

MINUTES OF THE PLANNING COMMISSION MEETING

March 26, 2018

The regular meeting of the Mission Planning Commission was called to order by Chairman Mike Lee at 7:00 PM Monday, March 26, 2018. Members also present: Stuart Braden, Brad Davidson, Robin Dukelow, Charlie Troppito, Frank Bruce, Burton Taylor and Pete Christiansen. Absent was Scott Babcock. Also in attendance: Danielle Sitzman, Planning & Development Services Manager; Brian Scott, Assistant City Administrator, Chris Cline, Core Design, Pete Heaven, Spencer Fane Attorney, and Ashley Elmore, Secretary to the Planning Commission.

Introduction of New Commissioners

Chairman Lee introduced the two new commissioners Burton Taylor and Pete Christiansen.

Approval of Minutes from the January 22, 2018 Meeting

Ms. Dukelow moved and Mr. Troppito seconded a motion to approve the minutes of the January 22, 2018, Planning Commission meeting.

The vote was taken (8-0). The **motion carried**.

Case # 17-08 Preliminary Site Plan – Martway Mixed Use

Chairman Lee: This has been before us before and has been sent back to us from the City Council to look at and discuss again. Staff?

Ms. Sitzman: Thank you, Mr. Chair. Joining us this evening is our attorney Pete Heaven. I'm going to let him start with a little direction to you all about the remand and what the process can be tonight.

Pete Heaven, Land Use Attorney, City of Mission, appeared before the Planning Commission and made the following comments:

Mr. Heaven: We have a little bit of an unusual process, and for the new planning commissioners, I wanted to step you through a remand. Under Kansas law, when a zoning matter comes before the Planning Commission, you make a recommendation to City Council. The City Council has the ability to either accept your recommendation, deny it, or remand the matter back to you for further consideration. A remand in Mission is a relatively rare event, so I wanted to step you through the process.

All the public hearings have now been held. This matter is now back before the Planning Commission. You may solicit information from the public or from the applicant. Basically, what the City Council has asked you to do is to look at three items in this particular proposal, that being height, density, and setback deviations. Now, as Danielle will explain to you, we've had some modifications to the application, and of the eight deviations that were first sought, there are only two left. The other six have been satisfied. I believe those have to do with density and the height of the building.

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With that, if you have questions, chime in. I'm happy to answer them. Tonight is a reflection upon what you've been asked by City Council to do, which is reconsider your thoughts and ideas about height and density. That's our process.

Ms. Sitzman: Mr. Chair, I'll go through the staff report, briefly. As Pete said, this is Case #17-08, a preliminary site plan for property located at 6005-6045 Martway Street. The applicant has submitted revisions from their December 18, 2017, plan and made adjustments to the overall height. Our height standards are both by overall feet and by number of stories, so, they are requesting a deviation to the number of stories. They also have made adjustments to the number of dwelling units and to the massing of the building. The revisions do not contain changes that were significant according to our applicable code standards, and as such, they're before you tonight as a continuation of the case that came before you, and directed back to you as a remand.

Onto the points of consideration that were referred to you by City Council. The first one is setbacks. The revised plans that are before you tonight have removed any need for a request to a deviation for rear-yard setbacks. Here is a map showing the property and surrounding zonings. What's highlighted on the screen are the properties owned by the City. The two that are yellow are City Hall and the pool campus and the tennis courts. This little tract in pink is Tract A, which was discussed previously. This is also owned by the City. The pink areas are what are zoned MS-2, and the standard for setbacks in MS-2 is that there are no rear yard setbacks required unless MS-2 is adjacent to Residential R-1. So, along the portion of the property where they are adjacent to an R-1 District, they have changed the massing of the building to withdraw it from that 25-foot requirement. On the areas of the site that are adjacent to MS-2, there is no rear yard setback, they actually alter the massing a little bit to extend it. Where they took away in one area to extend out to the other to make up for the difference. It does still meet the rear yard setback requirements, which are zero for MS-2 adjacent to MS-2. That deviation is no longer required.

Regarding building height, as I said, there are two standards in our code regarding height. One is the number of feet in height, and the other is the number of stories in height. I've been asked a couple of times, why both? I recently went to see the largest one-story building in the United States, which is 526 feet tall. But it's one story, and they build rockets inside of it at the Kennedy Space Center. So, the thought in planning is that you need to specify both height and stories when setting limits. So, our code has three stories and 45 feet as the base code requirement. It met the overall height in their revised plans, or actually showed slightly less than the 45 feet, but they still have that space divided up into four stories. Basically, they trimmed off a few feet on each one of those floors to make the overall height still fit the four stories. So, there's still a deviation required to allow that one additional story for the height. This also impacts density, the number of dwelling units that were in that additional story. Let's talk about that a little bit.

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The revised plan contains 27 fewer dwelling units and, therefore, increases the amount of lot area per dwelling in the calculation. The new unit count is 90 units, and the new density calculation is 807 feet per unit of lot area, or 53.98 units per acre. They're requesting a deviation to allow those 90 units, or approximately the square footage that they're showing. Of course, this is a preliminary site plan, so they're not tied to this exact floor plan. It can still flex a little bit in the number of units. That's why we're identifying both unit count and square footage, just to make sure that we don't need to come back and deal with these numbers again, between now and the final site plan. There's some additional ground floor space that's either to be utilized by the commercial tenants on the ground floor, additional storage for those businesses, or tenants as storage spaces. So, we've identified that as appurtenant ground floor space, allowing for a little bit of flexibility since they still haven't identified that space to use one way or the other.

There was a minor calculation error in the overall square footage of the lot in one of the previous versions. That's because we accidentally counted Tract A towards the land area of the development. We subtracted that out of the calculations and they've been re-run.

In your packet there's a density table that shows you how this specific density stacks up against other existing developments in similar zoning districts in the city of Mission, or in the downtown zoning district designation. It also compares this project to the zoning densities of the other current apartment construction going on in and around Johnson County, specifically highlighting projects in downtown Overland Park.

