
APPENDIX A

PLANNING COMMISSION TRANSCRIPT

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CITY OF BERKELEY
PLANNING COMMISSION

CERTIFIED TRANSCRIPT

REPORTER'S TRANSCRIPTION OF VIDEOTAPED MEETING
REGULAR MEETING OF THE PLANNING COMMISSION

WEDNESDAY, NOVEMBER 6, 2024

6:00 PM

North Berkeley Senior Center
1901 Hearst Avenue
Berkeley, California

AUDIO LENGTH

(02:30:38 HOURS)

Transcribed by: IRENE NAKAMURA, RPR, CLR
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A P P E A R A N C E S

MERKER, BLAINE,
appointed by Councilmember Kesarwani, District 1

VINCENT, JEFF, CHAIR,
appointed by Councilmember Taplin, District 2

MOORE III, JOHN E. "CHIP",
appointed by Councilmember Bartlett, District 3

OATFIELD, CHRISTINA,
appointed by Councilmember Harrison, District 4

MIKITEN, ELISA,
appointed by Councilmember Hahn, District 5

MARTHINSEN, EMILY,
appointed by Councilmember Wengraf, District 6

TWU, ALFRED,
appointed by Councilmember Robinson, District 7

HAUSER, SAVLAN,
appointed by Councilmember Droste, District 8

GHOSH, BARNALI, VICE CHAIR,
appointed by Mayor Arreguín

ALSO PRESENT:

ASHLEY JAMES -- Senior planner in the land use
division

CLAUDIA GARCIA -- presenter of the draft EIR which
analyzes proposed zoning West Berkeley and General
Plan Amendments as part of the Pacific Steel Casting
Referral from the City council, Gilman Gateway
Project

ANNE HERSCH -- Planning manager

FLORENTINA CRACIUN -- Leader of the consultant LSA
team

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1 P R O C E E D I N G S

2 AUDIO (02:30:38 HOURS)

3 START TIME: 18:00:03

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5

6 MR. VINCENT: Okay. Justin, I'm going to
7 go ahead and get started.

8 MR. HORNER: Okay.

9 CHAIR VINCENT: 6:01. Okay. Welcome to
10 the November 6th, 2024 regular meeting of the City of
11 Berkeley's Planning Commission. Let's get right into
12 it. Item 1, roll call, please.

13 MR. HORNER: Roll call. Commissioner
14 Merker?

15 COMMISSIONER MERKER: Here.

16 MR. HORNER: Chair Vincent.

17 CHAIR VINCENT: Here.

18 MR. HORNER: Commissioner Moore?

19 COMMISSIONER MOORE: Here.

20 MR. HORNER: Commissioner Ching?

21 COMMISSIONER CHING: Here.

22 MR. HORNER: Commissioner Mikiten?

23 COMMISSIONER MIKITEN: Here.

24 MR. HORNER: Commissioner Marthinsen?

25 COMMISSIONER MARTHINSEN: (No audible

1 response.)

2 MR. HORNER: Commissioner Twu?

3 COMMISSIONER TWU: Here.

4 MR. HORNER: Commissioner Hauser?

5 COMMISSIONER HAUSER: Here.

6 MR. HORNER: Vice Chair Ghosh?

7 VICE CHAIR GHOSH: Here.

8 MR. HORNER: (Inaudible).

9 CHAIR VINCENT: Great. Thank you.

10 Okay. Item 2 is the land
11 acknowledgement. And I'll go ahead and read the land
12 acknowledgement out loud like we customarily do.

13 The City of Berkeley recognizes that the
14 community we live in was built on the territory of
15 the Huchiun, the ancestral and unceded land of the
16 Chochenyo, speaking Ohlone people, the ancestors and
17 descendants of the sovereign Verona Band of Alameda
18 County. This land was and continues to be of great
19 importance to all the Ohlone Tribes and descendants
20 of the Verona Band.

21 As we begin our meetings tonight, we
22 acknowledge and honor the original inhabitants of
23 Berkeley, the documented 5,000-year history of a
24 vibrant community at the West Berkeley Shellmound and
25 the Ohlone people who continue to ride -- reside in

1 the East Bay.

2 We recognize that Berkeley's residents
3 have and continue to benefit from the use and
4 occupation of this unceded stolen land since the
5 City of Berkeley's incorporation in 1878.

6 As stewards of the laws regulating the
7 City of Berkeley, is not only vital that we recognize
8 the history of this land, but also recognize that the
9 Ohlone people are present members of Berkeley and
10 other East Bay communities today.

11 The City of Berkeley will continue to
12 build relationships with the Lisjan Tribe and to
13 create meaningful actions that uphold the intention
14 of this land acknowledgement.

15 Any other announcements related to that?

16 VICE CHAIR GHOSH: Not today.

17 CHAIR VINCENT: Okay. Item 3, order of
18 the agenda.

19 I just want to make -- we're not changing
20 the order of the agenda. I just want to make a
21 clarifying comment about Item 10. If you notice on
22 -- this is the Gilman Gateway Rezone Project. If you
23 know there's -- notice there's kind of A and B, both
24 as recommendations.

25 Staff is going -- the way it's going to

1 work procedurally is staff will do presentation on
2 all of that content, both the rezone and general plan
3 work and the EIR work, then we will have clarifying
4 questions or technical questions from commissioners.
5 Then we will open it up -- open the public hearing up
6 for public comment.

7 And after all the public comment, then
8 we'll close that -- the public hearing, and then
9 we'll have a discussion amongst commissioners, and
10 then, presumably, we will take action on the action
11 piece of that.

12 Did I get that right, Staff?

13 Okay.

14 Item 4, public comment. So this is an
15 opportunity -- first, thank you for being here on
16 what is an intense historic day for many of us.

17 This is an opportunity for anyone to
18 speak or make a comment to the planning commission on
19 an item that's not on the agenda.

20 Would anyone like to make a comment today
21 on an item that's not on the agenda?

22 (No audible response.)

23 Okay. Seeing none, I will move forward.

24 Item 5, planning staff report.

25 MR. HORNER: Great. Hi, Justin Horner,

1 planning department staff. Want to make a few quick
2 announcements.

3 First, what to anticipate on your
4 December planning commission agenda. We'll have a
5 discussion item on the San Pablo specific plan
6 update, and we'll have an action item on our
7 affordable housing requirements. The discussion of
8 the fees for affordable housing.

9 As far as upcoming events, there is a San
10 Pablo walking tour that's being done as part of the
11 San Pablo Pacific Plan outreach. Will happen on
12 Saturday, November 16th from 12:30 -- from 10:30 to
13 12:00. And we can register for the event on the City
14 website. And the walk is about 1.25 miles. And
15 there'll be discussion of grounds-floor uses,
16 development standards, public spaces, and other
17 things that are being considered as far as specific
18 plan.

19 Last little report are items that you
20 have considered that are scheduled to go to the City
21 Council.

22 On November 19th, the development
23 agreement procedures that you discussed at your
24 September meeting will be going before the council.

25 And on December 3rd, the keeping

1 innovation in Berkeley zoning changes that you
2 discussed at your July meeting are scheduled to
3 before the City Council. (Inaudible).

4 CHAIR VINCENT: Okay. Thank you.

5 Could you resay again what the date and
6 time of the walking tour is?

7 MR. HORNER: It is Saturday,
8 November 16th. It begins at 10:30 a.m. and it runs
9 until 12:00. And there is a registration that's
10 available on the City's website. So the City's
11 website before San Pablo specific plan, and there'll
12 be a registration found there.

13 CHAIR VINCENT: Okay. Any questions on
14 any of that info?

15 Excuse me.

16 Item 6 is the chairperson's report. And
17 I did want to make a few comments about recent
18 events, if you'll indulge me here. So I wanted to
19 comment about the public process, public
20 participation in our democracy.

21 Today has been a very difficult for --
22 day for me personally. The candidate I had hoped to
23 win the US presidency did not win. The candidate
24 that did win, in my opinion, has repeatedly
25 demonstrated that he isn't interested in upholding

1 democracy as we know it. We shall see, but this is
2 deeply troubling to me.

3 But let me bring it to Berkeley.

4 Much of our democracy happens locally,
5 like right here in these meetings, like this, the
6 work of discussing, debating, making sure many voices
7 are heard, no matter how large or small the action or
8 decision may be. That process, that engagement is
9 the heart of our democracy.

10 And just as my opinion is the democracy
11 may be threatened at the national level, it's also
12 been threatened at the local level here in Berkeley.
13 Our own City Council members have been treated with
14 extreme behavior, particularly recently. Some have
15 even quit their council seat because of it.

16 And at a recent public workshop meeting
17 on the middle housing ordinance, someone in the
18 audience came to the front and physically assaulted a
19 council member. There was a police report filed.
20 I'm sure you've seen the news, and if you haven't,
21 there's a story in Berkeley site about it.

22 I was right there in the front, and I saw
23 it with my own eyes. I was in disbelief.

24 That kind of behavior at public meetings
25 in Berkeley is unacceptable, and it sabotages

1 democracy. We must be able to discuss, debate, share
2 ideas and disagree civilly. So, I'm thankful that we
3 have had none of that behavior here at Planning
4 Commission.

5 And we have had the middle housing
6 ordinance agendized and discussed at the Planning
7 Commission four different occasions by my count.

8 And my recollection is that on -- not
9 very many members of the public attended those
10 meetings or submitted comments to us. I don't have
11 the numbers in front of me, but I was actually
12 surprised how few there were each time.

13 So make no mistake, there has been a lot
14 of democratic process on that topic in the City of
15 Berkeley. It doesn't mean it's over. There has been
16 and continues to be many ways for Berkelians to make
17 their voice heard to elected officials, staff, or
18 volunteer commissioners like us. And so you need to
19 do it.

20 Just because the outcome of a decision is
21 not what any one of us would've wanted, it does not
22 mean that the process to arrive at that decision is
23 wrong. We must respect and participate in the
24 process of democracy, whether it's nationally or
25 locally.

1 And we must each seek to be informed and
2 not driven by misinformation on an issue that we know
3 -- on an issue that we know that misinformation is
4 out there to rile people up and cause actions like
5 what happened at the workshop on middle housing the
6 other night. Because I heard it from people sitting
7 next to me, talking about things substantively that
8 are not in the middle housing ordinance.

9 I've read the middle housing ordinance
10 many times as we all have, and I heard people talking
11 about things that the middle housing ordinance was
12 supposedly going to do that are not in the middle
13 housing ordinance.

14 So it is the responsibility of all of us
15 to be informed participants, engaged participants,
16 and civil participants in the process.

17 In that sense, democracy, in my opinion,
18 is a verb. And I thank you all for participating in
19 it, and I thank you all for being here tonight.

20 And I look forward to a great discussion
21 about a really interesting project in West Berkeley.
22 Thank you.

23 MS. GARCIA: Would you like public
24 comment (Inaudible)?

25 CHAIR VINCENT: No, actually.

1 MS. GARCIA: Oh, we're done with this?

2 CHAIR VINCENT: Yes.

3 MS. GARCIA: Okay, then.

4 CHAIR VINCENT: Item 7, committee

5 reports.

6 Do we have any committees to report?

7 No.

8 Item 8, approval of minutes.

9 COMMISSIONER MIKITEN: Motion approval.

10 COMMISSIONER TWU: I'll Second.

11 CHAIR VINCENT: We have a motion and a

12 second.

13 Any comments substantively on anything in

14 it?

15 (No audible response.)

16 Nope. Okay.

17 MR. HORNER: All right. Calling the

18 vote.

19 Commissioner Merker?

20 COMMISSIONER MERKER: Abstain.

21 MR. HORNER: Chair Vincent?

22 CHAIR VINCENT: Yes.

23 MR. HORNER: Commissioner Moore?

24 COMMISSIONER MOORE: Yes.

25 MR. HORNER: Commissioner Oakfield?

1 Sorry. Commissioner Ching?

2 COMMISSIONER CHING: Abstain.

3 MR. HORNER: Commissioner Mikiten?

4 COMMISSIONER MIKITEN: Yes.

5 MR. HORNER: Commissioner Twu?

6 COMMISSIONER TWU: Yes.

7 MR. HORNER: Vice Chair Ghosh?

8 VICE CHAIR GHOSH: Yes.

9 MR. HORNER: Commissioner Hauser?

10 COMMISSIONER HAUSER: Yes.

11 MR. HORNER: Commissioner Marthinsen?

12 COMMISSIONER MARTHINSEN: Yes.

13 MR. HORNER: That's everyone.

14 CHAIR VINCENT: Great. It passes.

15 Okay. Item 9, future agenda items and

16 other planet -- planning-related events. You kind of

17 have covered that, Justin, but is there anything else

18 anyone would like to add?

19 (No audible response.)

20 No. Okay.

21 I feel like I've put an intense damper on

22 this meeting, and I want to sort of acknowledge that.

23 Thank you for listening to me.

24 All right. Let's get into the meat of

25 this.

1 Item 10, the public hearing on the Gilman
2 Gateway Rezone Project. A really exciting and big
3 project in Berkeley that we have heard a couple of
4 times here.

5 So, like I said, we're going to have a
6 somewhat long and in-depth presentation from staff.

7 So -- then we'll do commissioners
8 clarifying questions or any kind of technical
9 questions. Then we'll open it up for public hearing
10 and public comment. Then we'll close the public
11 hearing, and then we'll have a discussion here.

12 And then there's one piece of it that
13 we would take action on, which is adopting the
14 resolution to provide a recommendation to council.
15 But on the EIR piece, it's just comments from -- from
16 us to staff. Is that -- that's accurate; right?

17 (No audible response.)

18 Okay. Great. Any questions from
19 commissioners on the procedure of that?

20 (No audible response.)

21 No. Okay. Staff, take it away.

22 MS. JAMES: Good evening, Chair Vincent,
23 members of the commission.

24 So, tonight we're bringing forward zoning
25 West Berkeley and General Plan Amendments as part of

1 the Pacific Steel Casting referral in the City
2 Council to the (inaudible).

3 So, dimensions tonight's meeting will
4 include two presentations, one by myself concerning
5 Plan Amendment, and one by my colleague, Claudia
6 Garcia, on the Draft EIR, followed by commission
7 question and public comment on both topics, and then
8 discussion and recommendation on the draft amendment.

9 So, first, a little background on this
10 project.

11 The site is a former Pacific Steel
12 Casting site in the far northwest corner of Berkeley,
13 along (inaudible) and interstate. The area -- the
14 industrial character is a manufacturing warehouse,
15 office, and commercial (inaudible).

16 And these proposed amendments address
17 a 2021 council referral, which can be found in
18 Attachment 2 of your packet.

19 This referral directed staff to create a
20 zoning overlay at the former Pacific Steel Casting
21 company re-designated as mixed-use-light industrial
22 or MU-LI, and override any existing constraints on
23 uses allowed in that district.

24 The site had been on the market for some
25 time as the current manufacturing building limits

1 use of heavy manufacturing, while interest from
2 development community has been for biotechnology
3 warehouse of commercial or office space.

4 Also there are environmental
5 contamination concerns, pension benefits that are due
6 to workers at the sale of the property and
7 neighborhood light and safety issues that are leading
8 to the site.

9 And so staff came to you in February and
10 March of 2023 with the goal of creating a zoning
11 districts, manufacturing, research, and development.
12 Those reports are Attachment 4.

13 This district is consistent with the
14 goals and objectives of both West Berkeley Plan and
15 the General Plan and various (inaudible) referral by
16 allowing virtually all of the pieces in the new
17 district while producing constraints on one of those
18 uses and provides an efficient permitting process to
19 expedite future development, which would, in turn,
20 address the issues of concerned site.

21 So as a refresher, this project began at
22 the end of 2022 when the staff received the zoning
23 map amendment application from the majority property
24 owner of the site, which is found in Attachment 3.

25 Staff then prepared draft zoning texts

1 and notice preparation of the Draft Environmental
2 Impact Report.

3 The Planning Commission provided comments
4 on zoning and (inaudible). Since then, staff is
5 preparing zoning and environmental amendments post
6 tonight as well as the environmental impact report,
7 which analyzes potential impacts for physical
8 environment for most (inaudible) as well as the
9 conceptual development project called Berkeley Forge,
10 that was included in the zoning map application.

11 So the next step is for staff to prepare
12 the final EIR amendments, which will be submitted to
13 council (inaudible) next year, and then development
14 project to be processed once the amendments have been
15 provided.

16 So in order to create the new
17 manufacturing, research and development district,
18 staff are proposing amendments to the zoning text map
19 as well as the West Berkeley Plan and the general
20 plan, just to add mention of the district.

21 So tonight, Planning Commission is
22 requested to provide application. So this map shows
23 where the new M-RD district is located. It's an
24 11-acre area that span two blocks, that includes the
25 former Pacific Steel Casting site, adjacent parcels

1 and founded by Gilman Street, the railroad, Hearst
2 Street, and Eastshore Highway. The zoning map of
3 this area would change manufacturing to M-RD.

4 And the next few slides get into detail
5 about the text amendments, which are found on pages 7
6 through 14 in the staff report.

7 So first, the district purposes would be
8 to support industrial and commercial uses, provide
9 high quality employments, add significantly to the
10 tax base.

11 So we usually encouraged here our
12 industrial R&D as well as office and laboratories
13 of support and all projects would need to meet
14 performance standards for environmental protection
15 and those that improved environmental quality.

