to 20. And identifying a process by which the dispensary is not required to have its own grow facility. And I think that those are things that we can include in our recommendations to council. There is a sense of urgency for this and I'm not referring to council wanting to hear it in the beginning of August. I'm referring to the proliferation of dispensaries. Many of whom I'm sure that the kind folks who are in this room would not approve of. And who do not appreciate having an association with simply by their proliferation. Because I know the folks that are here are doing their best to support a medically ill community and do not appreciate some of the less than reputable folks who are slapping signs on their front doors. So I think there is a sense of urgency and I think we need to wrap our arms around this. We are only making a recommendation to council and they can, of course, continue the discussion and expand the discussion as they see fit. And the ordinance can, of course, always come back and be modified in the future. I think this is an issue of the difference between trying to find the perfect, and not allowing something that is very good to have an opportunity to survive. And I very much appreciate Commissioner Kamkar's motion. And the additional requests and amendments, friendly amendments that have been added onto it after that. So I won't be supporting the motion for deferral. Commissioner Abelite.

>> Commissioner Abelite: Yes, thank you chairman, chairwoman. I also want to be clear that my motion isn't tied to the August 9th deadline that the city council has set for their agenda. I want to be -- I don't even want to consider that. I think they can differ for a month or two and there's no issue with respect to that. I think what I'd like to do is amend my motion also to include that the next time we have a Planning Commission meeting, that the staff creates a schedule that would fold in Commissioner Kline's comments, on how we should work with the industry to really shape this process. Again, I think we as commissioners can go off and do our due diligence for the next two or three weeks and start raising questions. And start educating ourselves. We'll remeet in two weeks and we can talk about the process, and shape the process, if staff can start putting together a time line. I envision

skipping two meetings before we really sink our teeth into this, two weeks to start gathering information for ourselves and then give the staff two weeks to answer questions and then so when we remeet we can actually start debating how the zoning should be shaped. And at that time we could have title 6 presented to us. So the amendment to my motion is being amended simply to stand with the motion, but ask staff to come back with a tentative schedule that follows along the lines of Commissioner Kline's inclinations of bringing in the industry, study sessions in-house and from there we can decide how the process may go in two weeks. Thank you.

>> Commissioner Jensen: Director, could you respond to us going out and doing our own homework?

>> Laurel Prevetti: Sure. I think you know if it's the commission's interest not to be tides to the council date of August 9th, I was just pulling up the Municipal Code if what happens if the commission doesn't make a recommendation, can council still proceed. We've had to see whether or not they have recommended denial. I know in certain instances that's the effect if council doesn't get a recommendation, and it effectively is a recommendation of denial. In terms of creating a work plan to deal with the industry, this is really beyond what the council has asked for the Planning Commission and certainly beyond what the council has asked of its own staff. This entire work effort as observed by my personal observation is clearly not budgeted and not in our work plan and is preventing us from updating our zoning code to facilitate other economic development within the City of San José. So that would be the portion of the motion that I -- we could give you conceptual ideas of what that would look like but I'm -- I'm reluctant to give you a whole new work plan for something that isn't even budgeted.

>> Commissioner Abelite: And in response to that my intent isn't to really burden staff up in a big expense, I mean maybe spending maybe an hour crafting just a series of practical steps that we can go through and talk about at the next hearing. So that was my intent. It is not to ask the staff to go right off and do large projects at this point.

>> Laurel Prevetti: I think it also needs to be clear that the council did not ask the Planning Commission to create the ordinance. They have asked you to comment on an ordinance they have initiated, so that's a different task as well.

>> Commissioner Abelite: I understand that, I want to exactly do that. But I want to go through a more methodical slower process to get to that point.

>> Commissioner Jensen: Commissioner Abelite, prior to your joining the commission, there was some discussion about a time frame, that if council determined the commission was not addressing an item in a time frame that was appropriate, council would remove the decision making process from the commission and take it on themselves. And I regret that I do not recall, it seems to me that it was something like 21 days. But I don't recall specifically what that time frame was, if we don't make a decision it's out of our hands. And perhaps our council could address that.

>> Commissioner Abelite: Is this specific to any particular issue or --

>> Commissioner Jensen: It is specific to any issue that the commission may be faced with.