Staff reviewed the project again to make sure the other deviations had been taken care of and are no longer necessary. We went through the findings again and highlighted the exact findings that were being made for this case. We do have a recommendation for you tonight. Conditions 1, 2 - estimate in feet only - 4, 5, 6 7 and 10, from the Planning Commission's recommendation of December 18, 2017, have been withdrawn as they are now unnecessary. It is the opinion of staff that the proposed development, as revised, conforms with the Comprehensive Plan, meets the overall intent of the MS-2 zoning district, and complies with the required findings for section 405.090 and 440.160. Therefore, staff recommends the Planning Commission adopt the findings of fact contained in the staff report and recommend approval of the preliminary site development plan for this case to the City Council, with five conditions. The first two conditions relate to the deviations that are still required. The first one is approval of the requested deviation to height, to a maximum building height for mixed use. The second is approval of the requested deviation to waive the minimum lot area per dwelling unit to allow for the proposed design of 90 units, or 92,896 square feet of residential development and appurtenant ground floor space in a mixed-used building. The third and fourth conditions relate to the need to finalize some of the traffic studies and stormwater drainage reports, especially in light of the changes. So, a revised final traffic study must be submitted for review with the final site plan application. The appropriate data, text, maps, drawings and tables must be included per the Olsson Associates review comments dated September 20, 2017 and attached to this report. Staff reserves

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the right to provide additional comments based on those new studies, or stipulations based on those to address traffic, circulation, ADA, storm drainage, and floodplain related issues. Fifth, there is a condition that came up through some of the public comments made at the Planning Commission hearing pertaining to light pollution. We carried that condition over to our recommendation tonight. It states that light pollution must be addressed to the satisfaction of staff before construction can begin. That concludes staff's report.

Chairman. Lee: Any questions? I assume the applicant is here.

Mr. Troppito: Pete, I assume, just for the record, that you're contending that this application meets the intent of the Comprehensive Plan, it meets all the zoning and code requirements?

Mr. Heaven: Yes, it does.

Mr. Troppito: One of the issues that was an original concern to me was hexavalent chromium in the building products. This is a question for the developer. I'd like you to state for the record that it has been resolved, and no other building materials to be used on this project contain hexavalent chromium. Besides shaking your head, would you confirm that for the record?

Christian Arnold, Applicant, appeared before the Planning Commission and made the following comments:

Mr. Arnold: Sure. We did investigate that product, and that product cut sheet that was submitted previously was for a residential product. A product that we would propose is a commercial product, so the safety data sheet will be submitted to the City. That product that you referenced is not in that at all.

Mr. Troppito: Thank you. One other question for Danielle. Recommendation - it's the last one. Light pollution must be addressed to the satisfaction of staff before construction can begin. I'll just state, I have a problem with that, in the sense that light pollution has been a major concern. The problem is it pushes it down the line to staff, and possibly an unknown staff member that we have no experience with. Why would this not be phrased to require the satisfaction of the Planning Commission, rather than staff?

Ms. Sitzman: It can certainly be rephrased that way. I think the element of allowing additional time to resolve it is because lighting and light levels is not a detail that is normally presented as part of a preliminary site plan. There would be a photometric study required at the time of a final site plan, and there are standards about foot candles, etc., that any staff would check at that point. But we could certainly reword that condition to say, "to the Planning Commission's satisfaction," or "at time of final site plan." That would be appropriate.

Mr. Troppito: Thank you.

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Ms. Dukelow: I was going to ask Mr. Heaven for clarification on the, the plan that was remanded back to the Planning Commission. The plan that we previously recommended to City Council for approval, if I'm not mistaken, was the plan prior to a current plan that we are reviewing.

Mr. Heaven: That is correct. Yes.

Ms. Dukelow: That was the plan that we had seen in January, that was dated 11/26/17. Is that accurate?

Mr. Heaven: Yes.

Ms. Dukelow: Thank you. So, with regards to light pollution, I understand the photometric plan requirement - and this may be a question that we wait; this may be more appropriate for the applicant. I know that in previous meetings, the Commission has expressed concern about the headlights shining across the creek from the back parking area. I know that this is something that doesn't appear to have been addressed in this particular rendition of the plan. I just want to bring that up and make sure we address that through the course of this meeting.

Mr. Troppito: That was part of my concern.

Chairman Lee: Any other questions or comments?

Ms. Dukelow: This is probably a question for the applicant. I'm curious as to whether or not there will be bike storage for the residents.

Mr. Arnold: I can answer two of those questions at the same time. One, when we presented last time, this issue came up extensively at the City Council meeting. Once we looked at the topography of the site, the site is actually about 20 feet below the houses over there. So, we did a section study that was presented at the last meeting and showed that the tops of the houses were about in line with the top of the building because it is so far down. I think that has alleviated some of the concerns with headlights because they were so far down. Also, because we no longer have the parking lot pushed right up to the parking line - we're actually back six feet, which allows us to plant more vegetation along the back of the parcel, as well. So, when we last met, we said we were going to address these issues as we move through the process, and we have addressed these issues.

Bike storage? Yes. Because the first level is largely parking, there's ample storage for residents, as well as general bike storage. There's lots of space on the ground floor.

Chairman Lee: At this time, we will entertain a motion.

Mr. Braden: Mr. Chair, we have reconsidered the proposed height, density, and setback deviations within the Code as requested by the City Council, as well as the elimination of some of the originally requested deviations, and I believe the project should be returned to the City Council with our recommendation of approval. I therefore move we

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adopt the suggested findings of fact and recommendations of Staff as contained in the staff report and recommend **approval** of the Preliminary Site Development Plan for Case # 17-08 Martway Mixed Use to the City Council with the following stipulations, as amended:

- 1) Approval of the requested deviation to height to allow a maximum building height of four (4) stories.
- 2) Approval of the requested deviation to waive the minimum lot area per dwelling unit to allow for the proposed design of 90 units or 92,896 square feet of residential development and appurtenant ground floor space in a mixed-use building.
- 3) A revised final traffic study and final stormwater drainage designs must be submitted for review with the final site plan application. The appropriate data, text, maps, drawings and tables must be included per the Olsson Associates review comments dated September 20, 2017 and attached to this report.
- 4) Staff shall have the right to provide additional comments or stipulations on development plans until all traffic, circulation, ADA, storm drainage, and floodplain related issues have been satisfactorily addressed.
- 5) Light pollution must be addressed to the satisfaction of Planning Commission upon submittal of the final site development plan.

Mr. Troppito: Second.