16 And since the Planning Commission meeting
17 in March of 2023, staff are proposing to add a
18 perfect statement to provide flexibility and
19 development standards for large sites, which responds
20 to changes in the economic vitality that have
21 occurred over the past two years.

22 Can you please refer to page 8 of your
23 staff reports, which provide the allowed, snapshot of
24 the allowed uses in the district.

25 The majority of the uses would match

1 those of MU-LI for council referral. And this slide
2 list of uses we're encouraging, by reducing level of
3 discretion from what's required in MU-LI. And a few
4 uses that didn't conform to the purposes of the
5 district would not be allowed.

6 All of the proposed development standards
7 are listed on page 10 of the report.

8 And overall, the standards are the same
9 as the existing manufacturing different -- districts
10 those differences on these slides.

11 So first, the maximum height is proposed
12 to be 55 feet, where it's currently 45 feet.

13 In order to provide an opportunity to be
14 consistent with the goal of the West Berkeley Plan to
15 allow for three buildings given R&D it's there.

16 However, with the permit the maximum will
17 be increased to 105 feet, I'll explain that process
18 later in the presentation.

19 And maximum coverage will be 80 percent
20 to allow the open space and amenities of Pacific
21 Steel Casting.

22 The minimum amount of off-street parking
23 required would be reduced for most nonresidential
24 uses, including R&D industrial labs to free up space
25 for productive floor area that would otherwise be

1 reserved for parking. So it's going from 2 to 1000
2 for most nonresidential uses to (inaudible).

3 The next change is to loading space
4 requirements. So staff look to use recently approved
5 R&D projects in West Berkeley and neighboring cities
6 that have R&D specific loading requirements. And
7 we're proposing amendments only to R&Ds to better
8 support the needs of those buildings.

9 So currently, a loading space is required
10 in a building of at least 10,000 square feet in size.

11 And so for this example, currently
12 100,000 square foot of building required for loading
13 spaces, and the amendments are proposing the same
14 building size.

15 And so it again aligns with what's
16 required with the cities and (inaudible) zoning
17 (inaudible) suburban (inaudible).

18 These development standards which are
19 required are area ratio set parking same (inaudible).

20 So moving on to proposed, permit
21 requirements to build an addition or a new building.
22 The M-RD would be much permissive in the MU-LI
23 (inaudible) respect in order to encourage more campus
24 environment and provide flexibility for businesses to
25 adapt to changing building needs over time.

1 So, for example, in the MU-LI district, a
2 discretionary permit is needed for any addition or
3 new building of 10,000 square feet in size or more,
4 and the proposal increase that threshold to 60,000.

5 Also the threshold for which a use permit
6 with a public hearing required, we increased from
7 20,000 to 100,000 square feet. And again, these
8 thresholds are meant to provide more constant process
9 and encouraging flexibility (inaudible).

10 So this is a new section that I'll
11 describe in detail called modifications to develop
12 standards on large sites.

13 So right now, properties that are within
14 the last Berkeley clean area can receive a permit to
15 modify development standard. They need certain
16 eligibility criteria.

17 And so this proposal is a permit process
18 that would be applicable only in this district and
19 only on sites that are at least nine acres to
20 facilitate development with amenities and also to
21 address the environmental contamination and what
22 issues that are specific to.

23 So typically, projects that would
24 redevelop a site size utilize a development agreement
25 to achieve flexibility.

1 In this section would be included in the
2 zoning district regulations to help streamline the
3 process. And so this section would provide a path
4 for developer to leverage the floor area ratio and
5 lot coverage requirements only across all parcels
6 within a project.

7 So while the standard we need to meet
8 that project wide, the standard on any single parcel
9 will increase by up to 20 percent. Again, as long as
10 it meets the standard on a project basis.

11 Also, the maximum height would be
12 increased 105 feet to create visual interest and
13 allow open space (inaudible) in the area.

14 The applicant would need to submit
15 (inaudible) plan and development person demonstrating
16 how the changes can maximize amenities.

17 Under that, they'll be required to
18 findings demonstrating that those changes planning
19 (inaudible) within a reasonable time period in all
20 required in construction and analysis, and all other
21 agencies further findings will still apply. This
22 will not be different, in addition to not replacing a
23 current (inaudible).

24 With that could also add reasonable
25 conditions of approval to ensure that the findings

1 can be made and required (inaudible) to the extent of
2 the zoning changes.

3 And in order to add this new district to
4 the municipal code, the West Berkeley Plan would need
5 to be amended to describe the new district and update
6 the land use *staff that no other changes are
7 proposed.

8 So the general plans and text and methods
9 that we made to the current manufacturing land
10 designations of the district, but no other changes
11 are proposed to that one.

12 So to recap, we're proposing amendments
13 to create this new district in response to council
14 referral which requires (inaudible) ordinance
15 (inaudible) and agenda.

16 And so the next steps after our next
17 presentation will be discussed and provided by
18 (inaudible).

19 MS. GARCIA: (Inaudible) My name is
20 Claudia Garcia, and I'll be (inaudible) before. I
21 will respond with my voice.

22 CHAIR VINCENT: Thank you.

23 MS. GARCIA: And so introductions, as
24 I noted, the City of Berkeley team for the
25 environmental impact report, Ashley James and Amy

1 Pearson with us tonight. Also we have our
2 environments consultant, LSA in the audience if we
3 need to ask questions of -- from the commission to
4 ask questions on (inaudible) inspection and
5 (inaudible).

6 Here is a brief summary of my
7 presentation. I'll start off by summary --
8 summarizing the environmental review process to date,
9 providing overview of the environmental impact
10 report, discuss alternatives considered, and remind
11 the permission of the audience had a comment on the
12 environmental analysis of the EIR and identify the
13 steps.

14 To start off, CEQA is a public
15 information statute. So, the overall purpose of the
16 environmental block process under CEQA is to provide
17 members of the public and decision makers with the
18 information about potential impacts that may result
19 from project implementation, and also to identify
20 feasible mitigation and project alternatives that
21 could reduce those environmental impacts.

22 Accordingly, the environmental review
23 process is solely focused on evaluating the project
24 to identify potential environmental impacts to the
25 environment. The decision-making body in this City

1 council will consider the EIR analysis contained
2 therein before making the decision on reports
3 project.

4 So, we initiated -- the City initiated
5 the process in December of '22, 2022 by releasing the
6 notice of preparation. Based on the council
7 referral, it was determined that an EIR was required
8 given the level of onsite contamination and potential
9 impacts associated with demolition of existing
10 structures and construction of a future project.

11 We first brought the Project Planning
12 Commission in February, 2023 to conduct the scoping
13 (phonetic) meeting and solicit feedback from members
14 of the public and the commission on the scope and
15 context of EIR.

16 During this scoping session, commenters
17 expressed concerns regarding archeological resources,
18 tribal cultural resources, water supply, and
19 conservation, waste water capacity and utilities, and
20 contaminated soils.

21 We worked with our consultant LSA to
22 ensure that all of these issues, in addition to the
23 required topic areas under CEQA were evaluated
24 thoroughly in the EIR.

25 Now the analysis is complete and the EIR

1 is available for a 45 public review period -- 45-day
2 public review period.

3 The bold diamonds on the graphic there
4 represent where we are in the process. Tonight's --
5 the purpose of tonight's meeting is to briefly
6 discuss the EIR, disclose those environmental impacts
7 we identify, solicit comment on the analysis of the
8 EIR so that -- well, we can -- oh, yes.

9 And just a reminder not to focus on the
10 project merits.

11 So, overview of the environmental impact
12 report.

13 Quick reminder that when determining to
14 prepare an EIR, the City must identify the
15 appropriate documents.

16 Program EIR is required when we're
17 evaluating the issuance of regulations that govern
18 the conduct of a specific program, for example,
19 implementing a new zoning district. A project EIR is
20 a required when we're evaluating impact of a specific
21 development project.

22 Here we have EIR that serves both
23 purposes.

24 We have the program EIR that evaluates
25 the proposed free zoning of the -- of the 11.54 acre

1 site, and it could result in upwards of a million
2 square feet of mix -- a mix of light manufacturing,
3 research and development laboratory and office
4 pieces. So people requires that we evaluate what the
5 foreseeable impacts of implementing that zoning
6 district would be.

7 In this case, we needed to assume that
8 the entirety of this site would be demolished, and
9 that would include the building located at
10 1306 Spring Street, which is meet through criteria
11 for listing the California Register of the source
12 resources.

13 In addition to that, the City received
14 information that -- about a foreseeable project
15 wanting to implement the zoning, and once it was
16 decided on by the City council. This conceptual
17 development project is evaluated at project level in
18 the EIR, and it could result in the demolition of
19 infrastructures on a 10.26 acre site. This does not
20 include the building at 1306 Third Street, the
21 property at 600 (inaudible) Street, or the property
22 at 1433 Eastshore Highway.

23 As noted earlier, it will require that we
24 evaluate the specific topic areas in the (inaudible).
25 They are listed here. There are a total of 20. And

1 each topic area is specific questions that are
2 required to be considered.

3 For the sake of brevity, because the
4 required document is over 500 pages or exactly 500
5 pages, we wanted to limit the discussion today on the
6 impacts that were identified to be significant and
7 unavoidable.

8 Here the topics that are bolded in black
9 were found to result in either no impact, less than
10 significant impact, or would be reduced to a less
11 than significant impact implementation of condition
12 measures of compliance with (inaudible; paper
13 crumpling interference) specific criteria under air
14 quality, cultural resources, and greenhouse gas
15 emissions were found to be significant and
16 unavoidable.

17 Regarding cultural resources, as I noted
18 earlier, implementation of the zoning district
19 required us to assume that the building at 1306 Third
20 Street would be demolished. This would result in the
21 loss of a historic resource.

22 Mitigation measure of cultural Code 1
23 would require documentation of that historic resource
24 in coordination with our cultural resources staff.
25 However, that would not reduce the impact to less

1 than significant level; it remains significant and
2 unavoidable.

3 As a reminder, the City is not proposing
4 to demolish the building, nor does it have an
5 application that is proposing to demolish the
6 building.

7 Regarding air quality, depending on the
8 type of facility that is proposed by a future project
9 on the site, it is reasonable to assume the operation
10 of that facility will result in the release of toxic
11 air contaminants that may exceed thresholds
12 established by the air quality by Bay Area Air
13 Quality Management District.

14 For this reason, because we don't know
15 the exact nature of the future project, they included
16 recommendation that could potentially reduce that
17 impact, we cannot considerably assume that it would
18 be reduced to less than significant levels, and the
19 impact would be significant and unavoidable.

20 Regarding greenhouse gas emissions, has a
21 future use may be oratory is feasible for us to
22 assume that they may want natural gas on site. As
23 you may know, the City of Berkeley can no longer
24 enforce the ban on natural gas and implementation of
25 natural gas infrastructure would go against

1 requirements by -- set by Bay Area Air Quality
2 Management District. And for this reason, the impact
3 would be significant and unavoidable.

4 So now moving on to significant impacts
5 related to the conceptual development project.

6 Similar to the proposed rezoning, most of
7 the -- of the topic areas evaluated will result to
8 either no impact, less than significant impact, or
9 would be reduced to less than significant impact with
10 mitigation and compliance emission of approval.

11 In this case, the conceptual development
12 project will result in significant (inaudible)
13 impacts related to air quality and greenhouse gas
14 emission. As a reminder, it is not proposing to
15 demolish the building at 1306 Third Street, and for
16 that reason, that impact is not applied here.

17 Regarding air quality, because we are
18 assuming that the building at 1306 Third Street would
19 remain, currently, there are four dwelling units
20 onsite, and those individuals residing at that
21 building are considered sensitive receptors.

22 Based on the information that has been
23 received, we assume that the conceptual development
24 project would be constructed nonstop for a period of
25 seven years. That would result in construction

1 emissions that would exceed the cancer risk
2 established by state.

3 And so for that reason, it could result
4 in a significant and unavoidable impact.

5 However, based on the information that
6 the City may receive in the future of -- with more
7 information on the level of construction, the time, I
8 will say it would take, there is an opportunity for
9 us to determine whether that future project would
10 exceed those emissions or not.

11 In the meantime, we did include a
12 mitigation measure that would require the future
13 project proponent to offer relocation assistance to
14 the individuals residing in those zone units for the
15 entirety of the construction period.

16 Similar to the proposed rezoning project,
17 it could be feasible that a future project would
18 include natural gas and for that same reason, the
19 impact will be significant and unavoidable.

20 Separately, as required by CEQA, the City
21 conducted tribal consultation. And during the
22 consultation process, we agreed on proposed
23 mitigation measures and revisions to our conditions
24 of approval as requested by the Confederated Villages
25 of Lisjan Nation.

1 However, they also suggested this
2 mitigation language, requiring the City to enter into
3 consultation should a future project require an
4 addendum instead of specific initial study or
5 environmental impact report.

6 This request is outside the boundaries
7 required by the state under AB15, AB52.

8 So therefore, we do not include it, but
9 we promise to share it with you as a decision-making
10 body to request your feedback.

11 Project alternatives considered.

12 CEQA requires an EIR also describe a
13 reasonable range of alternatives to the project in
14 order to reduce useful impacts.

15 In this case, we considered three
16 alternatives. The required no action alternative,
17 which assumed that no construction would occur
18 onsite; the buildings would remain as is, and nothing
19 would be demolished or constructed.

20 The general plan compliant alternative is
21 in a version of the no-project alternative that
22 assumes that the re-zoning would not be adopted, and
23 the site could be developed under the existing zoning
24 search.

25 The reduced development alternative

1 assumes that the project would be limited to the
2 Pacific Steel Casting site, which includes nine
3 parcels, totaling about 350,000 acres.

4 This alternative would require 100-foot
5 buffer between the future project and the existing
6 resident at 1306 Third Street in an effort to reduce
7 air quality impacts.

8 Oh, sorry, square feet, not acres. Thank
9 you.

10 Accordingly, this alternative would
11 reduce impact related to air quality, energy,
12 greenhouse gas emissions, and noise. But it would
13 not avoid -- and it would also avoid the significant
14 and unavoidable impact (inaudible).

15 Next steps. So tonight, as a reminder,
16 we're here to listen to your comments on the content
17 of the EIR.

18 You can submit comments tonight verbally
19 or written comments to Ashley by a deadline, 5:00
20 p.m., Thursday, December 5th. Her contact
21 information is on the screen. It's also included in
22 the packet.

23 Once we receive all of the comments,
24 we'll work with our consultants, LSA, to prepare
25 final EIR that includes responses to each comment.

1 So we're not responding to comments tonight. We can
2 respond to questions if there are any from the
3 commission, but it's supposed to be a listening
4 exercise. And so we will prepare a formal response
5 to all the comments received.

6 MS. JAMES: All right. Thank you,
7 Claudia. A lot of information at you at once. And
8 so that concludes our presentation. So we're
9 available to answer any questions from the commission
10 to make sure to the (inaudible) public hearing to
11 discuss.

12 CHAIR VINCENT: Okay. Great. Thank you
13 very much.

14 So why don't we do questions right now,
15 and you can, of course, ask questions when we come
16 back to discussion.

17 But before we move to public hearing, why
18 don't we ask any questions. I'm going to just go
19 down the road. I'm going to start down that end with
20 Commissioner Moore.

21 COMMISSIONER MOORE: Sounds good. Great
22 work, everyone. I really appreciate the time,
23 energy, and effort that's been put in to both of
24 these reports. But right now, I have no questions.

25 CHAIR VINCENT: Good.

1 COMMISSIONER MARTHINSEN: I have no
2 questions, but I want to second. Those were really
3 very impressive presentations and the description of
4 the environmental process was just truly outstanding.
5 And I've listened to them for years and made them
6 myself, and I think that might be the best one I've
7 ever worked.

8 COMMISSIONER HAUSER: Fantastic. Those
9 were really great compliments. I can't -- I -- yeah,
10 I look forward to learning more.

11 I'm -- well, I just -- I do have one
12 question. I feel like I should know this.

13 If -- at what point, you know, how solid
14 in -- does a development proposal have to -- you
15 know, how is this being felt in tandem with the --
16 you know, overall development project that may be
17 there someday?

18 MS. GARCIA: Major development project?

19 COMMISSIONER HAUSER: Yeah. Yeah.

20 MS. GARCIA: Well, we received
21 information from an interested applicant about the
22 conceptual development project, but we don't have a
23 use permit application. We don't know if it's still
24 -- if a future project may be similar to what we
25 evaluated. It's uncertain. But because we received

1 the information, we were required to evaluate it as a
2 foreseeable project.

3 COMMISSIONER HAUSER: Okay. Thanks.

4 MS. GARCIA: Yeah.

5 COMMISSIONER MIKITEN: What's the size of
6 the site at 1306 Third Street in feet, if you know
7 it?

8 MS. GARCIA: Oh, it's (inaudible).

9 COMMISSIONER MIKITEN: And while
10 somebody's looking that up. And I didn't quite catch
11 the part about the conditions of approval that you
12 discussed with the Lisjan Tribes.

13 MS. GARCIA: Sure.

14 COMMISSIONER MIKITEN: Did -- what types
15 of things are they? And can you apply them in a
16 zoning certificate situation?

17 MS. GARCIA: Sure.

18 The standard conditions of approval that
19 we typically require discretionary projects to comply
20 with are related to unknown findings of archeological
21 resources during construction. Notifying a tribal
22 representative should a potential resource be
23 discovered and condition of approval related to the
24 finding of human remains that are not interned in the
25 formal cemetery. They would not apply to a zoning

1 certificate.