>> So if I can help advise the commission in this area, I would recommend that the commission address the council concern within the time frame that the council has decided it would like to consider that item. But as a part of those comments you can definite include the type of comments that both you and Commissioner Kline have made. Which is here are your comments tut you have given it, and whoever you have asked for. Then whatever, you go ahead and explain to the commissioner that you would want additional time or additional outreach, you've heard the public testimony and that you feel that the ordinance is nonsensical, that there wasn't enough input from the industry, why draft an ordinance, why implement an ordinance that is doomed to failure that you've heard testimony all evening will not work. And I think quite a few of the persons who provided testimony tonight gave very practical considerations about why this ordinance would be a waste of time to implement. So you heard that testimony, you provide the comments to council in the time frame that they requested. But then I see no reason why you can't also request that council give you more time to consider it based upon the types of statements that you've made. The section that the chairperson was referring to provides that when the city council forwards something for your comment, if you fail to hold your public hearing or complete your public hearing within 60 days

that the city council can deem that failure to be a recommendation the proposed ordinance not be adopted and that they can go forward and notwithstanding the failure of the commission to complete its public hearing and make a report on the ordinance the council of course can still take its action. Given that you have 60 days, from today, I would still recommend, now that you to that the -- as the director noted, that the city council would hike to consider this ordinance, on August 9th, that you at least try to be responsive to the council's request but you can certainly embed within those comments the additional needs for additional outreach, additional time that you feel would be beneficial in order for you to do your best work.

>> Commissioner Jensen: Thank you, counsel. Commissioner Cahan.

>> Commissioner Cahan: Thank you, Madam Chair. I am fully supportive of deferring a decision on this until the July 27th date to provide us with ample opportunity to do research, to hopefully have some sort of study session before the July 13th meeting, to discuss is it title 6 and some other implications that this would have on the city. And so I was planning on supporting the motion until you made the amendment to the motion to have staff come back with a time line that would further go beyond the August 9th. I don't think the city council is going to wait for us to do -- I agree that we should have more knowledge and more research and more communication but I don't believe the city council is going to wait for us to get that. So because of that amendment I can't support your motion.

>> Commissioner Jensen: Thank you, Commissioner Cahan. Commissioner Kamkar.

>> Commissioner Kamkar: Thank you, Madam Chair. I'd like to echo the same sentiment as Commissioner Cahan. We serve at the pleasure of city council. They decide what the agenda is going to be. And you know they've told us what they want us to comment on. And I believe we're addressing that you know with our motion. And so I don't mind delaying to even July 27th. But I think we will find that it's going to be the same issue, and same thing over again. We will just be a little bit more informed. But, you know, the assignment that city council gave us is not going to change, you know, and we can't change it on our own. For that reason I cannot support your motion, either.

>> Commissioner Jensen: Thank you, Commissioner Kamkar. Commissioner Bit-Badal.

>> Commissioner Bit-Badal: I absolutely agree that we need to come back at a reasonable time so the city council can also make its decision. Again I still support the original motion that Commissioner Abelite had put forward without the amendment that he later on added. He notices he didn't get a second. Thank you.

>> Commissioner Jensen: Commissioner Bit-Badal you were the seconder of his motion. So if you're not supporting the amendment that he made, then it is not part of the motion.

>> Commissioner Bit-Badal: Yes we just communicated that, I did not support that.

>> Commissioner Jensen: So that is not part of the motion.

>> Commissioner Bit-Badal: No.

>> Commissioner Jensen: Commissioner Kline.

>> Commissioner Kline: Then I think the original substitute motion still exists is that correct?

>> Commissioner Jensen: The original substitute motion still exists.

>> Commissioner Kline: I'll support that motion and call for a vote.

>> Commissioner Jensen: To technically call for a vote --

>> Commissioner Kline: It's a joke.

>> Commissioner Jensen: It's a joke thank you. Commissioner Abelite.

>> Commissioner Abelite: In light of what I've learned I'd like to retract the amendment or my amendment asking staff to create --

>> Commissioner Jensen: It wasn't seconded so you don't have to retract that.

>> Commissioner Abelite: I'd like to amend my motion to go ahead and reagendaize this for July 27, with the provision that we have a study session beforehand. I'd like to see title -- I'd like to have a presentation of title 6 before me and I also like in the study session to have some of the industry leadership present so that we can have a -- articulate good ideas and exchanges at that study session.

>> Commissioner Jensen: So a study session on either the 13th or the 27th and I assume you'd like to have PD there because you had indicated you wanted to hear from our police department as well.

>> Commissioner Abelite: I want to hear about -- I want to hear whoever has jurisdiction over title 6. I don't really fully understand what that is. It may be City Manager's office it may be police, I don't know who it is. But I'd like to have the people responsible for title 6 teach us about that.

>> Commissioner Jensen: Does the seconder approve that?

>> Commissioner Bit-Badal: Actually I wanted to see about the study session.

>> Laurel Prevetti: We do study sessions for informational reasons. So we're entering a gray area, because you are actually going to be creating a recommendation on legislation that may or may not affect title 20 so we can -- we could certainly agendaize a portion of your regular meeting on the 13th, or the 27th, to have a presentation on title 6, have additional staff resources from other appropriate departments, so you can engage in a dialogue. But it would need to be in a place of a part of your regular business. Because there are a lot of other stakeholders, and

again, this is directly affecting the recommendation, or could potentially directly affect the recommendation to the city council. So a study session -- it would have to be a different type of study session, in -- more in this kind of forum.

>> Commissioner Jensen: Would you like to amend your amendment Commissioner Abelite?