The vote on the motion was taken (8-0). **The motion to approve this application carried.**

Case # 17-11 Preliminary & Final Site Plan-Tidal Wave Auto Wash-Block Real Estate - Public Hearing

Ms. Sitzman: Also with us tonight is Chris Cline of Core Design. Chris has been working with us for many years. He is our on-call architect that helps us perform our form-based code reviews. I asked him to give you a quick refresher on the Form Based Code since we have several new members since the last time we had an application, which was four years ago. I know the staff covers much of the same information, but I thought it would be good to have a quick refresher from Chris. He is also here to answer any questions as we go through this process.

Chris Cline, on-call Architect for the City of Mission, appeared before the Planning Commission and made the following comments:

Mr. Cline: We've been working with the City of Mission with the Form Based Code since the beginning of developing the code. I wanted to take a minute to take you back to what went into the code and how we've been applying that code throughout the West Gateway District.

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The West Gateway District is from Metcalf on the west side of town, basically from Shawnee Mission Parkway up to about Foxridge/54th Street. It's about 230 acres or so of development there. There are three things I want to touch on: The goals that were developed for creation of the Form Based Code, what the planning process was in creating the code and putting it in place, and then, some frequently-asked questions that get asked from time to time.

The goals for the code were to engage the community in the process, and create a form-based code that was consistent with the City's vision plan. The City had adopted a vision plan for this area similar to Vision Metcalf. This was done prior to Vision Metcalf. The same consultant actually worked on it. That vision called for engaging the community. There were lots of large charrettes and workshop meetings where folks were shown pictures of more of a suburban-type development that's out there today, or something that's a little more pedestrian-friendly and brings the buildings right up to the street. There was a strong movement and input and direction received from the community that they wanted something different in this part of town. They wanted something that wasn't as suburban, they wanted it urban, they wanted buildings up to the street, and to create a strong sense of streetscape and public realm. That's what we heard from engaging the community. Staying one step ahead was, if that's the type of development pattern that the City wanted to achieve in this area, how can we do that in a way that helped to guide developers to bring projects to the City that fit those guidelines? So, staying a step ahead was, let's put a code in place that really prescribed the type of development that's different than what's out there today, and hopefully encourage developers to bring projects that they could get approved faster. So, it's a proactive approach, and it's spelled out in the code.

In making the vision a reality, there were a lot of good ideas that were in the vision plan, but it didn't have all the details it needed to actually implement. We had to work through the details of taking those visions and turning it into a code that you could implement. In that process, we had 30-plus people on our advisory committee. It represented homeowners, property owners, commercial brokers, elected officials and community residents. A 10-month process. There were six meetings with the steering committee, lots of questions and things occurring throughout that process. We had three public meetings where folks came to look at the code as it was being developed and ask questions. Had two open house forums in March and July of 2007. And then, it went through a process where we got City Council and the Planning Commission together for a work session to walk through the bones of the plan, and then, took it to public hearings and adoption in October 2007. Really, took that vision plan, encouraging good projects by making them easier.

So, what that means is, in a lot of cases, a developer will bring a project and negotiate with staff on lots of things in a planned district project. And then, there are a lot of details that get worked out with staff, but sometimes the Planning Commission wants to talk about specific things in the project and make things better or different. Sometimes it

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gets cumbersome. The intent for the Form Based Code was to put all of that work at the front end and hopefully bring projects before the Planning Commission that have already been through that process. If they receive a passing score, then it's up to the Planning Commission to decide, well, if they followed the rules, should we approve this plan? And if you approve it, it doesn't have to go to City Council. They can immediately go into final development and construction. So, it alleviates the process a little bit, but it takes a little more work on the front end.

There were some questions asked about this. Will infrastructure serve it? At the time, we were talking about adding density to this district, different than what's out there today. There's a lot of low-story buildings. If we added more density, would the infrastructure that's out there be able to support it? We did that study as part of the Form Based Code, and most of the infrastructure can't support that. There were some things that were proposed and put into the CIP.

Can the market support it? There was an extensive market analysis done that looked to the future and what the feasibility and projections were for new development. The good thing is, Mission is well positioned for future growth. We did study lots of different areas for different density development, types of development, to make sure that the code recommendations were realistic.

Is the code flexible? Prior to the code, I think there were a number of commercial properties that back up to some of the residential properties up on the north end of the district, primarily. The experience there has been that several commercial developments have come in; I believe residents would file a protest petition, there would be a big fight, a huge meeting at Planning Commission or City Council, and it was very difficult to try to work through that process. So, in development of the code and engaging the residents, we said, look, if we put this new code in place and put all these rules in place, if a developer follows those rules, should they be able to go ahead and get their project approved without a public hearing? So, if we looked through everything and scored it, and they get a passing score and the Planning Commission approves it, they're not rezoning the project. They're just getting their plan approved. Is that okay? And they said yes. If they follow those guidelines and give us a project like what we think, then yes, they were supportive of that. The City was supportive of it. Basically, it was put in as an overlay district, so it does not require someone to rezone the property. Therefore, there doesn't have to be a public hearing. So, if they get a passing score, they don't have to have a public hearing for a rezoning.

Mr. Troppito: Excuse me. You referenced "scores" several times. What's the score? Ninety? Eighty? Seventy?

Mr. Cline: I'll get to that. Existing businesses can still do business in the district, and we've had several cases where folks that have a non-conforming building can still make improvements to their building and continue to do business in the district. And then, developers, again, it avoids that protest petition process. It allows for a variety of

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building types and uses. There are architectural and site design opportunities, and development phasing possibilities. This is one example of a larger site. You can see where access points are shown in those dark triangles. Buildings will be placed up next to the street. Surface parking could be placed behind. And then, eventually, more buildings could be built and that surface parking could become structured parking. So, there are opportunities in there for larger properties and other properties to phase things in over time, as well.

And then, when we talk about a scoring system, what we tried to do was to break things down since these were a new set of rules. We wanted to break it down so developers understood how to design their projects so that it fit the code requirements. There are a number of steps that you have to go through to look at each area -- the sector plan, the regulating plan, the building types, the setbacks, the early guidelines -- and then, looking at the building themselves, and the streetscape improvements. We put a score to each one of those so that, at the end of the day, if they submit the plans and they didn't get a passing score, instead of just saying, "You didn't pass, here's a list of 25 things that you didn't pass for," and they didn't really know, well, how important were some of these, and how not-important were other ones? So, we tried to put some kind of system in place that at least showed you what the relative level of importance was for each one of those items. They kind of go in a hierarchy fashion. You basically go through a four-step process. You look at the sector - in this case, that's Rock Creek. You look at the block in that area, which tells you what types of buildings are allowed in that block. You look at the building types themselves and it gives you some additional information about that building type. And then, you go through the architectural guidelines and the urban guidelines, which tell you where to place that building, how close to the street. And then, some of the streetscape improvements that need to be put in.