2 COMMISSIONER HAUSER: 6,200 square feet.

3 MS. GARCIA: Yeah, 6,651 lot size and
4 7,524 building size.

5 COMMISSIONER HAUSER: I may have counted
6 it wrong.

7 MS. GARCIA: Slightly different.

8 COMMISSIONER MIKITEN: So, the square
9 footage was 6,651?

10 MS. GARCIA: Yeah, the lot size.

11 COMMISSIONER MIKITEN: Okay. And what
12 were the conditions that the tribe asked to be
13 consulted on? It's -- you said if there was a new
14 EIR and you said one other thing.

15 MS. GARCIA: Oh, the suggested mitigation
16 language that we did not include in the EIR is on
17 your screen.

18 COMMISSIONER MIKITEN: 46. Thanks.

19 MS. GARCIA: They requested that should a
20 future project fall within the analysis of what we
21 evaluated in the EIR and just required, for example,
22 an addendum which is not required to comply with
23 AB 52, nor is it required to be circulated, nor is it
24 required to be provided to decision-making bodies.
25 Basically, it's a document stating that this project

1 is consistent with the previous analysis in this EIR.

2 They still wanted to engage in
3 consultation with the study. That's more of a policy
4 decision, and that's not something that we were able
5 to --

6 COMMISSIONER MIKITEN: And here is a
7 confession. I usually read everything, including
8 those binders. We got this Friday, and I've been
9 phone banking Georgia, and today was a shit-show, so
10 I haven't read it.

11 Did you look at shorebird migration,
12 glass collisions, other impacts on wildlife in your
13 EIR?

14 MS. GARCIA: Our biological resources
15 report did evaluate potential impacts to shorebirds
16 and then also potential boosting bats in abandoned
17 buildings.

18 COMMISSIONER MIKITEN: And did you
19 include any standard conditions?

20 MS. GARCIA: We included mitigation
21 measures, and they -- impacts were all reduced to a
22 less than a significant level.

23 COMMISSIONER MIKITEN: But you can't
24 apply those to a zoning certificate project?

25 MS. GARCIA: Correct.

1 COMMISSIONER MIKITEN: Thank you.

2 CHAIR VINCENT: Okay. Commissioner

3 Mikiten, are you done?

4 COMMISSIONER MERKER: Second the -- or
5 third or fourth, the comment that it was a great
6 presentation. Thank you.

7 Two questions: One on the tribal
8 consultation suggestion. I guess -- and this is
9 maybe for discussion, if we get there, but I wondered
10 if you did any analysis of just kind of how that
11 changes timelines of the project beyond or of a -- of
12 a potential project just sort of beyond just like a
13 30-day, like does it introduce a delay of 30 days,
14 like where the process stops, or does it -- can it
15 happen concurrently with other things?

16 Do you sort of look at the -- some of the
17 implications?

18 MS. GARCIA: For an addendum, yes. So
19 for -- typically, we're -- AB 52 does not require us
20 to enter into tribal consultation for projects that
21 are exempt from CEQA or that prepare an addendum.

22 We're only required to consult when we're
23 noticing or entering into a public discourse or like
24 under EIR or initial study, for example.

25 It would enter delays. It would delay a

1 project because when we consult with the tribal
2 consultation language is very open ended, and it
3 doesn't -- the consultation process does not end
4 until one or two things happens; we agree on the
5 mitigation language, or we don't agree and the agency
6 in City Of Berkeley decides to end consultation.

7 And so it could extend for an extended
8 period of time.

9 COMMISSIONER MERKER: That's the
10 consultation part.

11 How does the 30-day -- the 30-day comment
12 period interact with that?

13 MS. GARCIA: Yeah, it would -- it would
14 also just add one --

15 COMMISSIONER MERKER: It would just add
16 that 30?

17 MS. GARCIA: Yeah.

18 COMMISSIONER MERKER: Thank you.

19 And second question: So, the exception
20 to the -- to the design -- to the height requirement
21 for developments over 9 acres, currently, there's one
22 project under consideration that is of that size
23 within the proposed zone.

24 Could -- and this is maybe for
25 discussion, but -- so there can't be more than one of

1 those projects in the -- in the zone as shown, but
2 the condition -- but there could be under which
3 conditions if -- it would only really be if the map
4 were redrawn at some point to change the boundaries
5 of the new zoning designation?

6 MS. GARCIA: Yeah. So someone submitted
7 a map amendment to extend the district's boundaries.
8 Yeah.

9 So, the way that a developer could avail
10 themselves in that section is to submit one project
11 application that is a cohesive project of at least
12 9 acres in size. So I --

13 COMMISSIONER MERKER: So if -- so -- so
14 there's one possibility -- there's sort of within the
15 current map as drawn or as proposed, there's only one
16 project that could have avail themselves with that
17 within the current map? And --

18 MS. GARCIA: Well, the district is 11 and
19 a half acres in size.

20 COMMISSIONER MERKER: Right.

21 MS. GARCIA: So, yeah, I guess you were
22 thinking like mathematical perspective, like
23 (inaudible).

24 COMMISSIONER MERKER: Yeah. I guess what
25 I'm getting at is maybe for discussion is, what would

1 the conditions be where you would have more than one
2 of those cases ever possible?

3 MS. GARCIA: I see.

4 COMMISSIONER MERKER: And I think it's if
5 the map were redrawn and just --

6 MS. GARCIA: Yeah, exactly.

7 COMMISSIONER MERKER: Okay.

8 CHAIR VINCENT: Okay?

9 COMMISSIONER MERKER: Okay.

10 CHAIR VINCENT: Yeah, really nice. Thank
11 you so much. A lot of material.

12 I just have one question about the
13 residents. Where do they currently live on the map
14 on Figure 1?

15 MS. GARCIA: So it's the property that is
16 on the northeast corner of the entire 11.5-acre site
17 and it's on Third Street, which is technically the
18 railroad.

19 CHAIR VINCENT: Okay. So on EIR impacts,
20 did that look at any of the residence on the other
21 side of the tracks or does it not?

22 MS. GARCIA: Yes.

23 CHAIR VINCENT: It did?

24 MS. GARCIA: Yes. And so we evaluated
25 all the nearest sensitive preceptors to the site.

1 That was -- it's more apparent for the program EIR
2 portion of it because it assumes that that building
3 at 1306 would be demolished. And so we did identify
4 the other near sensitive receptors before the
5 conceptual development project sensitive (inaudible)
6 focus directly adjacent to the property.

7 CHAIR VINCENT: Okay. Vice Chair?

8 VICE CHAIR GHOSH: I guess I'm just
9 having a little bit of trouble with this conceptual
10 project versus the zoning, and it's -- I think I'm
11 trying to understand how mitigation can be part of
12 like phasing or something.

13 I feel like that's not something that's
14 in this EIR. But that might be a possibility in a
15 project EIR, like phasing off the site.

16 And is the site owned by one entity, or
17 like the overlay the boundary, or there's multiple
18 properties there; right?

19 MS. GARCIA: Can you explain your
20 question about --

21 VICE CHAIR GHOSH: Can you describe what
22 is in that boundary that has been drawn right now?
23 Who owns what part of it?

24 MS. GARCIA: (Faint; inaudible.)

25 VICE CHAIR GHOSH: Like, this project

1 seems to be applied to the entire boundary, the
2 entire overlay.

3 MS. GARCIA: Yes.

4 VICE CHAIR GHOSH: I'm trying to
5 understand what the reality is.

6 MS. GARCIA: Sure.

7 VICE CHAIR GHOSH: The -- the realistic
8 site boundaries and who owns it and -- in order to be
9 able to take the impacts that we're talking about and
10 do a realistic overlay of are they buying all the
11 property? Like, what's going on there? Yeah.

12 MS. GARCIA: So this figure, the
13 different colors and the margin there show -- so
14 there's multiple owners.

15 VICE CHAIR GHOSH: So the yellow -- are
16 the yellows different sites?

17 MS. GARCIA: That's all --

18 VICE CHAIR GHOSH: So the Pacific Steel
19 Casting is all one owner. And then what is not in
20 the yellow are different properties, other parcels it
21 says. But are there multiple parcels?

22 MS. CRACIUN: Oh. So, hi, I'm Florentina
23 at LSA. As Claudia mentioned, we've been very
24 heavily involved in this project. So there are
25 multiple parcel owners.

1 And to go back to your questions about
2 mitigation measures, the way this works is, the
3 mitigation measures would apply to anything that
4 would be built in that 11-acre area, whether it's
5 this proposed -- this conceptual development, the
6 10-acre one, or even if there's one that would come
7 that's like one acre or half an acre.

8 And, you know, CEQA allows for -- allows
9 for multiple different levels of review. So any
10 project that would want to build under the proposed
11 zoning would have to be reviewed to ensure that they
12 comply with the mitigation measures that are included
13 in the programmatic EIR.

14 So to answer your questions, yes, the
15 mitigation measures will apply to any project that
16 would want to build a in -- that 11-acre site.

17 And what we did with the mitigation
18 measures is we understood there's a different
19 magnitude of a 10-acre project versus a half-acre
20 project.

21 So what we did is we allowed applicants
22 to come in and do technical studies that are
23 particular to their application to then show us, hey,
24 actually my project is not going to emit toxic air
25 contaminants over BAAQMD levels; therefore, maybe we

1 don't need to do this menu of mitigations that we put
2 together.

3 But then a 10-acre project will come in
4 maybe, and their project-specific health impact
5 assessment would show, oh, wait, we're actually maybe
6 going to have some of contaminants above the, what?
7 The Bay Area Air Quality Management District said are
8 acceptable thresholds for human exposure.

9 So then we're going to say, well, you're
10 above those thresholds. Here's all of the things
11 that you have to do to lower your impacts.

12 So a project would have to go through,
13 what I think it is an actual very rigorous evaluation
14 of how they can fit into the mitigation measures.

15 And sometimes, it is up to the City of
16 Berkeley to say, hey, you actually may require
17 additional things, that maybe we didn't think about
18 now because we didn't know all of the details.

19 And CEQA allows for flexibility to add
20 mitigation measures to tailor mitigation measures to
21 projects depending on the site.

22 But short answer is, yes, the mitigation
23 measures included in the EIR would apply to any
24 project that would want to be built in this
25 11.058 percent.

1 VICE CHAIR GHOSH: And what is the
2 boundary of the Berkeley Forge, the theoretical
3 project that y'all have?

4 MS. CRACIUN: It's the blue -- so, sorry.
5 I can't see without my glasses.

6 VICE CHAIR GHOSH: Oh, it's the blue?

7 MS. CRACIUN: I don't know why I'm -- I
8 even trying.

9 VICE CHAIR GHOSH: So it's all of -- so
10 it's all of the Pacific Steel then?

11 MS. CRACIUN: So, yeah.

12 VICE CHAIR GHOSH: It's not.

13 MS. CRACIUN: Yeah. So all of the blue
14 -- sorry. I'm looking at the camera and the other
15 thing.

16 But the blue is all the potential
17 project. The red is the whole area.

18 So the potential development project
19 doesn't include a few key parcels. And that's the
20 1306 parcel, I think -- yes.

21 VICE CHAIR GHOSH: Mikiten. Yeah,
22 Commissioner Mikiten.

23 MS. CRACIUN: So there you go. So the
24 blue is the potential project; the red is the whole
25 parcel.

1 VICE CHAIR GHOSH: Okay. And the --
2 where did that come from? There was an -- there was
3 no application or there was --

4 MS. CRACIUN: There was a zoning map
5 amendment application.

6 VICE CHAIR GHOSH: A zoning map
7 amendment.

8 MS. CRACIUN: And so within that zoning
9 map amendment application was a concept of like, hey,
10 if you adopted these changes, this is what could be
11 developed. But it was in -- as Claudia said, without
12 a level of detail that you would expect with the
13 project. So we don't have details.

14 VICE CHAIR GHOSH: Thank you. It's been
15 a while since y'all came, so I needed a little
16 refresher for what the boundaries were. I think many
17 people might have needed that as well. So --

18 MS. GARCIA: The programmatic EIR is
19 based on the referral City --

20 VICE CHAIR GHOSH: Yeah.

21 MS. GARCIA: -- Council.

22 VICE CHAIR GHOSH: Yeah. I'm good for
23 now.

24 CHAIR VINCENT: Okay. Commissioner Twu.

25 COMMISSIONER TWU: Yes. We got a couple

1 questions on -- can we go back to the yellow map?

2 Okay. So that's the building with four
3 families in it. Are there any other uses in that
4 building Currently?

5 MS. GARCIA: For commercial uses.

6 COMMISSIONER TWU: Commercial uses.

7 Okay.

8 And then is there any active use on the
9 one on Gilman?

10 MS. GARCIA: No. It's per the last site
11 communicated budget for rental. That site was
12 closed, but it was recently acquired by a new owner,
13 I believe.

14 COMMISSIONER TWU: Okay. And then the
15 one down here on the corner?

16 MS. GARCIA: That is an active safety
17 yard.

18 COMMISSIONER TWU: Okay. Thank you.

19 CHAIR VINCENT: Yeah. Commissioner
20 Ching.

21 COMMISSIONER CHING: Thank you. I
22 appreciate your patience with me because I'm coming
23 into this thing new. So I do -- I did look at the
24 plans, and I did look at the proposed -- I forgot
25 what it's called, the non-planned that's, you know,

1 proposed.

2 So to follow up on Commissioner Ghosh's
3 question about this map, there are three parcels that
4 are considered other parcels. So those are not part
5 of this larger proposal.

6 So my understanding is that LSA is saying
7 there's multiple parcel owners, but they're all
8 coming together to -- on the next map to do this one
9 big plan; is that correct?

10 MS. GARCIA: So the -- there are multiple
11 parcel owners and then three parcels that
12 Commissioner Twu identified are not included as part
13 of the conceptual development project, but they are
14 included as part of the rezoning project. So, all of
15 those parcels would be rezoned should the City
16 Council adopt that.

17 COMMISSIONER CHING: Okay. Yeah, I
18 understand that.

19 But for all these other parcels that were
20 listed as Pacific Steel Casting and the Berkeley
21 Forge projects, these are all going to be proposed to
22 be developed as one project?

23 MS. GARCIA: Yeah, I --

24 MS. CRACIUN: Sure. Sorry.

25 MS. GARCIA: It's okay.

1 MS. CRACIUN: We know it like it's like
2 -- I sleep with the EIR under my pillow. It hurts a
3 little.

4 So most of the parcels in the blue area
5 are under one ownership. But it would be up to the
6 -- like, the project developer to buy out any parcels
7 that they would want to develop and include in their
8 proposal.

9 COMMISSIONER CHING: Okay.

10 MS. CRACIUN: But, you know, so the
11 potential project; right, is based on this
12 foreseeable future project, but we -- there's no --
13 like Claudia mentioned and Ashley in how there's no
14 publication yet.

15 COMMISSIONER CHING: Right.

16 MS. CRACIUN: So as far as, you know, we
17 just know what's on the ground, which is, yes, most
18 of it is owned by the potential project proponent,
19 but not all.

20 COMMISSIONER CHING: Okay.

21 MS. CRACIUN: But it would be up to them
22 to get that together.

23 COMMISSIONER CHING: And I think it was
24 stated that they're the majority property owner, so
25 that's what I'm going to call it.

1 So it sounds like there is one majority
2 property owner, and there are three minor property
3 owners. And everyone is going to be put under the
4 same restrictions and conditions except for what
5 Commissioner Merker, I think, said, that only
6 9 acres are allowed to have all these extra -- I
7 mean, I'm just going to call them bells and whistles,
8 the extra height, the -- you know, and be put under
9 extra restrictions as well.

10 MS. GARCIA: Are we (inaudible) --

11 MS. CRACIUN: Yeah, so to clarify, it's
12 the -- it's not a maximum; it's a minimum. So
13 projects of at least --

14 COMMISSIONER CHING: Right.

15 MS. CRACIUN: -- nine acres could avail
16 themselves of a additional permit process that is not
17 an additional layer of regulation.

18 COMMISSIONER CHING: So that --

19 MS. GARCIA: So that the purpose of that
20 is to facilitate holistic development of a
21 campus-like atmosphere on the site to ensure that
22 the site is redeveloped and cleaned up.

23 COMMISSIONER CHING: Right. So I
24 understand, I mean, it seems to make sense that we
25 have to make concessions to get the site cleaned up

1 and to have a nicer, bigger parcel.

2 My concern is the four of us, you know,
3 there are people who still work -- own, and live in
4 this area, and who may want to do something different
5 with their parcels. And so if this goes through, the
6 M-RD limits what they can do.

7 So I was looking at some of the things
8 that they were proposing for the larger parcel, and
9 they would get the ability to do things like a
10 daycare center for their workers and things like
11 that.

12 But my concern is, so, if someone wanted
13 to take one of those smaller parcels, and say, oh, we
14 want to have a daycare center, they wouldn't be
15 allowed because it doesn't fit into what is allowed
16 under the M-RD; is that correct?

17 MS. GARCIA: No. So, for the 9-acre, if
18 a 9-acre property were to come forward, they could,
19 you know, do this average FAR, this extra height, the
20 uses would be allowed in any parcel. We're not
21 limiting the ability of other property owners to
22 implement the zoning district. They implement all of
23 the uses proposed under the M-RD zoning.

24 They just wouldn't be able to develop to
25 105 feet on a tiny parcel. That wouldn't --

1 MS. CRACIUN: So this is the extent of
2 the modifications that someone could apply to receive
3 approval from (inaudible).