>> Commissioner Abelite: I sure would, I will go ahead and retract or remove the component of study session and in place substitute the July 13th meeting --

>> Commissioner Jensen: Agendize for information, discussion. Okay. Would the seconder of the motion like to second that?

>> Commissioner Bit-Badal: Yes.

>> Commissioner Jensen: That's been moved and seconded. Commissioner Cahan.

>> Commissioner Cahan: Thank you, Madam Chair. What would we need to do to get the presentation of title 6 and additional information incorporated? Would we need to make an amendment to this motion or would that just be discussion for what we want to have on the agenda for that meeting?

>> Laurel Prevetti: It's already in the motion that's before you.

>> Commissioner Jensen: It's in the motion. To have a presentation at the July 13th meeting to --

>> Commissioner Cahan: I didn't hear that. Okay.

>> Commissioner Jensen: Okay. We all good? Okay. All right. I will be supporting that motion because it is within the time frame, the 60 days where we have an opportunity to make a decision. I would encourage the

commission to, as Commissioner Abelite says, do a lot of homework so that on the 27th we are in a position to provides comment on the ordinance that is in front of us. Which is what we have been asked to do. May we vote by light? And that motion passes with Commissioner Platten voting -- opposed. Thank you very much and I assume Commissioner Kamkar that your motion is -- excellent.

>> Commissioner Kamkar: I will retract that motion.

>> Commissioner Jensen: Thank you. 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 or 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 no speaker cards, we will move on. Referrals from City Council, boards, commissions or other agencies.

>> Laurel Prevetti: There are no referrals at this time.

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

>> Laurel Prevetti: I just wanted to report that the city council has adopted a budget. They added additional resources for us to complete the sign code, modifications. I know the sign code doesn't typically come to the Planning Commission but it does reflect the council's interest in moving forwards with ordinances. Also I wanted to point out that the city council did approve the conditional use permit for the mi pueblo grocery store. As you recall, that was a mandatory denial, and they really reinforced the appropriateness of alcohol sales associated with full service grocery stores. So that was just last evening. And that concludes staff's report.

>> Commissioner Jensen: Thank you. Commissioners' report from committees. Norman Y. Mineta San José international airport noise advisory committee. Commissioner Cahan.

>> Commissioner Cahan: They have not met.

>> Commissioner Jensen: Thank you. Envision San José 2040 general plan update process. Commissioner Kamkar.

>> Commissioner Kamkar: We haven't had any meeting. I believe our next meeting is in August.

>> Commissioner Jensen: Thank you. Review and approve the synopsis from 6-8-11. There is a motion and second. All those in favor? And that passes unanimously. Commissioner Platten is abstaining. So that is a 6-0-1 vote, thank you. Commissioner Platten. Subcommittee formation reports and outstanding business. Hearing none, moving on. Counsel.

>> I was going to note that during the hearing on mi pueblo I believe councilmember constant said that reminds me, when are we going to change this darned process? So hopefully that's indicating that that remains a top priority of council, to get rid of those mandatory denials which are seen as a waste of time and one more ordinance that I guess is nonsensical. So we'll be trying to revise of revise that process.

>> Commissioner Jensen: Thank you counsel. Commission calendar and study session. There is an item on here to add a study session on September 28, 2011 regarding demographic and economic trends. I assume that's the one with Kim Walesh?

>> Laurel Prevetti: That's correct.

>> Commissioner Jensen: And I believe that we have now a request for an addition. Not a study session, I'm sorry I almost made a mistake. There is a discussion session coming up at our next meeting. And are there any other recommendations, director?

>> Laurel Prevetti: Yes, thank you. We have now released the general plan update, environmental impact report. All of you should have received notification, e-mail links. Those of you who requested hard copies should have received those. As a result we would like to set the general plan hearing for the Planning Commission, also for September 28th, at which time you will be making a recommendation both on the environmental impact report as well as the plan itself.

>> Commissioner Kline: I did not get an e-mail on that.

>> Laurel Prevetti: You did not? We'll make sure -- an e-mail link for the full environmental impact report. We had requested and in that e-mail we asked if anybody wanted the hard copy. Okay so Commissioner Platten got it, and we'll get it to you as well. (inaudible).

>> Commissioner Jensen: Microphones, gentlemen. Thank you.

>> Laurel Prevetti: So we have another request for a hard copy by Commissioner Abelite.

>> Commissioner Jensen: And Commissioner Bit-Badal.

>> Laurel Prevetti: It is an almost 900 page document. As the certifying agency any other hard copies?

>> Commissioner Jensen: Thank you. Commissioner Kamkar.

>> Commissioner Kamkar: Just want to commend our outgoing madam chairman, you've done a wonderful job, and thank you for your leadership.

>> Commissioner Jensen: Thank you very much, Commissioner Kamkar. With that we are adjourned. Thank you very much. [10:00 p.m..]