So, there is an extensive amount of information to get put in these plans, and there's usually a back-and-forth that happens with any applicant, where they may submit plans initially that don't have as much information and they don't get a passing score, but we give them a full listing of where they missed points, and where they could do better, and how they can improve their score when they re-submit and we score it again, and eventually, bring it before the Planning Commission.

Here are some examples of that: A bank proposal that was placed away from the building and was surrounding by parking. Eventually had the building pulled right up to the street corner and put all parking back behind. The Mission Crossing site. This was an initial proposal where the buildings were internally-oriented, pulled away from the streets. You can see how, in the concepts, the buildings started to move to the street corners, and eventually became a plan that looks pretty close to this, where the buildings all had that strong relationship with the street. Then, you can see what some of the renderings look like, and then, I've got a shot here, under construction. The last one is Cornerstone Commons, the grocery store and restaurants there on the corner.

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And then, the little two-story building that's on the southeast corner of that particular site. Again, buildings address each one of the streets adjacent to parking on the inside.

The Form Based Code is kind of a new thing in the metro, and Mission was one of the first to put it in place. It was done in 2007, right at recession time. And even with all of that in place, there's been more economic development activity and development here in this part of Mission than anywhere else in Mission. There have been a number of projects that have come through - and you've seen some of them here - and followed the code and gotten approved.

So, thankfully, I've been able to help the City not only create the code, but to help implement it. I'd be happy to answer any questions.

Ms. Sitzman: Thank you. With that, I'll present the staff report in this specific case. This is Case #17-11, Tidal Wave Auto Wash, a preliminary and final site development plan. The combination of preliminary and final plans is required so that all of the details for a full score are presented and can be awarded. This is how we do all of our Form Based Code cases. We can do this with applications outside of the District, but you have told us in the past that you find that a little overwhelming. So, for other areas of town, other developments like the Martway Mixed Use application, you'll see a preliminary site plan go through the entire process, and then come back to do a final site plan. In this case, they are combined so we can get all the level of detail necessary to get a full picture of the project and complete the scoring process.

The property is the site of a former gas station and is currently zoned CP-2B Planned Retail and Service District. It's located in Block Y. As Chris explained, the Form Based Code divides all of the land in the district into separate blocks, so you will be referencing Block Y for this one. It's also located in the Johnson County Design Guidelines district. This site is about three-quarters of an acre in size. The proposed car wash is an allowed use in the underlying zoning district.

In the past, some of the other Form Based Code developments, like the Mission Crossing project, made use of the fact that this overlay zone allows for cumulative zoning and additional use flexibility. So, in the example of Mission Crossing, that property was not zoned for those uses originally. But, because they had a Form Based Code compliant project, the overlay zone allowed for those other uses to happen without the need for a rezoning process. In this case, the underlying zoning would allow a car wash.

The regulating plan for this particular sector in the Form Based Code identifies this property as part of Block Y where ground-level retail uses facing Johnson Drive are important. This is not in the Downtown District of Johnson Drive; however it does continue to reinforce that retail is important along that street. There is an extension of Walmer Street shown in the Sector Plan. The future extension of Walmer Street between Block Y and Z would be triggered at the time that Block Z actually

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redeveloped. So, as that is not happening at this time, no proposed extension of Walmer Street is included in this proposal.

Both Block Y and Block Z are where the Mission West Shopping Center currently is with retail along its northern side. The Form Based Code is a long-range plan that envisions the eventual redevelopment of all of that area voluntarily by the owners of that property. The intent is to prepare for improvements to the street network, when that would eventually happen. Currently, that shopping center is in a really large block which is difficult to walk around on foot if you're a pedestrian. A goal of the future road extensions that are shown in the Form Based Code are really to make blocks smaller, more easy to navigate on foot by pedestrians. So, in summary, the Walmer Street extension not included in this plan, not required of this plan, but just noted as an element that's included for the long-range utility and usefulness of the district.

There are several building types that would be allowed in Block Y, anything from a townhouse development to a mid-rise building, a mid-rise building being something that's at least two stories tall. A parking structure-type building, which is really not just parking for cars, but envisions parking interior with retail wrapped around it. Also, low-rise buildings are currently allowed in any sector as long as the lot size of the development is less than a half acre. That gives additional flexibility for development of really small lots where it really wouldn't be feasible to do much of a large-scale development. As I said, this lot is larger than a half acre; it's about three-quarters of an acre. So, it does have to have a component of at least mid-rise development in it. For its lot size, it is allowed to have 60 percent of the gross square footage of development to be low-rise building type, but at least 40 percent of the development has to be something that's mid-rise, or larger building type.

The Comprehensive Plan helped inform the development of the Form Based Code. The Form Based Code is compliant with the Comprehensive Plan and encourages mixed-use median density redevelopment in this area. That would include housing, limited office, and medium-density retail in this situation.

Chris said that there is a score that is given to Form Based Code projects by staff. His review memo discusses how many points were available and how many points the project garnered through its design. As he said, there was a list of components that the scoring walks through, and they are hierarchically labeled on this list, number 1 being the most important, and having the most points required in order to score a passing grade at the end. The reason that this is done is because some elements of design are more important and have more impact on the public realm. The architecture of your building may not have as big an impact on what the public experiences near your development as where the building is placed on the lot does. So, things like where the building is placed on the lot is listed up front and the most key components of the scoring system. A passing score is a 90 out of 100 points. There are some prerequisite levels that go with this score, so you have to at least get all of the points in those early

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categories. Otherwise, it's impossible to get to a 90. The later categories - 4, 5 and 6 on this list - are definitely points there to be had, but it's not as critical that an application receive all of the points in those categories. They could still get to 90 points without doing every thing called out there.