4 COMMISSIONER CHING: I guess my confusion
5 is that table in our packet on, I think it's page 10,
6 that shows a table of --

7 VICE CHAIR GHOSH: Allowable uses.

8 COMMISSIONER CHING: -- allowable uses.
9 And it says -- let's see, NP. Isn't that not
10 permitted?

11 So in the M-RD, you couldn't do, for
12 instance, a theater, or amusement device arcade,
13 or --

14 MS. GARCIA: Yeah, those uses that would
15 not be permitted were identified uses that would not
16 promote the intention of the council for all.

17 COMMISSIONER CHING: Right. So, all
18 those properties would be under those limitations.

19 MS. CRACIUN: One clarification, too, is
20 the MU-LI is not what this district is currently
21 zoned at.

22 COMMISSIONER CHING: Right.

23 MS. CRACIUN: So these uses aren't
24 currently allowed. The district is currently a
25 (inaudible) district. We had a third column, we took

1 it -- so we can do the slide and show.

2 MS. GARCIA: So this property is
3 currently manufacturing --

4 COMMISSIONER CHING: Right.

5 MS. GARCIA: -- not MU-LI.

6 So those types of pieces will not be
7 allowed here either.

8 COMMISSIONER CHING: So the only reason I
9 bring up the MU-LI is because what you guys said, the
10 referral from council, was to rezone this as MU-LI,
11 but then now we're deciding that maybe there should
12 be a different -- a different zoning, which is the
13 R&D.

14 So council is referring us to look at the
15 MU-LI, but we're saying we're going to do this other
16 thing, which --

17 MS. GARCIA: I think the referral was to
18 consider uses under the MU-LI, similar to what the
19 MU-LI allows, but did not require staff to rezone to
20 it.

21 MS. CRACIUN: Because it was looking for
22 us to encourage research and development. So we
23 looked at MU-LI, and we pulled out some of the uses
24 that we thought would be in conflict with the
25 research and development, focus on this stretch.

1 And we brought that to climate
2 commission, and we discussed it in February and
3 March. And so we ended up with this list of
4 allowable uses.

5 And we actually -- since we came to
6 climate commission in February of 2023, we actually
7 expanded the allowable uses with the help of OED --
8 conversations with the OED. Based on the economic
9 climate these days, we weren't sure if R&D was
10 actually going to pan out into the future. So we've
11 expanded what we presented to you in March 2023 to be
12 more flexible.

13 COMMISSIONER CHING: Okay. Thank you.
14 Because that was my next question.

15 So I really appreciate that, because I
16 was wondering what is the state of R&D right now,
17 and is there enough demand for this to have a
18 10-acre site in addition to what we've already
19 permitted in the City. So it's nice to hear that
20 there are other uses -- expanded uses being proposed.

21 MS. CRACIUN: We have the manager
22 (inaudible) here who's been our partner in this
23 project. And if you have more specific questions
24 about, you know, the comment, she can answer those.

25 COMMISSIONER CHING: Okay.

1 MS. CRACIUN: Thank you.

2 CHAIR VINCENT: Are we good for now? We
3 have more discussion later, but if there's any
4 clarifying questions? This is usually a more of a
5 quick thing --

6 COMMISSIONER CHING: Okay.

7 CHAIR VINCENT: -- then we go to public
8 hearing. I don't mean to cut you off, but --

9 COMMISSIONER CHING: Okay. No, that --

10 CHAIR VINCENT: -- we have plenty of time
11 later.

12 COMMISSIONER CHING: That's fine. I --
13 I'm good for now.

14 CHAIR VINCENT: Okay. Thank you.

15 And I think that's actually really good
16 context to both reiterate and transition to the
17 public hearing because the -- what you're seeing here
18 is an evolution, and I would say really great work by
19 staff, planning staff, and OED staff, on taking the
20 intent of the referral, which to Alene's point was to
21 be MU-LI like or I forget the exact phrasing of it,
22 but sort of borrow from MU-LI, but propose something
23 that would really work well here, be creative. You
24 know, I'm ad-libbing.

25 But -- and what you have done here is do

1 that and apply working with OED and the rest of the
2 City, like, okay, what would work here? And talking
3 to potential -- you know, possibly potential
4 applicants on this? But -- because what we are
5 seeing is some evolution and you see it in that --
6 those columns there of what we saw last time.

7 So it -- it's great to see the evolution
8 of that while, I think, you know, sticking to the
9 intent -- to the broad intent of the referral, which
10 did not have the precision that this has. And I
11 think you've kind of dialed it -- dialed it well. So
12 I appreciate that. I think that's good context for
13 folks in the room to understand.

14 And the old reports on that are in or
15 linked within the agenda on the digital version if
16 you want to look at that.

17 So with that, I would like to move to
18 open the public hearing. Do I need a second?

19 VICE CHAIR GHOSH: No, you don't need to.

20 CHAIR VINCENT: You never -- I always
21 forget that.

22 VICE CHAIR GHOSH: Just to close.

23 CHAIR VINCENT: Just to close. Right.

24 Okay. So we'll open the public hearing.

25 And if you would like to speak on this

1 item, traditionally we do two minutes for
2 individuals. If you are representing an entity, an
3 organization, state so at the beginning, and you get
4 three minutes. You may also submit written comments,
5 you know, to either to the commission.

6 Staff is also available or can be
7 available, and council members, you know, also
8 will -- could be available and take written comments
9 as well.

10 So, with that, if you would like to make
11 a comment, please use the microphone, I guess, in the
12 back. Unless it can move up more. It seems funny in
13 the back. I don't -- I don't think it's amplifying,
14 but --

15 VICE CHAIR GHOSH: It's not on.

16 CHAIR VINCENT: It's not on. There we
17 go. That's clear.

18 **Commenter I-1** PUBLIC SPEAKER 1: Thank you,
19 commissioners, staff. I have a couple questions and
20 concerns about the project.

21 First is air quality. West Berkeley
22 is -- has the worst air quality and the highest rates
23 of asthma in the City of Berkeley, as I'm sure many
24 of you know. I am going to be talking about the
25 Berkeley Forge development because it's an integral

I-1-1

1 part of the -- of the draft negative decks.

2 So, there were a lot of facts and figures
3 associated with this development, which I understand
4 is only conceptual, but it was -- it was discussed.

5 So, there is a trip generation estimate
6 of 9,980 daily auto trips, which this proposal would
7 generate for this site. And this is not the only
8 West Berkeley biotech lab campus that's being
9 proposed.

10 And someone in the community has added up
11 the number of all the parking spaces that are in the
12 permit park -- in the permit pipeline or will be, and
13 it's over 5,000, is the number we have. You guys may
14 know better than that.

15 The concern I have is, what is the
16 cumulative impact of air quality in West Berkeley?
17 Already the community that suffers the worst from bad
18 air quality in Berkeley, of all these developments in
19 West Berkeley, and all -- and these daily auto trips,
20 9,980 daily auto trips just from this one at the old
21 PSC site, not to mention all the others in West
22 Berkeley.

23 How will these developments not
24 significantly worsen air quality in a community that
25 is already suffering from bad air quality? That's

I-1-1 cont.

1 number 1.

I-1-1 cont.

2 Number 2, traffic. Berkeley Forge is
3 proposing 1900 parking spaces, three seven-story
4 parking garages. Why at the same time the City's
5 massively reducing parking requirements for housing
6 in the name of sustainable development, looking at
7 you all, is the same standard not required for
8 industrial development?

I-1-2

9 Why can't we have an Emory -- an Emory Go
10 bus or something that the developers pay for that
11 connects to BART instead of 5,000 parking spaces, and
12 all the air pollution and traffic?

I-1-3

13 Third, biohazard.

I-1-4

14 CHAIR VINCENT: Can I just say, in the
15 spirit of democracy, I'm going to --

16 PUBLIC SPEAKER 1: You're interrupting
17 me, sir.

18 CHAIR VINCENT: I am going to extend your
19 time, which is why I'm interrupting you.

20 PUBLIC SPEAKER 1: Oh, then I -- then go
21 ahead.

22 CHAIR VINCENT: So, because this
23 gentleman is the first speaker, we're going to go to
24 three minutes. It doesn't seem like we have an
25 enormous amount of speakers. So I think three

1 minutes is absolutely fair. So --

2 PUBLIC SPEAKER 1: Thank you, sir. I
3 appreciate it.

4 CHAIR VINCENT: You have -- one moment I
5 think we'll be okay. So, you have a whole full
6 minute right now.

7 PUBLIC SPEAKER 1: Thank you so much.

8 CHAIR VINCENT: Yeah.

9 PUBLIC SPEAKER 1: Biohazards. Bio labs
10 often use toxic materials that could potentially leak
11 into the environment. We hope not. It can happen.

12 It's not clear how this risk to the
13 West Berkeley community will be addressed. I did
14 not -- I did a very quick reading through the --
15 through the EIR today. I may have missed it. I
16 didn't see how that's addressed.

17 West Berkeley, West of San Pablo Avenue
18 on USGS maps is listed as subject to liquidation
19 in -- as a result of earthquakes. Didn't see that
20 addressed.

21 And how in bio labs, which handle
22 potentially toxic materials that are on land that's
23 subject to liquidation, how are you going to address
24 that?

25 Dr. Christina Hill of UC Berkeley has

I-1-4 cont.

I-1-5

I-1-6

1 warned about sea level rise and related groundwater
 2 rise, especially impacting West Berkeley. This site
 3 has many toxics on the surface and below the surface.

4 One remediation that's discussed in the
 5 EIR is capping, that's the cheapest and most common.
 6 That won't work if this site is subject to
 7 groundwater rise. The stuff is going to come out and
 8 around the concrete cap, and then will be released
 9 into the community.

10 So, again, the -- here the question is,
 11 how is this issue addressed for this site and any
 12 future development on this site?

13 Thank you.

14 CHAIR VINCENT: Okay. Thank you. Okay.
 15 So three minutes. Start. Yeah.

16 **Commenter I-2** PUBLIC SPEAKER 2: Okay. So I've already
 17 seen the presentation on the project for this site. I
 18 saw it probably like a year and a half ago. Mark
 19 Rhoades gave it.

20 And it's nice that the staff and Mark
 21 Rhoades are on the same page because they use the
 22 same language of a cap -- of a campus like
 23 atmosphere.

24 And when Mark Rhoades brought the project
 25 out, you know, we got to see it with all the little

I-1-6 cont.

I-2-1

1 buildings, and how the streets are going to be
2 changed, and how we're going to work with the trains
3 and everything. So, we've already got a project for
4 this, and as I said, I've seen it.

I-2-1 cont.

5 And at that presentation, one of the
6 major issues was what to do about the toxic site.

7 And Mark Rhoades admitted at that time
8 that the plan for capping the site really was a
9 problem with groundwater rise in this area.

10 And so if we have groundwater rise that
11 lifts the toxins out from the cap, I mean, those
12 are not just going into the neighborhood as was
13 mentioned, they're also going into the Bay, where
14 we have our biological, our birds, and our little
15 animals in the -- in the Bay.

I-2-2

16 So this really is a problem and capping
17 is the cheapest, but that's not the satisfactory
18 answer. So that really needs to be -- that needs to
19 be fixed. So those were really my main concerns.

20 I appreciate that Commissioner Mikiten
21 brought up birds and wildlife, because it is near the
22 Bay. And we do have a lot of wildlife, and this
23 building can be a hazard for our wildlife.

I-2-3

24 And so we've got some problems here, and
25 I hope that you address those and that we have in the

I-2-4

1 end a project that addresses those hazards and not
2 just taking the quick, easy way out.

I-2-4 cont.

3 Thank you.

4 **Commenter I-3** PUBLIC SPEAKER 3: Thank you.

5 That was a really interesting and well
6 said presentation. We appreciate it.

7 So I agree with what my neighbors have
8 also said already.

9 And in West Berkeley, we're very
10 concerned about toxics. We've been living with
11 Pacific Steel Casting, calling up -- Bay Area Air
12 Quality Management District have that on speed dial,
13 and then the asphalt plant and the fire at the
14 asphalt plant.

15 So we're very, very concerned about
16 industry in West Berkeley. We're not saying no
17 industry, but we're concerned and just saying that
18 Bay Area Air Quality Management District is going to
19 regulate everything or take care of it, or it -- it's
20 sensitive topics for people who have lived with that
21 for a long time.

I-3-1

22 So, that said, I think the community
23 and -- would really like to have more definitive
24 guidelines around how this is going to play out, and
25 that if something escapes or something smells really

1 bad, that they don't have to be calling up Bay Area
 2 Air Quality Management District.

I-3-1 cont.

3 The other thing I wanted to talk about
 4 was the topography. So, as you all know, we live in
 5 an earthquake zone, and it's not really clear what
 6 might happen, you know, when an earthquake occurs,
 7 especially as was mentioned regarding the
 8 liquefaction issues. And also that there's a gas
 9 line running under the, you know, the Eastshore
 10 Highway.

I-3-2

I-3-3

11 And so these things are quite sensitive
 12 for the people in West Berkeley.

13 We have not had any spillage or anything
 14 falling from the trains like has happened in the
 15 Midwest, but we are concerned about how the EIR is
 16 taking into consideration the other geographic
 17 normalities or abnormalities of the particular site.

I-3-4

18 And we're hoping that that could be
 19 addressed.

20 And I understood that the people living
 21 so close by are very sensitive receptors. But,
 22 actually, we're all sensitive receptors, especially
 23 as was presented regarding the air pollution in
 24 West Berkeley and the combinant pollution that
 25 happens at -- in this area.

I-3-5

1 So, those are our concerns, and we're
2 hoping that they could be addressed.

I-3-6

3 Thanks so much.

4 CHAIR VINCENT: Thank you.

5 Sir?

6 MR. A. MOORE: Thank you. Can you all
7 hear me okay?

8 COMMISSIONER MIKITEN: You might need to
9 hold it.

10 COMMISSIONER TWU: Just pick up the mic.

11 CHAIR VINCENT: Yeah, you could hold it
12 if you want.

13 MR. A. MOORE: Thank you. Is this
14 better?

15 CHAIR VINCENT: Yeah.

16 **Commenter I-4** MR. A. MOORE: Thanks, folks. My name's
17 Allan Moore. I'm a land use attorney. I've been
18 representing for over a year, I'll use their first
19 names, Raffi and Yvonne, with regard to their
20 building at 1306 Third Street.

I-4-1

21 It's a beautiful historical building.
22 It's a historical resource. It has live/work folks
23 there. Four families that are there that work and
24 live there. Tenants, artists. It's a working
25 studio. You look in there, and you can feel the

1 history and the art, and it's a historical building.

I-4-1 cont.

2 So, why are we here?

3 Well, the -- there's an old adage -- I
 4 celebrate my 70th birthday coming up in a couple of
 5 weeks. There's an old adage that I've had my whole
 6 life, and it goes as follows. It's a proverb. He
 7 who chases two rabbits doesn't catch either one.

8 And with this EIR, I'm afraid, and I've
 9 reviewed hundreds, maybe thousands of EIR's, 43 years
 10 in the business with large firms here in the Bay
 11 Area, but this EIR chases two rabbits.

12 The first -- and this was brought out by
 13 the commissioner of comments, the identical comments
 14 that I had when I saw it. I couldn't figure out when
 15 the EIR was discussing the overall project, Rabbit
 16 number 1, which is environmental review under CEQA
 17 of the City initiated down zone. That's Project
 18 number 1.

I-4-2

19 Or Rabbit number 2, which the
 20 commissioners brought up is the conceptual plan.

21 How does the mitigation measures from
 22 the -- for the conceptual plan integrate with the
 23 mitigation measures imposed by the overall down zone?

24 And where are the properties within each
 25 zone? Our property is within the overall down zone

1 or rezone area, but not within the development plan.

2 The LSA representative indicated she
3 sleeps with the EIR. I went down to Staples because
4 I had the EIR on my computer, as you all have. I
5 couldn't scroll back and forth and figure out how the
6 mitigations were integrated between the two. And **I-4-2 cont.**
7 believe me, I reviewed thousands of EIR's.

8 So I had to download it, Staples, you
9 know, \$300. And I have a hard copy here. It's this
10 thick. And I went through it stem to stern.

11 It does not discuss the impacts of the **I-4-3**
12 conceptual project on this historical building. It
13 never gets there. It says they're discussing the
14 conceptual project -- conceptual development plan as
15 a project level EIR. How could it do so when there's
16 no project? There's no project on file; there's no **I-4-4**
17 project proposed.

18 Now, I fully understand under CEQA that
19 reasonably foreseeable impacts should be addressed in
20 an EIR.

21 But this goes further, this EIR, and
22 says, we're going to take this conceptual development
23 plan and review it as a project -- as a project level
24 EIR. And in doing so, it forgets what its purpose
25 was. It forgets the second rabbit. It forgets that

1 it's supposed to address the impacts of the
2 conceptual development plan or the rezone on these
3 folks -- on these folks that are going to live there.

I-4-4

4 Is that my three?

5 CHAIR VINCENT: Yes.

6 COMMISSIONER MOORE: Okay. That -- I'm
7 going to conclude, but off -- I did want to say I
8 appreciate very much the introductory comments about
9 civility and respect that the Chair made. Great
10 respect for your staff. They always responded to me.
11 I disagree on the law.

I-4-5

12 But I appreciate your comments. And I
13 think as a planning commissioner myself, Walnut
14 Creek, 14 years, that that kind of comment at the
15 introduction of each meeting can really help set the
16 tone, not make a damper in the room as you were
17 concerned about. So thank you for stating that.

18 CHAIR VINCENT: Thank you.

19 **Committer I-5** MR. ROBINSON: Good evening,
20 commissioners and staff. My name is Scott Robinson.
21 I've been in the City of Berkeley as a commercial
22 industrial broker for 35 years.

I-5-1

23 My family has been here in Berkeley since
24 before the turn of the century. We have industrial
25 properties throughout the City, including Ashby

1 Lumber. We actually -- we own that little property
2 that's a staging yard at the bottom of the map on
3 there.

4 And it has always been rented in the past
5 as not a part of the foundry. It was rented Pacific
6 Steel for a trucking yard and access.

7 We worked with the City to get Universal
8 Waste Recycling Center a few years back. At that
9 time, the City was not even aware that we were not a
10 part of the overall Pacific Steel Properties.

11 So we, with my architect, Fred Hyer, who
12 did the field work brewery, Fred's been a long --
13 around a long time, he worked with them. We got and
14 addressed -- established that 1433. Since then,
15 we've had the City of Berkeley's contractors on
16 there, Golden State Bridge that built the freeway
17 overpass. The problem that we're having, it's always
18 been a construction yard or staging yard.

19 Now, given that I've been in Berkeley,
20 and I was a commercial broker for clients, I applause
21 development in upgrading the City.

22 What's happening here though is because
23 we have a developer coming in, and I don't think labs
24 is a bad use for the property for the future, it's an
25 eyesore now. What's happening is kind of the cart be

I-5-1

I-5-2

1 -- being put before the horse.

2 And what's happening is the developer
3 saying, hey, we have a great idea here. Would you go
4 for it? The City's creating the zone. And I knew
5 Mark Rhoades for years because I used to sit in front
6 of him for clients. And we met with Mark, Fred and
7 I, and we said, is your client interested in buying
8 our property? And IQHQ made it clear they were not.

9 What is going to happen here is, our
10 site's going to be kind of rendered valueless if we
11 can't rent it to construction yards. And we're not
12 going to be able to develop a lab building on that
13 small parcel. It's about 40,000 feet. But what I've
14 been told is you have to have 9 or 10 acres for the
15 economics.

16 So my letter -- there is a letter in your
17 packets from a co-trustee attorney. That's not a
18 threat letter.

19 What that is is, she and I represent the
20 family trust and beneficiaries. And we're saying,
21 what -- where will -- could we be a yard in the
22 future to remain flexible? Where are you going to
23 house 900,000 square feet of staging material?

24 I've had Tesla approach us for
25 transportation services. I've had Waymo recently

I-5-2 cont.

1 approach us. Other uses.

2 But what my understanding is, originally,
 3 we were going from an M zone, which allowed a lot of
 4 uses, to a MU-LI zone, which is similar being a light
 5 industrial. And all of a sudden, we've leaped far --
 6 nothing against staff, I hear you, it'd be great --
 7 to go to this lab development zone. And so it's a
 8 big leap of faith here, which is going to put this
 9 property in real hardship.

10 I was very open to talk to the
 11 developers. They made it clear they're not
 12 interested.

13 We have other companies though that are
 14 looking, transportation services. So, one of the
 15 things that I did with the City of Richmond is they
 16 built federal labs, as you all know, along the I-80
 17 freeway years ago. And we had industrial yards,
 18 live/work, we had trucking yards, we had everything.

19 And I went to that staff, and we talked
 20 and we said, hey, just let us be flexible to operate
 21 and lease until these developments really come true
 22 to form. And then we're happy to amend or work with
 23 you. And that worked.

24 Our family owned down on Shellmound
 25 Street, an acre there by the Bay Street Theater,

I-5-2 cont.

1 still sits vacant today.

2 Emeryville made us tear down those
3 warehouses that were generating income. They've
4 never been rebuilt.

5 And lastly, I'll say being a broker,
6 still am, I sold a building on Hollis Street that I
7 own to a friend of mine who's a lab developer in
8 2018. He's never rented it to this day. It sits
9 vacant at 62nd on Hollis. The market has fallen out,
10 you know.

I-5-2 cont.

11 And I even know this developer that's
12 looking at this project. I think they have a
13 \$2 billion project in San Diego. I read --

14 CHAIR VINCENT: Can you --

15 MR. ROBINSON: And I'll wrap it up.

16 And so the point is, the lab market may
17 not come back for 3 to 10 years. We owners who
18 aren't a part of this development would just like to
19 be able to function and cash flow until then. So,
20 thank you.

21 CHAIR VINCENT: Thank you.

22 Please, folks, try to stick to time
23 because we don't have a bell going off. And I hate
24 to interrupt folks, but I will if it was a long
25 line.

1 **Commenter I-6** MR. SOUTHWICK: My name is Tim Southwick.
2 I'm a businessman in Berkeley for 50 years. And we
3 are the owners recently of the land that's outside
4 the area, but the one that's going to be rezoned,
5 that's where the Avis Budget Rental Car was on
6 600 Gilman. Was there for 35 years. Actually, 40,
7 I think.

8 And we've been trying to buy property in
9 Berkeley to replace the -- oh, by the way, Toyota of
10 Berkeley. We have close to 100 employees in
11 Berkeley, and as well as Joe's Tires on University
12 Avenue, which is included in that count.

13 But we've been trying to buy a car
14 washing facility for probably 10, maybe 12 years
15 because the -- and we want it to be especially a
16 brushless.

17 Many people that own high-end cars,
18 Teslas and Mercedes or Toyotas, they don't want
19 brushes on their cars. But we're try -- we're trying
20 to replace the one that was disappeared on Fulton
21 Street, if you remember that. It's now a housing
22 project.

23 In those days, we used to send all our
24 service customers with a token up to the brushless
25 car wash, and they'd hand the -- a tenant there,

I-6-1

1 Ali, who was the owner there at the time, they'd hand
2 him the token, and he'd give them the car wash, and
3 it was free. So all our service customers had free
4 car washes.

5 Well, that went away.

6 So we've all -- always scanned the area
7 because we have property on 2nd Street. And we're
8 always looking for a place to put a touch --
9 touchless car wash.

10 So about four years ago, a broker comes
11 to me and he says, hey, I got this property on
12 600 Gilman; would you be interested in buying it?
13 And I -- so go down, take a look at it. Well, geez,
14 it has a car wash there. This would be perfect.
15 Woo. This is great.

16 Well, long short -- story short, we were
17 outbid on the property, and we kind of forgot about
18 it.

19 So here comes the new developer in there
20 that buys all this property. And that's who ended up
21 buying it. Little bekown to us, it never closed
22 escrow.

23 So here I am sitting in my office two
24 days after Thanksgiving and the broker calls me, I
25 didn't even recognize his name on my cell phone.

I-6-1 cont.

1 He says, the property you were looking at
2 two-and-a-half years ago, it's available and Avis
3 wants to sell it to you. Could you close escrow in
4 five days?

I-6-1 cont.

5 They wanted to get rid of it before the
6 end of the year because of business purposes. They
7 were back in New Jersey, their main office. So we
8 bought it. So we go in for a business license.

9 CHAIR VINCENT: And do you have a
10 specific -- your three minutes is up.

11 Do you have a specific kind of comment or
12 a question?

13 MR. SOUTHWICK: Do I -- yeah, well, yes.
14 Oh, I need to get to that. I'm sorry.

15 CHAIR VINCENT: Do it in 30 seconds,
16 please.

17 MR. SOUTHWICK: It's zoned for a car
18 wash, but not for public car wash. So I want to make
19 sure that you could do things in this zone.

I-6-2

20 And then we're adding a charging
21 station -- fast charging stations for Teslas and
22 other electric cars in that area so that people could
23 go in there. But what we found out that people that
24 used these EV chargers in Berkeley, like on Ashby
25 Avenue, they're bored silly because they don't have a

I-6-3

1 coffee when they're charging.

2 MR. HORNER: I see. You're right.

3 MR. SOUTHWICK: And anyone that has an
4 electric car knows you got to have a cup of coffee
5 because it waits so long.

6 Well, our chargers are going to be 10 to
7 20 minutes full charge -- 80 percent charge. And we
8 want to be able to off -- people that take out
9 coffee. And I want to make sure that you can do that
10 within this zoning. You see, that's where I'm coming
11 from.

12 CHAIR VINCENT: Okay.

13 MR. SOUTHWICK: So I got a lot more to
14 say, but that'll take another day.

15 CHAIR VINCENT: Thank you, kindly. Thank
16 you.

17 Okay. Any other comments -- public
18 comments on this item?

19 (No audible response.)

20 Okay. With that I would move to close
21 the public hearing.

22 COMMISSIONER MERKER: Second.

23 CHAIR VINCENT: And I have a second from
24 Commissioner Merker.

25 Board Commissioner Twu or Commissioner

I-6-3 cont.

1 Ghosh? Vice Chair Ghosh. You choose. I think it
2 was Vice Chair Ghosh actually jumped in first.

3 VICE CHAIR GHOSH: Okay. I'll do it.

4 COMMISSIONER HAUSER: You're so eager to
5 close.

6 MR. HORNER: Roll call to close the
7 public hearing.

8 Commissioner Merker?

9 COMMISSIONER MERKER: Yes.

10 MR. HORNER: Chair Vincent.

11 CHAIR VINCENT: Yes.

12 MR. HORNER: Commissioner Moore?

13 COMMISSIONER MOORE: Yes.

14 MR. HORNER: Commissioner Ching?

15 COMMISSIONER CHING: Yes.

16 MR. HORNER: Commissioner Mikiten?

17 COMMISSIONER MIKITEN: Yes.

18 MR. HORNER: Commissioner Marthinsen?

19 COMMISSIONER MARTHINSEN: Yes.

20 MR. HORNER: Commissioner Twu?

21 COMMISSIONER TWU: Yes.

22 MR. HORNER: Commissioner Hauser?

23 COMMISSIONER HAUSER: Yes.

24 MR. HORNER: Vice Chair Ghosh?

25 VICE CHAIR GHOSH: Yes.

1 MR. HORNER: The motion carries.

2 CHAIR VINCENT: Okay. So it's a lot to
3 discuss.

4 I think, staff, what would be most
5 helpful? Would it be most helpful to kind of
6 bifurcate the discussion and comments and maybe start
7 with the EIR and get comments? Because we're not
8 taking action on the EIR; we're just giving comments.

9 So, if we could all do that, and then
10 we'll go to the zoning aspect of this, in which case
11 we will make a motion to -- for -- yes.

12 MS. JAMES: Can I make a -- can I remind
13 everyone thinking about Commissioner Vincent's
14 comment about how this was just received last Friday.

15 The public comment period on the EIR is
16 open until December 5th at 5:00 p.m. And so we
17 didn't expect -- and we'll take whatever comments,
18 we're reporting them, and we'll address them in final
19 EIR, but we didn't expect that you would give us your
20 complete comments.

21 Same with the members of the public. You
22 all can look at your packet, get Ashley's e-mail
23 address or mail address at the city and submit your
24 comments in writing for the EIR. But what we do need
25 from you tonight are your comments on the zoning

1 commission.

2 CHAIR VINCENT: Okay. Thank you. I
3 appreciate that.

4 So, okay. You've heard comments related
5 to EIR from the public as well.

6 Is there anyone here who would -- on
7 commission, who would like to make a specific
8 comment, you know, to staff in addition to what
9 you've already kind of clarified -- asked questions
10 about that you don't want to -- that you really want
11 to do it here and not in writing?

12 VICE CHAIR GHOSH: Sorry.

13 CHAIR VINCENT: No, please.

14 **Commenter A-GHOSH** VICE CHAIR GHOSH: I don't have time
15 to do it in writing. This is all the time in
16 capacity I have, honestly. So thank you for
17 giving me an opportunity to just speak.

A-GOSH-1

18 I think couple of things. One is, I
19 think, just the setup of it with this large project,
20 to me, feels challenging to understand the actual
21 impacts. Like, it feels like this is the most
22 massive, this is the biggest, it's all kind of
23 happening at the same time, and it doesn't feel
24 realistic. And I -- to me, it creates a sense of
25 worry.

A-GHOSH-2

1 You know, this is a very sensitive
2 project. It's a sensitive area. I think I was
3 looking back to why we're even doing this. We're
4 talking about workers getting their pensions.

5 I mean, there are other things at play
6 why this needs to move forward, while acknowledging
7 that it's very sensitive.

8 So I feel setting it up in this way where
9 it's like this big bad monster when that may not
10 actually be the reality of it, is kind of confusing
11 for me in evaluating the impacts.

12 In fact, I would love to see mitigation
13 measures that if I -- and EIR is extremely confusing
14 to understand for me personally. So, you know, I'm
15 going to say what I'm saying and y'all will tell me
16 whether it fits within the framework or not.

17 But I would like to see mitigation
18 measures that talk about phasing as a mitigation.

19 I would like to see mitigation measures
20 where it's not just relocation, it's also protection
21 of those resources during construction because it's
22 not just about protecting -- like, what about things
23 that will get into the houses during construction.

24 So I don't know if that's sort of in
25 there.

**A-GHOSH-2
cont.**

A-GHOSH-3

A-GHOSH-4

1 So it's not just about moving the people,
2 it's preserving their homes or properties in a way
3 that they can come back to, that's not permanently
4 damaged in a way that's invisible to the eye.

A-GHOSH-4
cont.

5 I want to see mitigation measure -- one
6 question I did have on the -- on the GHG reduction.
7 Doesn't that apply to any project that we build? Is
8 it specific to this? Because it sounds like anything
9 we build will have that impact of natural gas usage.
10 Is that an accurate reading?

A-GHOSH-5

11 MS. GARCIA: Yes. So, according to the
12 Bay Area Air Quality Management District, any project
13 that proposes natural gas goes against the overall
14 state's GHG emission reduction plan. So for that
15 reason, most of the projects do not propose natural
16 gas.

17 VICE CHAIR GHOSH: Okay.

18 MS. GARCIA: If they do, they will
19 require an EIR because it would be a significant and
20 unavoidable impact.

21 VICE CHAIR GHOSH: Okay. So there is
22 some -- it feels like there's some guardrail in there
23 from like state law --

A-GHOSH-5
cont.

24 MS. GARCIA: Yes.

25 VICE CHAIR GHOSH: -- to discourage use

1 of natural gas.

2 And, therefore; the mitigation to me
3 seemed very -- not strong enough in that sense.
4 Like, just electric charging points. EV charging
5 doesn't seem to fully capture. And I could talk
6 about it when we come to the zoning piece around the
7 parking piece.

A-GHOSH-5
cont.

8 It is us people who are trying to reduce
9 car usage. So I would love to see mitigations that
10 talk about how we reduce cars. So maybe it'll come
11 through the zoning. I'm not sure how.

A-GHOSH-6

12 And has the City considered a DA since we
13 passed this new DA thing? I'm also sort of wondering
14 if there's been any -- it hasn't gone to council --

A-GHOSH-7

15 CHAIR VINCENT: Development agreement.

16 MS. GARCIA: Development agreement hasn't
17 been approved --

18 VICE CHAIR GHOSH: Discussed.

19 MS. GARCIA: -- by council. So we're --
20 we cannot (inaudible).

21 VICE CHAIR GHOSH: Right. But is that a
22 wish you've heard from the developers to approach it
23 in a way where it's more of a dialogue?

A-GHOSH-7
cont.

24 With such a sensitive site, a dialogue
25 seems to be most beneficial instead of setting up

1 these sort of very rigid rules that don't help the
2 developer or help the community, because I would love
3 to see them do a shuttle if possible, you know.

A-GHOSH-7
cont.

4 So I think those were my sort of major
5 concerns. We never talk about in EIR the impacts of
6 a building like that just sitting in a community, the
7 damage it does to urban fabric, to -- the damage it
8 does to just a sense of creating a community.

A-GHOSH-8

9 So I just see a lot of benefits to
10 addressing that. I personally love ruins --
11 industrial ruins. I love looking at them, but I
12 understand that that's probably not something you
13 want to be around or look at like every day when
14 it's -- when it's such a -- such a large site.

15 So I do want to see it move forward, and
16 if the DA does pass, I would love to see actually a
17 discussion and a dialogue with whoever's planning to
18 build here rather than very rigid rules.

A-GHOSH-9

19 And I think the rest of -- I'll come back
20 to my rest of my comments on the zoning process.

21 CHAIR VINCENT: Yes.

22 MS. GARCIA: (Inaudible) regarding the
23 comments or about what mitigation applies to the
24 rezoning, what applies to the conceptual project, the
25 executive separate does include a complete table that

1 clearly identifies which mitigations apply to what.

2 And it also identifies the specific impacts related

3 to each of those two projects.

4 VICE CHAIR GHOSH: Separate? Do you mean

5 "separate"?

6 MS. GARCIA: Yes.

7 VICE CHAIR GHOSH: Yeah.

8 MS. CRACIUN: And if I can --

9 VICE CHAIR GHOSH: Okay.

10 MS. CRACIUN: -- can I address two of

11 your question? So the first one is about why is this

12 EIR so big? Why is this project so big?

13 The EIR, we have to evaluate the outer

14 bounds of the project in order to make sure that any

15 project that's proposed falls under that.

16 And so, you know, it's a problem when

17 we analyze a smaller project, and then we end up

18 developing above that, and we have to spend another

19 year-and-a-half and another half a million dollars on

20 the EIR.