In the memo that follows this, you'll see that our scoring on this application came up with 60 points, which is not the 90 points required to receive staff's endorsement at this point. It fails in several critical prerequisite steps, which is why it could not get to that 90-point threshold. This is largely due to the fact that all of the proposed buildings fail to meet the required building type standards. So, they have a mix of a two-story building and a one-story building in their proposal. However, the one-story building is still shorter in height than it needs to be to meet the Form Based Code standard for a single-story building.

The north building was designed around the footprint of a car, and we had trouble deciding what kind of building type that it should be evaluated as. We didn't feel that a building that was only the depth of a vehicle was truly going to have a lasting value as a retail space. The code says a certain depth of space would be needed for reuse of that building as retail in the future. A goal of the Form Based Code is for reuse of these buildings over time and having flexibility to allow that. Staff's feeling was that to have a building footprint solely designed around the footprint of one car was difficult to justify as meeting the intent of the code for a mid-rise building type.

Therefore, failing that we looked at other building types to see what it might resemble more closely. It was a poor fit for a parking structure building type in the code also, but we went with that because it's the closest thing to a building designed around automobile in the building types. Of course, we let the applicant know that there were concerns about the design of their building which would affect their score. Like I said, we tried our best to score it with what they had submitted to us after staff comments were given to them.

There were other points that were not attained because the submittal was missing elements of the proposal, specifically things that would typically be included in a site plan such as landscape, streetscape, or the accessory structures. Things like trash enclosures, planting plans, street lights, benches - all of the elements that go into the streetscape plan.

As I said, the proposed development does include two buildings. One building is a two-story 6,699 square foot building. The other one is a one-story 3,200 square foot building. That works out to about 68 percent of the buildings being a two-story and 32 percent being a one-story, which meets the Form Based Code requirement. However, as I said, we had difficulty determining that the two-story building was a mid-rise building type and truly compliant with the Form Based Code.

The ground floor of the northern building would contain parking stalls for vacuuming vehicles and some office space up above on the second floor. The applicant has

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indicated that the width of the northern building is sufficient to be used for retail space in the future if a car wash facility ceases. Again, the second story would be office and storage.

The Form Based Code says if there are not enough points earned within the prerequisite steps, we could stop review at that point. Staff feels that it's more important to give the applicant a chance to come before you tonight, so we went ahead and performed a review and scored the rest of their project so they could come with as much information as possible.

In our review of the exterior building materials we had some concerns about windows and doors not meeting the minimum of 60 percent requirement for storefronts. We also looked at some of the other exterior materials. They have proposed EIFS on the ground floor and upper floor of the northern building; 45 percent of the coverage of that space is EIFS. As you'll note, the Johnson Drive Design Guidelines actually put a limit on the amount of EIFS on building faces because it's a less-durable material. We certainly had concerns about how close to the ground it is located, where it can have a greater wear.

The development would utilize a surface parking lot located on the interior of the lot, behind the buildings, and would be accessed by two driveways. Basically, there is a one-way flow in and out through queuing up for the car wash tunnel, and then, circulating around the interior of the site, either for vacuuming bays or for parking for the office space, and then, existing in a one-way flow on the west side of the lot. There is an existing median along Johnson Drive that would need to be altered to allow inbound and outbound turning movements. There's also a median break interior to the site, so if you decide at the last minute you don't want to go through the car wash, there is a way to exit that queue. We've feel that the median break for getting out of the queue should be earlier in the flow, not after the pay kiosk.

Our traffic engineer, George Butler Associates, has looked at the site access, the vehicle queues, and the turning templates. They've also looked at sidewalks and the traffic study. They are generally satisfied with those designs. However, they do recommend moving the median break to earlier in the queue flow. Also, there were no turning movements provided for service vehicles, so it is unclear how trash and other service vehicles would maneuver through the site. If it's a one-way flow, they are going to be either coming in through the same areas that vehicles would be, or moving counter to the flow, which is not desirable.

A landscape plan detailing streetscape improvements was not submitted. Generally, we feel like there's sufficient width being allocated for the streetscape improvements in the five-foot sidewalk and a four-foot tree zone, which would be compliant. However, we were unable to check all the other details that we needed to check for the planting of street trees and street lights, benches and trash receptacles, and bike racks. As with other developments, those elements would be required to be constructed by the

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developer at the time that they do the project. Final placement and configuration of those elements must be confirmed before they could begin construction.

There would actually be a reduction in the impervious surface with redevelopment, so there is no stormwater treatment required at this time. The Sustainability Commission has not had a chance to review this application, so they've not made a recommendation to you. They have a separate scoring process that they go through. They have a sustainability checklist that they use, which would be a recommendation that would come to you from them.

Staff has included in the staff report suggested findings of fact, both for a preliminary and a final site plan. We feel that there are deficiencies in the site plan process, primarily due to absence of information. For example, the finding of fact that needs to be made for the final site plan has to do with landscaping and screening, which we were unable to make a determination on as the information was not provided. Also, we feel that because there was not a passing score achieved for the Form Based Code, that the findings that need to be made for consistency in good land planning and site engineering designs were also deficient.

According to Chapter 8 of the Form Based Code, applications are reviewed in that four-step process. They do need to comply with the requirements of the first two steps to automatically proceed. This is coming to you tonight without having met those prerequisites. You do have the authority to do the final review and approval of a Form Based Code application if it had garnered the 90-point score. This is what we would consider to be a non-compliant application, so it's back to you tonight for full review. The project as submitted fails to receive that passing score in the prerequisite steps. Staff feels that there are major flaws to the building types, and those should be addressed. And then, the minor supporting details should be provided for review as described.

Therefore, staff recommends the Planning Commission adopt the findings of fact contained in our staff report tonight and recommend denial of the preliminary and final site development plan for this case, for the Tidal Wave Auto Spa project. The applicant has requested to proceed with the meeting tonight with this failing score. They want to present their opinion on the project and its conformance to the code to you. You're certainly able to consider their opinion and consider making alternate findings of fact that you might determine based on what you've learned tonight. Included in your packet was some alternate motions that you could consider. Also, the applicant has actually provided a written statement, letting you know what they would be willing to agree to as conditions. If you were to take an action tonight to adopt alternate findings of fact and make a recommendation of approval, I would highly recommend that you do that with conditions, and consider those conditions provided by staff and the applicant. That concludes the staff report.

Chairman Lee: Thank you. Is the applicant here? Please introduce yourself.