21 So I just wanted to say that.

22 And the second thing with the DA, you

23 know, we discussed with the property owners, the DA,

24 master use permit, then just using our regular

25 zoning, and it really is their decision. It's up to

1 a private property owner how they want to move
2 forward. And so we really don't have any influence
3 over that.

4 Separately, City Council has this
5 referral and so that's why we initiated the rezoning
6 (inaudible) conceptual project may or may not come to
7 fruition. It may be nine acres, it may five acres.
8 They may utilize some of the things we -- that we
9 proposed. We may, you know, recommend that they may
10 not. And so we really have no control over what is
11 going to go forward.

12 VICE CHAIR GHOSH: Okay. Thank you for
13 that.

14 CHAIR VINCENT: Okay. Thank you.

15 I think you -- you've gotten some
16 comments and questions from us. You got some really
17 good comments from the public here. And, again, as a
18 reminder, folks can submit written comments via
19 e-mail to Ashley, James for another month till
20 December 5th, I believe; right?

21 Okay.

22 And the public can reach out to staff --
23 to Ashley on the project for questions or hearing
24 more about it; is that correct?

25 Okay.

1 So let's -- let's move to -- I know it's
2 hard to bifurcate the content, but let's move more to
3 kind of the zoning aspects of this item.

4 So would anyone like to kick us off with
5 some comments, discussion, additional questions?

6 COMMISSIONER TWU: I can start.

7 CHAIR VINCENT: Okay. Commissioner Twu,
8 thank you.

9 COMMISSIONER TWU: Yeah. So I would say
10 that we should allow any current uses that are
11 allowed in the M zone should still be allowed in the
12 M-RD zoning, which I feel that keeps consistent to
13 what we've generally done over the last few years,
14 which is to allow new things but to still allow what
15 we used to allow.

16 So I will make a motion that we recommend
17 the proposed amendments, but also that any use
18 currently allowed in the M zone, should also be
19 allowed in a M-RD zone.

20 CHAIR VINCENT: How different -- can
21 staff kind of clarify a little bit on how different
22 that would be from what you --

23 MS. JAMES: Can we go through the slides
24 if that's possible?

25 CHAIR VINCENT: Okay. That's a

1 reasonable ask of you all.

2 MS. CRACIUN: We did look at everything
3 manufacturing use. And we went through, pulled out
4 recycling sensor or, you know, what Ashley can show
5 you. But we analyze very carefully, especially in
6 the last months when we were -- when you request of
7 us to try to be more flexible.

8 So we went through, you know, line by
9 line with OED, with planning, with other
10 representatives of the City and came up with the
11 list. Ashley can show you.

12 MS. JAMES: Yes, there's three --

13 CHAIR VINCENT: I think what would be
14 useful, though, is what didn't come over, you know.

15 MS. JAMES: That's what we're going to --

16 COMMISSIONER TWU: What's currently
17 allowed, that is not allowed.

18 CHAIR VINCENT: Oh, okay.

19 MS. JAMES: So the slide or -- oh my
20 gosh. The column that says existing M and the column
21 that says proposed 2024 M-RD.

22 So what we see that is allowed currently
23 that would be not allowed in the proposed M-RD is
24 vehicle wrecking on this slide.

25 COMMISSIONER MOORE: I'm sorry. It's

1 vehicle what?

2 MS. JAMES: Wrecking.

3 COMMISSIONER TWU: Junk yard.

4 MS. JAMES: On this slide, what is
5 allowed in the M that would not be allowed in the
6 M-RD as proposed is commercial excavation, dry
7 cleaning and laundry plan.

8 Then on this one, what's currently
9 allowed in the M that would not be allowed in the
10 M-RD is nothing. So we have vehicle racking,
11 commercial excavation, and dry cleaning and laundry
12 cleaning. Those are the three uses that are in M of
13 now that would not be allowed in the M-RD.

14 MS. GARCIA: The word is not permitted.

15 VICE CHAIR GHOSH: Not permitted.

16 MS. GARCIA: It's a non-conforming.

17 MS. JAMES: It's not permitted currently
18 in the M district because of the way the
19 West Berkeley plan is written is that different
20 zones are created based on the locations in the
21 West Berkeley plan area. And so because of the
22 location of MU-LI district woodwork is allowed with
23 ADP; MU-LI district is much farther east than --
24 yeah.

25 CHAIR VINCENT: What is commercial

1 excavation?

2 MS. JAMES: Let's look at the definition.

3 CHAIR VINCENT: Oh, that is what -- okay.

4 MS. JAMES: Yeah.

5 CHAIR VINCENT: Okay.

6 MS. CRACIUN: And any existing uses not
7 performing or legally like allowed will be allowed to
8 continue.

9 MS. GARCIA: Correct.

10 CHAIR VINCENT: (Inaudible) work?

11 MS. JAMES: So there's temporary use
12 permit process. And so you can set time limits on
13 that for use. That's not allowed. You proposed to
14 (inaudible) basis. That's what I was aiming for.

15 VICE CHAIR GHOSH: And that applies to
16 the property, not the property owner?

17 MS. JAMES: Exactly. Any property in the
18 City of Berkeley.

19 COMMISSIONER MIKITEN: Can I ask a
20 question?

21 CHAIR VINCENT: Yes.

22 COMMISSIONER MIKITEN: So what uses do
23 you envision on some of these smaller parcels like
24 600 Gilman or the site this gentleman was talking
25 about using is staging?

1 MS. GARCIA: We assume that those uses
2 will continue.

3 COMMISSIONER MIKITEN: But there's no
4 use -- there's no active use on either one?

5 MS. GARCIA: Well, the work is not
6 allowed in the manufacturing district currently. So
7 it could continue as a non-conforming use. We just
8 wouldn't allow for the development of the woodwork
9 units on the site in the district or in any other
10 manufacturing --

11 COMMISSIONER MIKITEN: But like at
12 600 Gilman, what use do you imagine would be possible
13 there?

14 MS. JAMES: Any allowed use.

15 MS. GARCIA: Any allowed -- we're not
16 dictating these use. As long as it falls under the
17 allowed uses. It wants to continue at a car wash, a
18 rental place, it's not performing, continue the yard
19 on 1433 Eastshore, which is a staging area. It isn't
20 allowed use. It can continue as a staging area. The
21 City is not trying to dictate what individual private
22 property owners do with their property as long as it
23 falls within zoning district.

24 COMMISSIONER MIKITEN: And is there a
25 reason not to allow that to be a public car wash?

1 MS. JAMES: There's no distinction in the
2 zoning district between public and the non-public car
3 wash.

4 COMMISSIONER MIKITEN: So it could be a
5 car wash?

6 MS. JAMES: It's currently permitted as a
7 car wash.

8 COMMISSIONER MOORE: Permitted as a car
9 wash, but not to public.

10 COMMISSIONER MIKITEN: But it could be.
11 That's what they're saying.

12 COMMISSIONER MOORE: Well, that's our
13 point.

14 COMMISSIONER TWU: Yeah, under the --
15 under the current proposal for M-RD, is a car wash
16 allowed?

17 MS. JAMES: So, let's look.

18 CHAIR VINCENT: I don't see the car wash
19 on the list.

20 MS. JAMES: Oh, I'm sorry.

21 So car -- a car wash is not permitted in
22 any manufacturing district currently. But the
23 property at 600 Gilman has a legal right to operate a
24 car rental facility with a car wash pad, because it
25 is illegal non-conforming use, and the Berkeley

1 municipal code allows for that non-conforming use to
2 continue. And it could be expanded with issuance of
3 permits to do something.

4 VICE CHAIR GHOSH: So, yeah, that's
5 helpful.

6 So some of the concerns we heard from the
7 public today are -- hopefully, they're allayed in
8 terms of being able to continue to do what you're
9 doing on that site, even though some of it was built
10 in a illegal --is illegal non-conforming. And you
11 can --

12 MS. GARCIA: Legal non-conforming.

13 VICE CHAIR GHOSH: Sorry.

14 CHAIR VINCENT: Legal.

15 VICE CHAIR GHOSH: Legal non-conforming.

16 And you can get a use permit to expand within
17 whatever uses are allowed?

18 MS. JAMES: You can expand legal
19 non-conforming use with a use permit.

20 MS. CRACIUN: And our planners are
21 available to speak with these property owners, like,
22 you can be trustee (inaudible) which I've heard about
23 both of the projects and so -- but I know that staff
24 are trying to work with you right now. So, please
25 reach out to us, and we can talk about what's allowed

1 (inaudible) and explaining --

2 COMMISSIONER MOORE: It's just not the
3 car wash; it's the fast chargers that we're adding to
4 the zoning.

5 MS. GARCIA: That's allowed by right
6 under state law.

7 COMMISSIONER MOORE: Excuse me?

8 MS. GARCIA: It's allowed by right under
9 state law.

10 CHAIR VINCENT: Oh, okay. That's good
11 enough. Okay. Let's move on.

12 Do you want to go next, Commissioner
13 Merker?

14 COMMISSIONER MERKER: I have a few
15 comments, but I just had kind of a follow -- a
16 follow-up.

17 CHAIR VINCENT: Go for it.

18 COMMISSIONER MERKER: Maybe that's
19 related to this is, I think, you know, clarifying
20 what supporting uses, I know that office that is
21 supporting -- supporting the R&D use is allowed.

22 And I guess to the gentleman's, you know,
23 comment about a coffee shop, could you clarify the
24 things like that that would be -- would they be
25 allowed as standalone items? If not -- standalone

1 uses if -- on a -- on a lot if not part of the -- a
2 large project. Like, do those supporting uses have
3 to be in the large project or could another property
4 owner support, you know, with a coffee shop, all of
5 the people that are coming into work in that project?

6 MS. JAMES: So we have a category of uses
7 called incidental. And so those are associated with
8 a primary use. So we have a whole list in the --
9 this is page 14 of Attachment 1 of incidental uses
10 and what would be allowed.

11 And so there is a cafeteria, food service
12 establishment under 20,000 square feet, live
13 entertainment, both amplified and unamplified.

14 Yeah, food and beverage, those are all
15 allowed as incidental to a primary use.

16 VICE CHAIR GHOSH: But not standalone.

17 COMMISSIONER MERKER: But they would not
18 be standalone uses?

19 MS. JAMES: Yeah.

20 COMMISSIONER MERKER: So those would have
21 to be with -- with the project?

22 MS. JAMES: Exactly.

23 COMMISSIONER MERKER: Okay.

24 MS. JAMES: With an allowed use.

25 COMMISSIONER MERKER: Yeah, I mean, I

1 get -- since we're just discussing, I think that's
2 sort of maybe a bit of a concern that I have is, just
3 conceptually, I think we want to create an ecosystem
4 of different owners and projects that work together
5 and not be always relying on a single project,
6 accomplishing everything, and just having a little
7 bit of maybe some flexibility.

8 Also, you know, what happens if this
9 doesn't -- we all want to see a big project
10 materialize, but if it doesn't materialize, is there
11 a way that the zoning allows for a more incremental
12 approach to still work? So --

13 COMMISSIONER CHING: Can I add to your
14 point a little bit?

15 So it does seem like the -- you know,
16 what I said before about the small property owners
17 versus the larger or the majority property owner, if
18 those uses are only incidental to the larger unit,
19 then it really is limiting what these smaller
20 property owners can do on their -- on their
21 properties.

22 And then, you know, the other question I
23 had about that was the height.

24 So in the conceptual plan, it allows only
25 if you have -- if you develop the whole 9 acres, then

1 you can go up 105 feet. And in the conceptual plan,
2 they said they would be putting those on the eastern
3 side of the property because it maximizes the views
4 and the flow to the Bay.

5 And they actually showed on that little
6 sliver where the live/work is, they put the 105-foot
7 building right next to it, and then on the other side
8 of it, they put what looks like about 70
9 story -- I mean, sorry -- 70-foot building.

10 So you have these two large buildings and
11 then this little sliver. Their property is then
12 rendered -- I don't know, I don't want to say
13 useless; I want to say undesirable.

14 And it just seems like the pressure on
15 that one small property owner in the midst of this
16 large use is going to be forced to sell to the larger
17 property. I don't know.

18 I mean, it just seems to be a fairness
19 issue.

20 MS. CRACIUN: So I wanted to address
21 Commissioner Merker's comment. You were asking me
22 about the standalone uses and our answer was about
23 incidental.

24 But food establishments are allowed as
25 standalone as well.

1 Ashley, you have the two -- you have the
2 table in front of you that contains that.

3 MS. JAMES: Yeah, so page 10 and 11 are
4 where you'll find the food service standalone uses.
5 So those are allowed, depending on size of
6 administrative or (inaudible) public hearing.

7 COMMISSIONER MERKER: That's --

8 VICE CHAIR GHOSH: (Inaudible) what
9 document.

10 COMMISSIONER MERKER: Yeah, on the --
11 it's the --

12 MS. JAMES: Sorry, on Attachment 1.

13 COMMISSIONER MERKER: On Attachment 1.
14 Okay. I mean, I get -- thank you.

15 And I think, you know, we probably don't
16 need supportive commercial excavating uses and
17 there's like a few things that are actually super
18 helpful to have as supportive uses. So it sounds
19 like, I mean, food is the one that comes to mind for
20 me mostly, but there -- maybe there are others.

21 MS. CRACIUN: I think we love the retail
22 as well, like there -- I mean, I think that we
23 actually, when we took that second look in the last
24 six months, like we really did expand, and we thought
25 about this ecosystem with support from OED to make

1 sure that there were other uses that would support
2 the customers who would -- or the employee --
3 actually, not the customers, but the employees. We
4 were trying to figure out what would make this a
5 campus that would be attractive to employees that
6 have other services.

7 COMMISSIONER MERKER: Okay. Thank you.

8 CHAIR VINCENT: That's helpful. Thank
9 you. Yes, Commissioner Mikiten.

10 COMMISSIONER MIKITEN: So the 80 percent
11 lot coverage, I'm wondering if that is going to get
12 consumed by circulation -- pedestrian vehicle
13 circulation.

14 Is there a landscaping requirement as
15 well?

16 MS. JAMES: The zoning ordinance does not
17 have open space requirements for non-residential
18 uses.

19 COMMISSIONER MIKITEN: Okay. So I just
20 wanted to mention that for the labs on 5th Street
21 near like Bancroft and Channing, there's this tiny
22 area. It's just an entrance courtyard, but they put
23 a couple of planters there, and the birds are back,
24 and people are sitting out there. And six minutes of
25 birdsong is worth a year of Prozac, medically proven.

1 Like, so I'm just wondering if we
 2 shouldn't be thinking just a little bit about
 3 landscaping.

4 And I'm not sure how. I kind of want
 5 more time to think about this, and I have a few other
 6 questions.

7 It seems like we got different answers on
 8 whether you could impose mitigation measures or any
 9 conditions on a zoning certificate project. Your
 10 answers seem to vary a little bit. I didn't quite
 11 track.

12 MS. GARCIA: The zoning certificate is
 13 not a discretionary action. It's ministerial. So we
 14 are not -- we cannot impose mitigation or permission
 15 approval. That's why very few uses here are approval
 16 of the zones which (inaudible).

17 COMMISSIONER MIKITEN: Okay. I'd like --
 18 I just want more time to think about this.

19 Supportive of the idea, it would be great
 20 to get that site cleaned up. I want to make sure the
 21 young -- the smaller sites have reasonable options.

22 I'm -- I would hate to kick this can down
 23 the road, but my understanding is that it's -- the
 24 council agenda committee hasn't picked it up. We
 25 wouldn't be delaying anything by picking this up in

1 -- I'd be willing to come back in two weeks or in
2 December just because we've had five days, and they
3 were the wrong five days.

4 And last question is, what was the
5 original height limit when -- for the project that we
6 saw in February?

7 The -- what was the height request, and
8 does anybody know the height in the Bayer development
9 agreement?

10 MS. JAMES: Yeah, so the height of the
11 Bayer development agreement, which is in the February
12 2023 staff report is a maximum of 80 feet for
13 production uses and 65 feet for other uses.

14 And the zoning map application included a
15 table that's in the Attachment 3 of your packet. So
16 you can look at the details of all the buildings, the
17 size, and heights, and parking.

18 I believe the -- there's one building
19 that was 104 feet, but we can pull up the --

20 COMMISSIONER MIKITEN: And do we know
21 what the original request was for the roads proposal?

22 MS. CRACIUN: In February when they came
23 forward was 90. Since then -- and I think what
24 happened was they went back, and as they were moving
25 their designs forward, which they didn't -- they

1 didn't complete the conceptual design never went to
2 complete plan. But in doing that, they were looking
3 at the -- and, Ashley, you probably described this
4 better than me, like the heights of the ground floor
5 that would make this type of business viable. They
6 recalculated, and they asked for a -- you know, 10
7 extra feet on the first two stories or something like
8 that.

9 And there was also like a rationale
10 between like not having really big clear work place,
11 but having like more vertical offices or more
12 vertical spaces for these type of business.

13 Somebody else knows the details of this
14 better than me.

15 There's a long narrative in the zoning
16 map and an application, so you granted them an extra
17 15 feet or so. Was it 15 feet?

18 COMMISSIONER CHING: What I read in the
19 proposal was that it was originally 45 feet and they
20 wanted 55 feet because they said that for lab space
21 they needed extra ceiling height for the equipment.
22 I mean, like, you know, when you have hoods and you
23 know, chemical, that sort of -- that sort of
24 laboratory space needs higher ceilings. So they were
25 proposing 55 feet for a three-story building.