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Paul Schepers, Attorney, Seigfreid Bingham, appeared before the Planning Commission and made the following comments:

Mr. Schepers: I technically represent the owners of the platted 6501 Johnson Drive, who are technically the applicants who have submitted the preliminary development plan for your consideration. With me is the principal owner of Block Real Estates Services, the owner of that site, Mr. Stephen Block, who is sitting here. I also am here representing the developer, Tidal Wave Auto Spa. From that organization is Thomas Wells, an independent consultant with a company called Keystone, which has been working with Tidal Wave to navigate our plan through the process. Also present is Marty Murphy, the project manager for Tidal Wave on this particular project. Also, the principal of Tidal Wave Kansas City, Petty Hardin, who will be taking over after I finish my remarks, to tell you in greater detail what our vision is for 6501 Johnson Drive.

I listened very carefully to Mr. Cline's recitation of the history and the creation of the Form Based Code, and I will be here to testify that I've practiced law for 36 years, and this is my first encounter with a Form Based Code process. I agree with Mr. Cline. It's a very unique overlay or addition to the zoning ordinances that I typically see in Kansas and Missouri. My research indicates - and I can't guarantee this - that Mission, Kansas, may be the only municipality in the whole state of Kansas that's adopted Form Based Code. Before I even make this statement, I want to assure you that my purpose here this evening is not to shake my fist and threaten to sue you, because that's the last thing that my client wants to happen. But, I would point out to you that there is no Kansas case which has held that a Form Based Code - and in particular, the way the Form Based Code has been applied to my client's application - is authorized by the Kansas Zoning Enabling Act. There's no case that holds that on its face or as applied, it's constitutional.

So, there are some questions with regard to the lawfulness of the Form Based Code for use to deny an application for development like the one that my client has been presenting to the City of Mission. But, I'm not here to tell you I'm going to sue you. I'm very hopeful that at the end of our presentation, you will look at what's there at 6501 Johnson Drive, and look at what's going to be there when Tidal Wave Auto Spa completes their project. And, in particular, I'd like you to look and take into account everything that Tidal Wave Auto Spa has done to try the best that they possibly could to bring this project within the spirit of the Form Based Code, if not the letter of the Form Based Code.

In addition to Mr. Hardin, who will be making some comments and explaining the project to you, I have a gentleman who I think some of you are familiar with, who has experience with the Form Based Code that I did not have. I brought Dave Olson on board our team because he certainly has experience with the Form Based Code, having represented the developer who successfully obtained approval of a development plan in the same West Gateway area as is covered by the Form Based Code. I believe that Mr.

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Olson's knowledge and experience with the Form Based Code entitled him to create a different Form Based Code scorecard than the one that Mr. Cline has created for our project. And at the close of this presentation, Mr. Olson will walk you through his own Form Based Code scorecard, which I'm pleased to tell you that Mr. Olson thought we had a 90 or a 91.

Again, the main area of disagreement, the main driving force behind the discrepancy with the grade we received from Mr. Cline, and the grade Mr. Olson gave us in his analysis of our compliance with the Form Based Code, rests virtually entirely with the two structures that are going to be located on the site. We received a failing Form Based Code score from Mr. Cline because he thinks that our two-story building that is going to front Johnson Drive is a parking garage. And if you read the Form Based Code, the definition of what a parking garage is, the first line states: *Parking structures or buildings which are specifically designed to store vehicles*. Not surprising. That's what I would have said a parking garage is. That's not what our two-story building is, at all. When you store your vehicle in a parking garage, you park it there, you get out, you go someplace, and then you come back and get in your car and drive away. That's not what's happening on the bottom floor of this two-story building. What's happening on the bottom floor of the two-story building is an extension of our retail operation. Because when you come into the Tidal Wave car wash, as part of your purchase price, you receive the right to use the vacuum cleaners, which everybody uses after they wash their cars.

We have designed the two-story building so that the vacuum cleaners will be on the first floor in a series of areas where you can pull in and vacuum your car, but you're not storing your car there. You're vacuuming it so it can be clean when you finally exit our facility. So, what we consider that building to be is a combination of offices on the top floor, and an extension of our retail operation on the bottom floor, which makes it a mid-rise structure. And if you grade that structure in accordance with the criteria you find in the code for mid-rise structures instead of the parking garage that's imaginary, you're going to get real close to a passing score. Because the main reason we failed the Form Based Code scorecard that Mr. Cline prepared is because our building isn't 40 foot deep. And parking garages under the Form Based Code are required to be 40 feet deep. There's no such requirement for a mid-rise structure. And our mid-rise structure is going to be plenty deep. If someday Title Wave goes off into the sunset and leaves that building there so that that bottom floor can be used for retail purposes, repurposed, if you will, for retail purposes, and if the Form Based Code had desired there to be some minimum depth of a mid-rise structure, why isn't it in there? It's not in there.

With respect to the car wash tunnel. Obviously, the Form Based Code doesn't have a couple pages that tell you what the criteria are in order to put an acceptable car wash tunnel on a site. There isn't any way to classify the car wash tunnel. If we were to classify it - as Mr. Cline has - as a low-rise structure, it still comes darn close to meeting the requirements in the Form Based Code. Not counting the cupola that's on top, which

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I think you'll find very attractive, the height of that is about 21 feet. So, we're five foot short of what Mr. Cline says the height of the car wash tunnel ought to be. What's the purpose of the 26-foot car wash tunnel compared to a 21-foot car wash tunnel? There's no purpose to be served by that. The City of Mission isn't in any way benefitted by that. In fact, if Tidal Wave leaves, they're going to take all the stuff in that car wash tunnel and it's just going to be a shell. And the next person that comes along and tries to develop that site is going to tear it down. So, it isn't as if there's a reason why we need to be concerned about whether the car wash tunnel complies with the low rise building structure. I suppose if somebody decided they wanted to use that shell and make it some sort of retail operation, they could do that, and they could do it if it's 21 feet tall or 26 feet tall.

So, the Form Based Code, at least in our experience - and I'm not trying to cast aspersions on Mr. Cline, or anybody that had anything to do with the creation of the Form Based Code - but I'm here to guarantee you, it hasn't made this process easier for us. The Tidal Wave Auto Spa company is nationwide, and Petty Hardin and Thomas Wells have been before boards like yourself all over the country, and they've never encountered anything like a Form Based Code. Mr. Block has been in the real estate development business a long time. He's never encountered anything like this. And, I hate to say it, but it's based upon more of an imaginary vision of what somebody decided they thought the city of Mission ought to look like than the real-life situation that's out there.

I want to emphasize that despite my reservations about the enforceability, the wisdom, and the rationale behind the Form Based Code, we did everything we were told we needed to do to try and meet the Form Based Code requirements. Mr. Olson will be the last person to speak on our behalf, and he will present to you what he views to be the proper way to grade our project under the Form Based Code, and he'll draw upon his understanding and experience of the Form Based Code that he gained when working on that development that's just diagonally southwest of 6501 Johnson Drive.

When Mr. Block was approached by Tidal Wave, he was ecstatic that someone would be interested in buying this old abandoned gas station site that he owned, and he was convinced that when this development of the Title Wave Auto Spa was presented to the Planning Commission, and ultimately the City Council, they would see it the same way we do. Let me start by showing you where our site is. It's outlined in purple there. It might be easier to orient yourself if you were to glance at the color aerial photos I brought.

That little red circle with the point on it is 6501 Johnson Drive. Let's go to slides 2 and 3. This is the front view of the existing structure. This is the rear view. This is the drop-off that is directly behind the site. That fence that I'm standing next to is the southern boundary of 6501 Johnson Drive. And I'm here to tell you, it's not easy to walk up that grassy slope. From the cement ground of 6501 Johnson Drive down to here is 15 feet.

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That 15-foot slope is contained in less than 6 feet of width. So, we've got a drop-off that's very, very dramatic, and that's going to become important when I explain to you the process that we've gone through so far to try to bring our project in as close to compliance with the Form Based Code as possible.

Go back to slide #2. This is what's there now. I'm old enough to remember when that was a Vicker's station. I grew up in Roeland Park, grew up driving up and down Johnson Drive. Most recently when we had a legitimate operator at that site, who was actually paying rent it was a Valero. That operation that was legit failed on Mr. Block in November 2015. We brought in a new operator to run that business. He had somewhat of a creative business plan that didn't really include paying rent. So, he operated it until April 2017 when Mr. Block finally put his foot down and said he had to go. No legitimate operator of a gas station and convenience store is interested in this site. The only real, viable use for this particular site, we are convinced, is the Tidal Wave Auto Spa that we're asking you to approve the development of today.

So, given what's there and what we think ought to be there with this two-story building on the front of Johnson Drive, winding around to the Taj Mahal of car wash tunnels, we were really thinking that when we showed up here and said we've got the greatest thing we could imagine to be done with this site, we were expecting to be patted on the back. That's not what happened. When we first showed up and were talking to staff, we had a car wash tunnel here with pretty nice landscaping and a way to get in and out, outdoor vacuums, etc. At that point, we were acquainted with the Form Based Code. And we were told, well, you're really not going to be allowed to do that because under the Form Based Code, we're going to need a structure, could have office, or retail use in that structure, but we had to have a building that fronts Johnson Drive. And if you could come up with a building that meets the Form Based Code - which we meant mid-rise structure - if you come up with a building and had it constructed on Johnson Drive frontage with a sidewalk there, for pedestrian access that isn't going to be there for years - If you could come up with this building, we think you're fine, and you can pass the Form Based Code, and we'll get you all developed, and everybody will live happily ever happy. Well, we did that. Drew up plans, paid a lot of money for architects to draw up plans for this two-story structure.

And, by the way, I should mention, the top floor of this structure has already been committed by Tidal Wave Auto Spa to be the offices for the Midwest region of Tidal Wave Auto Spa, a nationwide company. So, that second floor is going to be occupied from day one of the completion of this building. We couldn't come up with any kind of retail operator that we thought would be interested in this bottom floor. So, the idea was, well, you know, the vacuum cleaning part of our operation is retail. So, what we're going to do is have the greatest spot you could pull your car in and vacuum it out after we've finished cleaning it. There are 10 stalls for cars to come in to be vacuumed after they're finished. Petty will show the traffic flow that gets cars through the parking, through the site, through the car wash tunnel, and into those stalls. They don't have to put a coin in

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them like the old-fashioned ones. It is part of what you get for the fee to have your car washed. So, we see that as retail. So, it's combination office and retail, and it sure as heck is a lot more of a combination office and retail than it is a parking garage.

Then I think, as Mr. Olson will elaborate, we've met all FBC requirements with respect to that. This car wash tunnel, if you view it as a low-rise structure, is technically six feet shorter than what Mr. Cline thinks it ought to be, but it's really more of an accessory to the retail operations being conducted there. It's full of state-of-the-art equipment. It's the greenest car wash in the United States, using almost all recycled water, and we're very proud of it. We think if it's viewed as an accessory structure, it's not subject to being graded under the Form Based Code. If you wanted to view it as a low-rise structure, it's five feet shorter than it maybe ought to be, maybe lose a point there, two or three points there - I don't know. But it's not going to make any difference, now or in the future, whether that's 21 feet tall or 26 feet tall.

So, we do this, and we think we've got it. We present it to the Planning staff, and what do we hear next? "Yes, you're getting close, but by the way, the Form Based Code calls for the extension of Walmer Street to go across Johnson Drive, and in order for you to be allowed to proceed with your plan, you're going to have to lop off 10-12 feet of the eastern edge of the site, because that's where Walmer is going to go." And if you look at the aerial photo, you'll see that if you extend Walmer in a straight line, you're running right through the eastern portion of our site. That's when I raised my hand and I called Pete, and said, "Pete, you can't do that. You've taken my site. You're condemning me. If you're going to do that, you're going to pay me for the whole thing, because there is no feasible use." Tidal Wave is gone. This Tidal Wave development is using virtually every square inch of this three-quarter-acre site in order to conduct an efficient business. When we were hit with carving a bunch of land and giving it up for an extension of Walmer, that's when I did have to shake my fist and say, "Pete, we can't do that. That kills this deal. And, you've taken my property."