1 But I don't -- I didn't see the rationale
2 for the 105 feet except that they needed that height
3 to mitigate the cost of cleanup. And I didn't really
4 see justification or rationale for that. It was just
5 kind of in there. I don't -- I don't know.

6 MS. JAMES: No. When I -- when I read
7 the zoning map amendment application, I see in the
8 narrative under rationale for building height. It
9 says the maximum height limit of 105 feet is
10 justified for including minimum floor heights,
11 maximum floor plates required for R&D and substantial
12 cost of cleanup for the site.

13 So I don't see 55 or anything other than
14 105 in the material.

15 COMMISSIONER CHING: So that means they
16 could build everything 105?

17 MS. JAMES: So it's (inaudible) --

18 COMMISSIONER CHING: Except for the far.

19 MS. JAMES: -- that we're proposing under
20 the -- so the -- so what the staff proposal is, is
21 district wide a maximum of 55 feet.

22 And if a developer wanted to submit a
23 permit application to modify certain development
24 standards, building height would be one allowed
25 modification with approval from the staff if certain

1 findings and conditions are met. And that would be
2 105 feet.

3 And that would be available for projects
4 of a comprehensive nature. So one application of at
5 least, not a maximum, at least 9 acres of size. The
6 zoning district is 11-and-a-half acres in size.

7 VICE CHAIR GHOSH: Okay.

8 CHAIR VINCENT: But how much of the -- of
9 a -- how much built space could potentially be
10 105 feet meeting criteria?

11 MS. JAMES: So that is an excellent
12 question for an architect we know. We have someone
13 for the question.

14 COMMISSIONER MERKER: Well, under the
15 zoning, with that -- I mean, but as I understand it
16 that if they get granted that it's the whole -- it's
17 their whole project would have that maximum? It's --
18 I mean, whether the architect builds, you know, the
19 design doesn't need that whole --

20 MS. JAMES: Exactly. The maximum would
21 be increased to 105.

22 COMMISSIONER MERKER: Right.

23 MS. JAMES: But if you see the other
24 development standards not changing, there's still a
25 2.0 FAO.

1 CHAIR VINCENT: Right.

2 COMMISSIONER MERKER: Right.

3 CHAIR VINCENT: There's no FAO. Okay.

4 MS. JAMES: Increase that FAO by 20
5 percent on a project by basis.

6 MS. CRACIUN: And one of the reasons why
7 they asked for this advocating for the additional
8 height is because this 9-acre site is cut by the
9 right of way. So they can't merge their parcels. So
10 they can't actually say -- so they can't merge their
11 parcels and do 2.0. So there might be two parcels
12 that are either side of the right of way and want to
13 advocate them together. So that's one reason for
14 this modifications.

15 The second thing is that they talked
16 about having taller buildings to the east and lower
17 buildings to the west in order to maintain views.
18 And because of FAO, you would not have 105 across the
19 site.

20 CHAIR VINCENT: Right.

21 MS. CRACIUN: You would have to have
22 these variable heights. And so some of the findings
23 in this modification section talk about having a site
24 design that's attractive and variable provides like
25 -- I don't the language, but that the design would

1 have to be reviewed. This isn't ministerial. This
2 would not be ministerial. This would (inaudible).

3 CHAIR VINCENT: Okay. And who's the they
4 in that -- your description there?

5 MS. CRACIUN: They -- the applicant.

6 MS. PEARSON: Future project sponsor.

7 Again, we don't have a use permit.

8 CHAIR VINCENT: Right.

9 MS. PEARSON: We have the idea of this
10 conceptual project. The formal application has not
11 been submitted. What's before you is just a proposal
12 to establish a new zoning district. And we had to
13 evaluate potential implementation of that district.

14 CHAIR VINCENT: Right. No, that's
15 helpful. No, Alene, that's really helpful in that
16 context.

17 So, folks, down on this end, would you
18 like to make any comments or -- of any type? You
19 don't have to, but I wanted to give you all the
20 floor.

21 COMMISSIONER HAUSER: Thank you.

22 CHAIR VINCENT: No. Okay. Any other
23 comments, or we would love to entertain a motion?

24 COMMISSIONER CHING: Could we talk about
25 the parking for a minute?

1 VICE CHAIR GHOSH: Yeah.

2 CHAIR VINCENT: Yep.

3 COMMISSIONER CHING: So the 1900 parking
4 spaces that are being asked for on this property. So
5 the Bayer property, I mean, I might not have the
6 numbers exactly right, but it's like a 46-acre
7 property with like 1100 parking spaces.

8 And the Berkeley Commons is like a
9 20-acre parcel with, I think it was 1,004 parking
10 spaces, something like that. This site is half the
11 size of Berkeley Commons and asking for almost twice
12 as much parking. What's the justification for that?
13 And that seems to go against our reduce the car, you
14 know, traffic.

15 VICE CHAIR GHOSH: My understanding is
16 that's what you have right now. Like, your --

17 MS. JAMES: I'm just saying that -- so a
18 developer would get to that number based on what they
19 expect to be the parking demanded by the users of the
20 project. And so we have a minimum requirement that
21 we're reducing as part of this proposal. But they
22 would be able to provide what's demanded by the users
23 of the project.

24 COMMISSIONER CHING: I'm sorry. You have
25 a minimum requirement?

1 MS. JAMES: Mm-hmm.

2 COMMISSIONER CHING: So the 1900 is --

3 MS. JAMES: Is what's demanded by the
4 project. So in that -- in the zoning map amendment
5 materials, they presented kind a building summary
6 that's based on their developer map of how many car
7 spaces they think people that are working together
8 want to park in.

9 COMMISSIONER MIKITEN: Can I --

10 MS. JAMES: It's not based on our
11 minimum.

12 MS. PEARSON: Yeah, just to clarify, the
13 conceptual development project is proposing 1900
14 spaces. The zoning district would allow a minimum of
15 1300. So the minimum is 1300 for the zoning.

16 VICE CHAIR GHOSH: But it's a minimum --

17 CHAIR VINCENT: But there's no maximum?

18 VICE CHAIR GHOSH: -- so they can do more
19 if they want.

20 MS. PEARSON: They can do more. They can
21 go above into the conceptual development project and
22 say, I want to go above to 1900.

23 CHAIR VINCENT: But there's not a maximum
24 on parking?

25 MS. PEARSON: No.

1 CHAIR VINCENT: But there's a minimum of
2 1300?

3 MS. PEARSON: Correct.

4 COMMISSIONER MERKER: And I -- you know,
5 so I haven't read the EIR, but, like, things like
6 shuttle programs or other TDM programs -- sorry, this
7 is kind of a little bit unformed, but how does that
8 come into play?

9 I mean, if we -- if we want that
10 applicant to say, actually no, like, you can't have
11 that many spaces; that's going to put more cars on
12 the road, polluting West Berkeley; have less.

13 What's the mechanism that we have to be
14 able to, if not require, or encourage, or engage?

15 VICE CHAIR GHOSH: I would love to see
16 it. I mean, that's why I keep saying, you know, like
17 the Bayer has fewer -- they have the shuttle; they
18 have --

19 CHAIR VINCENT: Right.

20 VICE CHAIR GHOSH: Because it was a DA,
21 right? So it was a negotiation that led to that,
22 so --

23 MS. PEARSON: We do have a TDM program.
24 It's discussed in the transportation section of the
25 (inaudible).

1 VICE CHAIR GHOSH: But it's not required?

2 MS. PEARSON: It is required.

3 VICE CHAIR GHOSH: Okay.

4 COMMISSIONER MERKER: It's required as
5 part of the mitigation --

6 MS. PEARSON: Yeah.

7 COMMISSIONER MERKER: -- to get it --

8 MS. PEARSON: So there's a few strategies
9 listed on page 4.4-22, which includes a work shuttle,
10 bus service extension, bicycle amenities, bike share,
11 carpool, ride-matching assistance, car-share parking
12 spaces, transit fair subsidy, pretax commuter
13 benefits, marketing and education (inaudible).

14 VICE CHAIR GHOSH: And it's a mitigation
15 to which -- what impact?

16 MS. PEARSON: It is not a mitigation
17 measure.

18 VICE CHAIR GHOSH: Oh.

19 MS. PEARSON: It's just a required TDM
20 plan.

21 VICE CHAIR GHOSH: Oh, a required TDM
22 plan. Okay. So what is --

23 COMMISSIONER MOORE: Would this be
24 something we would negotiate during community
25 benefits?

1 MS. PEARSON: It would be something that
2 was -- that would be required by a future project
3 component.

4 MS. JAMES: We do have a process at the
5 City. Once a project is built, that we do enforce
6 the TDM. So a planner is working with them on basis
7 to make sure those measures are being mitigated.

8 COMMISSIONER MOORE: Thank you.

9 VICE CHAIR GHOSH: How does staff feel
10 about having a parking maximum? Because I think --
11 I think you can do the TDM, but you'll still have
12 the three parking garages. The three parking
13 garages, if that's actually true, because I know it's
14 hard to read what is proposed, what might actually
15 happen. But, you know --

16 MS. PEARSON: I think that we're here to
17 accept your comments on the proposed zoning. So, if
18 that's a comment, we'll take that down.

19 VICE CHAIR GHOSH: Yeah, I mean, I would
20 love to see a max. I would also love to see us not
21 require any parking similar to what we do with
22 housing.

23 However, I'm saying this, but because we
24 do housing more regularly, and we don't have these
25 big projects come to us that often. What I'm

1 saying -- the number, I don't know what have to pull
2 out of, because that would require looking at maybe
3 other projects and looking at what's happening in the
4 area to mitigate that.

5 But if the TDM is required, then what
6 opportunity -- what is a reasonable cap?

7 You know, not -- I think 1900 is probably
8 too much, and it is right off the freeway. So I can
9 see that they would want people to drive, but we're
10 also trying to build more housing so maybe more
11 people can actually live here. I don't think we
12 should encourage that much car usage in that
13 neighborhood.

14 MS. CRACIUN: We did not analyze that. I
15 did not analyze parking maximum. So it would be
16 difficult for us to give you any guidance right now.
17 If it's something you want us to look at and you
18 still want to make a recommendation, you could ask us
19 to -- when -- if you were to make a recommendation,
20 you could say, and please look at a parking maximum
21 and make a recommendation that we would run by the
22 chair and the vice chair prior to going see council,
23 and you can have us come back to you.

24 So that's something that we could -- that
25 we could definitely research before going to City

1 Council.

2 CHAIR VINCENT: Yeah. Commissioner

3 Ching?

4 COMMISSIONER CHING: No, I'm sorry.

5 CHAIR VINCENT: Commissioner Mikiten?

6 COMMISSIONER MIKITEN: Just to be clear,
7 Commissioner Moore, community benefits aren't going
8 to be part of this discussion unless the developer
9 takes a development agreement route, which I think
10 with this zoning is unlikely.

11 COMMISSIONER MOORE: You think it's
12 unlikely that somebody will take a DA with this?

13 COMMISSIONER MIKITEN: Yeah.

14 COMMISSIONER MOORE: Interesting.

15 COMMISSIONER MIKITEN: I agree with
16 Commissioner Ghosh that it would be great to reduce
17 the traffic impacts. I just want to point out that
18 I'm pretty sure Emeryville's Emery Go-Round involved
19 a redevelopment agency, which is a funding source we
20 don't have; and that if we just as commissioners or
21 even the City Council tried to like cap the parking,
22 you should expect that you're going to limit the
23 development in unforeseen ways.

24 Like we had this conversation over the
25 Kaiser development. Nobody wants to build parking

1 spaces. They're very expensive. So for the
2 developer to do it, it means that that's the reality
3 of the situation.

4 So just if we want to go the route of
5 capping, we have to be willing to go the distance of
6 participating in development of a shuttle and all
7 that. That's a whole another project. But just
8 simply capping it, I think would just nip the
9 development in the bud really.

10 CHAIR VINCENT: Commissioner Ching?

11 COMMISSIONER CHING: What about reducing
12 the minimum from -- you said 1300? What if we
13 brought that down so then it would be possible?

14 COMMISSIONER MIKITEN: I thought state
15 law eliminated this parking requirement completely in
16 most of Berkeley anyway.

17 MS. JAMES: Interestingly enough, this
18 is the one sliver of Berkeley that's not in the
19 exemption.

20 VICE CHAIR GHOSH: What? Really?

21 MS. JAMES: There's no bus stop in it.

22 CHAIR VINCENT: Interesting. Okay.

23 Yeah. Good point.

24 MS. PEARSON: It's not going to be
25 accessible via public transit.

1 COMMISSIONER MERKER: I mean, just to
2 the -- just in the spirit of debating this a little
3 bit because I think it's -- it is -- I don't want to
4 go too far down. I like the idea of making -- just
5 making a recommendation to staff so that we can make
6 a motion tonight.

7 But I also think, with respect to
8 Commissioner Mikiten's point, I think it's a great
9 point, but also we have to -- we do have to make it
10 possible to do different things.

11 And we have high quality transit very
12 close by. So, I think there's, or you know, within a
13 shuttle -- a shuttle ride, I -- you know, this could
14 be something that's paid for in a TDM program that
15 just becomes part of the economics of the
16 development. It's -- doesn't cost that much to run
17 a shuttle to park compared to building a parking
18 garage.

19 So I just sort of have a hard time
20 believing there's no, you know, like the project
21 doesn't happen, but there's no other alternatives
22 than, like, we have to build -- we have to build all
23 the parking spaces.

24 I mean, I'm curious if there's other, you
25 know, like if you have a BART stop that is like a

1 mile away or less than a mile away, you know,
2 that's -- that is a different condition. It is an
3 asset of the site.

4 So it's just a little bit more of a
5 debate on it. But I think there's merit to at least
6 studying the number of an upper -- an upper limit.

7 CHAIR VINCENT: So, in the spirit of
8 moving forward, I would motion that we -- help me
9 with the language here, but move forward with the
10 staff recommendation here -- with a recommendation to
11 staff to investigate options for more flexibility on
12 parking aimed at reducing -- you know, options for
13 reducing the amount of parking. Whether that's
14 through, you know, reducing the minimum and/or
15 setting a maximum.

16 I don't know what those numbers should
17 be. I don't want to sit here until 3:00 a.m.
18 debating what those numbers should be because we
19 don't have any guidance on that.

20 But I would make a motion then for the --
21 what the staff has and the staff to -- I would -- I
22 am very much okay with advising or recommending that
23 staff investigate options on that.

24 COMMISSIONER MARTHINSEN: Jeff, can I
25 comment on that?

1 CHAIR VINCENT: Yes.

2 COMMISSIONER MARTHINSEN: Could we
3 instead of limiting ourselves to an examination
4 parking, because, you know, we know that this is
5 going to be years out, I think it would be -- my
6 preference would be that we would ask you to look at
7 more creative and open-ended ways to minimize the use
8 of private individual cars to come to this site.

9 Because if we -- there is the unintended
10 consequence of limiting parking. Everybody's
11 circling looking for a parking space in the adjacent
12 neighborhoods.

13 And I think we have to be optimistic
14 about the fact that in 10 years or 12 years when this
15 thing is probably actually going to happen, if it
16 does, is maybe there's some other kinds of ways that
17 we are moving people and people are moving. Maybe
18 there's more -- you know, five years ago there
19 weren't cargo bikes and now every person in my
20 neighborhood has two kids and their stuff on a cargo
21 bike.

22 CHAIR VINCENT: Yeah, I think that's --

23 VICE CHAIR GHOSH: I think the challenge
24 is --

25 CHAIR VINCENT: -- that's more in the

1 spirit of what I was intending. So I think that's --

2 COMMISSIONER MARTHINSEN: (Inaudible) is

3 my point.

4 VICE CHAIR GHOSH: But I think the

5 challenge is the --

6 CHAIR VINCENT: I agree.

7 VICE CHAIR GHOSH: -- the mechanism that

8 we have is parking in the zoning.

9 COMMISSIONER MARTHINSEN: Yeah.

10 VICE CHAIR GHOSH: The only -- we don't

11 have a mechanism to say, explore innovative ways of

12 moving. We don't have that in -- that's part of the

13 TDM policy probably.

14 COMMISSIONER MARTHINSEN: Well, then I

15 think -- then I think --

16 VICE CHAIR GHOSH: But zoning only allows

17 us to set the parking together.

18 COMMISSIONER MARTHINSEN: So then I

19 think -- I guess, I'm just saying is somehow we have

20 to get the language -- to me, I feel like making the

21 language around the TDM part of it is the part that

22 we really want to --

23 COMMISSIONER MOORE: Focus.

24 COMMISSIONER MARTHINSEN: -- elevate

25 somehow.

1 VICE CHAIR GHOSH: Yeah. And that
2 applies to all projects; correct? That's not just to
3 this project.

4 COMMISSIONER MARTHINSEN: I'm just
5 worried about the parking.

6 VICE CHAIR GHOSH: We already have. No,
7 I agree. And I'm just trying to use the mechanism
8 that will at least encourage the developer to look at
9 other ways and not just go for -- and approve
10 something that's -- and I -- and I understand what
11 Commissioner Mikiten's also saying that, you know, if
12 they did, it's expensive to build. If they didn't
13 really want it, they wouldn't do it.

14 But they -- you know, but I think it's
15 worth studying it since we've been doing it with
16 housing. And I think it's fair to look at it for any
17 development project that we put in.

18 Like, what is in here in terms of parking
19 and also bike parking.

20 COMMISSIONER MARTHINSEN: Bike parking?
21 That's what I mean. That's a bigger -- it's bigger.
22 I guess sort of the bigger.

23 VICE CHAIR GHOSH: We should look at
24 those.

25 COMMISSIONER MOORE: Chair, point of

1 view.

2 CHAIR VINCENT: I -- yeah.

3 COMMISSIONER MOORE: I think Commissioner
4 Twu had a -- he was the first one to propose a -- did
5 you -- am I correct? Did you --

6 COMMISSIONER HAUSER: Make a motion.

7 COMMISSIONER MOORE: -- made a motion?

8 Yes.

9 COMMISSIONER TWU: Yes.

10 CHAIR VINCENT: Oh, he did make a motion.

11 COMMISSIONER MOORE: He did. And I
12 don't -- I don't think we addressed it yet. Can we
13 hear your motion again, Commissioner Twu?

14 CHAIR VINCENT: Maybe it wasn't stated
15 quite as motion, but what you proposed was that to
16 have every use that is currently in the M --

17 COMMISSIONER TWU: Right.

18 CHAIR VINCENT: -- applied to this new --
19 what is it? M-RD.

20 COMMISSIONER TWU: Yes.

21 CHAIR VINCENT: In addition to the
22 additional things that you all --

23 COMMISSIONER TWU: Correct.

24 CHAIR VINCENT: -- suggested for the --

25 COMMISSIONER TWU: Uh-huh.

1 CHAIR VINCENT: And my understanding in
2 that discussion was that there were three items that
3 potentially could not be -- did not carry over, which
4 were vehicle wrecking, commercial excavation, and dry
5 cleaning of some sort, laundry plan.

6 So did you state that as a motion? Do
7 you want to state it as a motion?

8 COMMISSIONER TWU: And then I'd be happy
9 to amend it to also include looking into reducing the
10 parking requirement or having a parking lot.

11 VICE CHAIR GHOSH: Is your hand up? Is
12 your hand up?

13 MS. CRACIUN: So (inaudible).

14 No.

15 VICE CHAIR GHOSH: Go ahead.

16 MS. CRACIUN: There's one thing that when
17 you were talking about the TDM, Justin reminded me of
18 the TDM the parking package that we all looked at in
19 2017, 2019 --

20 CHAIR VINCENT: Correct.

21 MS. CRACIUN: -- 2021, where in the CDMU
22 we have two -- we have parking -- we have -- we have
23 TDM for housing projects in the downtown. It's much
24 more transit rich. But if you want us to examine
25 parking -- maximum parking, minimum, and a more

1 robust TDM program for this district, that's --

2 CHAIR VINCENT: Okay.

3 MS. CRACIUN: -- implausible.

4 VICE CHAIR GHOSH: Yeah. I think Bayer
5 would be a good starting point for that.

6 CHAIR VINCENT: So the -- Commissioner
7 Mikiten.

8 COMMISSIONER MIKITEN: I -- I'm not sure
9 why we're including the M uses because it seemed like
10 there wasn't really anything --

11 VICE CHAIR GHOSH: Yeah. Exactly.

12 COMMISSIONER MIKITEN: -- relevant there.

13 I also want to suggest or have included
14 in a motion that you cover the discussion we just had
15 about these non-conforming uses and how they could be
16 expanded, if not in the zoning ordinance then in the
17 staff report so that when someone refers back and
18 tries to understand what the intent was, it's clear.
19 Because it sounds like what we were talking about,
20 car wash, coffee, et cetera, staging, is all going to
21 be doable. So just state it in the staff report.

22 CHAIR VINCENT: They could be standalone
23 as well.

24 COMMISSIONER MIKITEN: Yeah.

25 CHAIR VINCENT: Yeah.

1 COMMISSIONER MIKITEN: So just so that if
2 somebody picks this up 10 years from now, it's clear.

3 I would still ask for more time. I would
4 really like to pick this up in December, if we could.

5 VICE CHAIR GHOSH: Full agenda in
6 December.

7 COMMISSIONER MIKITEN: And I do think
8 this should at least be some thought. I don't -- I
9 don't know if inclusion, but some thought around
10 landscaping, and some thought and clarification about
11 whether a zoning certificate project is subject to
12 the mitigation measures. I'm still not clear.

13 A 60,000-square-foot project really is
14 not a big project, but at the same time, we can't
15 foresee the consequences of having zero discretion
16 on it.

17 Like, don't put that driveway there.
18 AC transit wants to do it, a bus stop, or we want our
19 transit show. Like, you have zero discretion. And I
20 know we'd like to act like an AUP is a big deal,
21 we're talking about big stuff. They're spending
22 years planning this, and AUP is nothing. And it just
23 gives these people who do have expertise the chance
24 to apply it and have a tiny bit of leverage on
25 things. So, I would suggest not reducing the zoning

1 certificate standard. It's -- an AUP is really --
2 it's fine.

3 COMMISSIONER MARTHINSEN: I want to
4 second the issue about landscape and open space.

5 VICE CHAIR GHOSH: And I want to follow
6 up on that.

7 What is the mechanism for ensuring
8 reasonable inclusion of open space or native plants
9 or water -- water treatment? Is that -- is there a
10 mechanism in either zoning or the EIR to address
11 that? Because if not, you know, we have to find what
12 that --

13 MS. PEARSON: I believe it's part of the
14 zoning.

15 VICE CHAIR GHOSH: Okay.

16 MS. PEARSON: So, I -- I've heard three
17 motions so far.

18 VICE CHAIR GHOSH: No, you've heard three
19 recommendations that will go into a motion. It's
20 hard --

21 CHAIR VINCENT: Yeah, I think that's
22 correct.

23 But can you list those three things off?

24 MS. PEARSON: Okay. So Chair Vincent
25 suggested that we proceed with staff recommendation.

1 Commissioner Twu suggested that a staff
2 recommendation include the M-RD district be revised
3 to include uses, such as vehicle wreckage, commercial
4 excavation, and dry cleaning uses.

5 We've also heard that you want us to
6 explore a more robust TDM plan and also consider
7 requirements to revise proposed zoning to include
8 open space and safety requirements.

9 Oh, yes, that's right, to consider
10 parking by reducing the minimum required parking or
11 identify a maximum parking in use of their
12 development, for example.

13 VICE CHAIR GHOSH: A robust TDM.

14 CHAIR VINCENT: Yeah, I would combine
15 that. That would be substantively with the TDM.

16 And then there was -- so you had the
17 landscaping piece and then are we -- is this piece
18 around the zoning certificate?

19 MS. PEARSON: Yeah.

20 MR. HORNER: Right. Discussion of
21 non-conforming uses.

22 MS. JAMES: As a threshold for --

23 COMMISSIONER MOORE: Historic record of
24 non-conforming uses.

25 MS. JAMES: -- for the permit of the

1 project.

2 MS. CRACIUN: The threshold dimension for
3 60,000 to reevaluate that.

4 MS. JAMES: Yeah.

5 CHAIR VINCENT: So the recommendation
6 would be for us to recommend staff reevaluate that in
7 the spirit of perhaps bringing it down?

8 VICE CHAIR GHOSH: Can I ask a
9 clarification on that? Is there not a design review
10 process that would address the driveway or the space
11 transit stop? There's a design review process,
12 right?

13 MS. JAMES: This is a subject to design
14 review.

15 VICE CHAIR GHOSH: So then why do we need
16 to not just have it be permitted through CC and
17 negotiate the details through a design review
18 process? Seems like the appropriate place for that.
19 What does staff --

20 MS. CRACIUN: If it -- if it's allowed by
21 light, then it doesn't review -- design review.

22 VICE CHAIR GHOSH: Okay.

23 CHAIR VINCENT: Okay.

24 MS. JAMES: Correct. And it's like a
25 location of a driveway press into property. It's not

1 design review; it's more --

2 VICE CHAIR GHOSH: Fire.

3 MS. JAMES: -- a building permit.

4 VICE CHAIR GHOSH: Yes. Okay.

5 MS. JAMES: And that would be just

6 because the project is approved by a zoning

7 certificate doesn't mean that we can't apply those

8 regulations.

9 VICE CHAIR GHOSH: So from a health and

10 safety perspective, we'll be fine. From an urban

11 design perspective, it might still leave things

12 lacking.

13 COMMISSIONER MERKER: And just a

14 clarification from our last meeting about this.

15 I remember some discussion of objective

16 standards being --

17 MS. JAMES: Yeah. So I did --

18 COMMISSIONER MERKER: For --

19 MS. JAMES: -- commission objective

20 standards for open space and land. There was not

21 support on the commission.

22 COMMISSIONER MERKER: There was not

23 support on the commission. Okay.

24 But it could -- if there were objective

25 standards, they would apply to the zoning

1 certificate?

2 MS. JAMES: Objective standards do apply
3 in the zoning.

4 COMMISSIONER MERKER: All right.

5 COMMISSIONER CHING: Could I ask why
6 doing the excavation and the dry cleaning.

7 CHAIR VINCENT: So, okay. Yeah. Let me
8 add.

9 So, we have a large recommendation or a
10 motion made, which is the staff recommendation, plus
11 a few things, which are guidance direction for staff
12 mostly to do research on. And I can list them.

13 But I did want to take a pulse on the one
14 that Commissioner Ching raises, which is,
15 Commissioner Twu's suggestion to basically include
16 everything wholesale that's allowed in M if we -- I
17 guess, I'd like to see a little temperature on if
18 there's enough support to keep that in the motion.

19 VICE CHAIR GHOSH: So, can I recommend
20 that we find a second and then have a discussion?

21 CHAIR VINCENT: Okay.

22 VICE CHAIR GHOSH: If generally we're
23 feeling good about it.

24 CHAIR VINCENT: Great. No, that's a --
25 that's a good idea.

1 Would folks like me to sort of loosely
2 read the motion?

3 COMMISSIONER MOORE: Please.

4 CHAIR VINCENT: Okay. Thanks. Okay.

5 So the motion is -- and help me, staff,
6 if I don't get it in as much detail. But is it okay?
7 Alene, you're --

8 MS. PEARSON: If I can just -- one thing
9 about anything hazardous operations, such as vehicle
10 wreckage, commercial excavations, dry cleaning, one
11 of the primary purposes of the City Council
12 (inaudible) uses, clean it up, and then doing it
13 again by use of hazardous materials.

14 CHAIR VINCENT: Right. And and that's
15 actually the reason that I wanted to take pulse on
16 that, because I didn't -- I actually personally
17 didn't want to include it in motion.

18 Because I think staff and OED have done
19 the research and analysis on that, and there's a
20 reason that they've not put those forward. And I
21 would trust their analysis more than I would ours
22 here.

23 So, if it were me and I'm making the
24 motion, I would actually leave it out first.

25 COMMISSIONER TWU: Okay. Yeah.

1 CHAIR VINCENT: Because I think Twu --

2 COMMISSIONER TWU: I think we -- we've
3 got most of the things we need covered already.

4 CHAIR VINCENT: Okay. Thank you.

5 VICE CHAIR GHOSH: Are you seconding the
6 motion?

7 CHAIR VINCENT: Well, I haven't -- I
8 haven't really made a motion yet. Because I don't
9 think Commissioner Twu was ever framed as a motion.
10 Was it?

11 COMMISSIONER TWU: It was.

12 CHAIR VINCENT: Oh, it was?

13 COMMISSIONER MOORE: Yeah, it was.

14 CHAIR VINCENT: So the motion that you
15 made a long time ago was basically take the staff
16 report and add anything that is currently --

17 COMMISSIONER TWU: Right.

18 CHAIR VINCENT: -- in M record, period.

19 (Simultaneously speaking.)

20 COMMISSIONER TWU: Right. (Inaudible.)

21 Yeah.

22 VICE CHAIR GHOSH: No, no. What I'm
23 saying is, Commissioner Twu made a motion to pass the
24 zoning standards with these changes --

25 CHAIR VINCENT: Right.

1 VICE CHAIR GHOSH: -- and that those are
2 the changes you're summarizing. You've made -- if
3 you could -- there's a friendly amendment that we
4 don't include the first thing that you said anymore.

5 CHAIR VINCENT: Okay. I never heard full
6 motion made other than by myself.

7 VICE CHAIR GHOSH: Okay.

8 COMMISSIONER TWU: All right. Forget it.

9 CHAIR VINCENT: But if you did, I'm happy
10 to say it.

11 COMMISSIONER TWU: Just keep going. Keep
12 going.

13 CHAIR VINCENT: I'm happy to give you
14 that. I didn't mean to take it from you.

15 COMMISSIONER TWU: We will Just keep
16 going.

17 CHAIR VINCENT: Okay. So the motion is
18 the staff recommendation, plus asking staff to do
19 research into providing more robust TDM and
20 opportunities for reducing parking requirements and
21 parking on the site as a whole thing. You could
22 probably word that better than I just said. Is to
23 also look into landscaping and outdoor space
24 requirements on the site.

25 We're not doing the M uses, and we're not

1 doing the zoning certificate threshold issue.

2 Actually, we're leaving that off. We decided; right?

3 So it's just those two.

4 And then the third thing that I heard,
5 which is probably not necessarily in the motion, it's
6 more direction to you, which is have the staff report
7 kind of clarify the incidental uses as they -- as we
8 discussed and as they can be standalone and
9 nonconforming -- and then nonconforming -- legal
10 nonconforming aspect of that.

11 So that it's clear in, you know, without
12 something having to, like, read the fine print of it.

13 Okay. Did I capture everything?

14 MS. JAMES: Yes, you did.

15 CHAIR VINCENT: Okay. So that is the
16 motion.

17 COMMISSIONER MOORE: Second.

18 CHAIR VINCENT: So you may give the
19 motion to Commissioner Twu, and second would be from
20 Commissioner Moore; correct?

21 Okay. So, roll call.

22 MR. HORNER: Okay. On motion,
23 Commissioner Merker?

24 COMMISSIONER MERKER: Yes.

25 MR. HORNER: Chair Vincent?

1 CHAIR VINCENT: Yes.

2 MR. HORNER: Commissioner Moore?

3 COMMISSIONER MOORE: Yes.

4 MR. HORNER: Commissioner Ching?

5 COMMISSIONER CHING: I'm going to pass.

6 MR. HORNER: (Inaudible).

7 COMMISSIONER CHING: No. Can I pass?

8 VICE CHAIR GHOSH: Yeah, you can come

9 back to --

10 CHAIR VINCENT: Come back, yeah.

11 MR. HORNER: Commissioner Mikiten?

12 COMMISSIONER MIKITEN: Yes.

13 MR. HORNER: Commissioner Marthinsen?

14 COMMISSIONER MARTHINSEN: Yes.

15 MR. HORNER: Commissioner Twu?

16 COMMISSIONER TWU: Yes.

17 MR. HORNER: Commissioner Hauser?

18 COMMISSIONER HAUSER: Yes.

19 MR. HORNER: Vice Chair Ghosh?

20 VICE CHAIR GHOSH: Yes.

21 MR. HORNER: Commissioner Ching?

22 COMMISSIONER CHING: Yes.

23 MR. HORNER: Motion passed.

24 CHAIR VINCENT: Okay. Thank you all for

25 that. Thank you. And apologies if I missed the

1 motion on that.

2 COMMISSIONER TWU: I always like to start
3 with the motions, so it's --

4 CHAIR VINCENT: I know. I do appreciate
5 that actually.

6 Okay. Thank you. And thank you all for
7 being here on this.

8 MR. HORNER: Thank you.

9 CHAIR VINCENT: And reminder that you can
10 submit EIR comments till December 5th.

11 Okay. We have one more item. We're
12 two-and-a-half hours in.

13 And the last item is Item 11, which is
14 the planning Commission 2024, '25 work plan and the
15 commission calendar.

16 MR. HORNER: So, Chair Vincent, may I
17 suggest we take a small break?

18 CHAIR VINCENT: Oh.

19 MR. HORNER: (Inaudible) --

20 CHAIR VINCENT: Oh, okay. Sure.

21 MR. HORNER: -- these microphones from
22 the table. It's here --

23 VICE CHAIR GHOSH: What is happening
24 here?

25 MR. HORNER: The City's expense to report

1 (inaudible).

2 VICE CHAIR GHOSH: Oh. Did we discuss
3 informed?

4 MS. JAMES: We're recording the EIR
5 comments.

6 VICE CHAIR GHOSH: Oh.

7 MS. JAMES: Better than our notes.

8 VICE CHAIR GHOSH: Oh, I see.

9 (Recess.)

10 (Audio recording ends.)

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C E R T I F I C A T E

STATE OF CALIFORNIA)
) ss.
CITY AND COUNTY OF BERKELEY)

I, IRENE NAKAMURA, a Certified Shorthand Reporter in and for the State of California, do hereby certify:

That the foregoing proceedings were transcribed by me in machine shorthand from audio recording, and was thereafter reduced to typewriting by me and under my supervision;

That the foregoing is a full, true and correct transcript of said proceedings;

I further certify that I am not of counsel or attorney for any of the parties to this matter, nor in any way interested in the outcome hereof, and that I am not related to any of the parties hereto.

Dated this 30th day of November, 2024 in Los Angeles, California.



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State of Hawaii CSR No. 496
State of California CSR No. 9478
State of Washington CCR No. 3177
State of Nevada CSR No. 893
State of Illinois CSR No. 084.004909

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