So, after a period of time, Pete and the staff got back to us and said, "We don't think you need that. We'll run Walmer, not across your site; we'll veer it off to the east." I'm not sure how that happens, etc. Then go to the third slide. How are you going to get it down there to a level where it can go down to Martway? And, by the way, there are a couple buildings in between that we're going to have to tear down in order to get Walmer over to Martway. So, is that ever going to happen? I don't think so. I think it's cost prohibitive. Is it going to happen in my lifetime? Surely not. But, that's somebody else's problem now because we've agreed with the City - and the City's agreed with us, I should say - that Walmer's not an impediment to our development.

Now, we think we've got it. We come back and submit our preliminary development plan, thinking that we've met what they told us we needed to do to comply with the Form Based Code, and then we got a scorecard back that said we got a 57. It's like, what the heck? And reading that scorecard, this part hasn't changed. We went from a 57 to a 60

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because of some tangential things. But we can't get a 90 as long as you're grading this as a parking garage. Because there's no way to put it out another 10 feet without destroying the whole traffic flow that you need to conduct a car wash operation.

So, when we got that 57 score back, we contacted Mr. Heaven and staff and said, "We give up. There's no way we're going to convince you that we should get a 90 Form Based Code." And we're told, and I think Danielle agrees, that if we can't make the Form Based Code, we can't use the expedited procedure in order to get approved without going before City Council. We said fine. Process this as you would any other preliminary development plan that's subject to the Form Based Code. Let's have our day before the Planning Commission, where we explain what we want to do, why it's a mystery to us that the City of Mission isn't jumping for joy about what we're trying to do. And then, we'll let City Council decide after we hopefully get Planning Commission approval of our preliminary development plan.

On the other hand, in the package we received along with our very disappointing Form Based Code grade card were several things that Danielle and her office thought we also needed to do. We then put together an enhanced supplement preliminary development plan that addressed many of those items raised. Other than, obviously, the Form Based Code scores that were attached to those two buildings, which made it impossible for us to get a passing grade there.

In addition - and I apologize for the late agreement to these things - again, this is apart from the Form Based Code provisions that Mr. Cline has applied to our buildings. We went together and came up with a list of conditions that we would be willing to meet in order to bring ourselves closer to compliance with the spirit of the Form Based Code, and which addressed many of the non-Form Based Code comments that we received from City staff. If you were to approve our preliminary development plan subject to these conditions, allow us to go forward in the normal process with the City Council, we're committed to satisfying these conditions.

So, we haven't thrown up our hands and said -- we did what we thought we could, what we were initially told we needed to do, to satisfy the Form Based Code. And I believe that the final development plans, if you look at the architectural plans and our site plan and some other information that Mr. Hardin is going to show you, I hope you'll come to the conclusion that this is pretty darn close to a totally-compliant Form Based Code development, but we're not asking for the expedited process. All we're asking is for you to approve the preliminary development plan and pass that on to City Council with your approval. Rest assured you're fully empowered to approve our preliminary development plan and pass it on to the City Council, despite what Mr. Cline's Form Based Code says we achieved. I believe you'll find Mr. Olson's comments enlightening. It boils down to, that's not a parking garage.

In closing, let me point out a couple of things. If we make that building 40 feet deep, the project is dead. You can't operate the car wash with the traffic flow if we make that thing

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40 feet deep. It doesn't help the first floor area to be developed in the future, and it certainly doesn't have any impact on the new Tidal Wave Auto Spa division headquarters on the second floor. I think you're going to be very impressed with the aesthetics of what you're going to see when we show you what this development is going to look like. Our plan is going to bring much-needed revenue to the city of Mission. You saw the picture of what's there. Look at the assessed property value. You can look at what's going to be there. You can pretty well project the assessed property value. The property taxes are going up, and a lot of that is going into the City of Mission's coffers. Same thing with sales tax. Right now, you're getting zero. But as I read the sales tax statutes, you're going to get 1.6-plus cents of every dollar that's spent by someone going through the car wash. Again, we're bringing Tidal Wave divisional headquarters to Mission, Kansas, on Day 1. We're not asking for a penny of incentives. We're not asking for any property tax breaks. We're not asking for help to pay for any of this, except there is a mention in our conditions, which is common, that the City should pay for the electricity and controls that are necessary to operate the street lights that are going to go along that sidewalk between Johnson Drive and our two-story building. There won't be any need for litigation if we can get approval.

Most important, I would urge you to look at what is an extremely detailed traffic study that was performed by BHC Rhodes, who is probably the most reputable survey firm here in the Kansas City area. They have stated, in no uncertain terms, that our car wash operation is not going to have any kind of negative impact on traffic going up and down Johnson Drive.

At this point, I will turn it over to Petty, who is going to explain all the marvelous features that will be associated with the Tidal Wave car wash development, which we're asking you with great respect and humility to approve tonight.

Chairman Lee: Thank you.

Mr. Troppito: Is it appropriate to ask some questions now? I'm just wondering, you referred several times to this being the Midwest headquarters. How many jobs, and how many new jobs?

Mr. Schepers: There's not that many jobs in the car wash tunnel. It's a highly-automated operation. There will be a couple people working there. That's really a question for Mr. Hardin.

Petty Hardin appeared before the Planning Commission and made the following comments:

Mr. Hardin: We'll have 10 to 12 full-time employees at this particular location.

Mr. Troppito: Who is going to be the owner of this after approval? You'll be acquiring the land?

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Mr. Murphy: Yes, sir. I'll be purchasing the land and am the principal owner of the car wash. Eighty-one percent, to be exact.

Mr. Troppito: And all the requisite environmental studies have already been done on that?

Mr. Schepers: Well, it's an old gas station, so there's going to be --

Mr. Troppito: That's why I'm asking.

Mr. Schepers: The tanks are going to have to go. We're not asking for any money to help pay for that. That's something that's going to have to happen.

Mr. Troppito: It hasn't happened yet.

Mr. Schepers: It hasn't happened yet.

Mr. Hardin: Upon approval of this, Mr. Block will be taking the tanks out at his expense.

Mr. Schepers: And that's probably a good thing, to get rid of them. Thank you very much for your attention.

Mr. Hardin: Thank you for hearing us tonight. I appreciate your time, and respect it, for sure. I'll just go through a few slides and tell you about who we are, what we do, where we started. I'll be as brief as possible because I know others want to speak, and I also see that there's other business owners in town that might want to speak at the public hearing. We first began washing cars out of Atlanta, Georgia, in 2004. We've been in business about 15 years. This location would be our 37th location. We have six other properties in the Kansas City metro area under contract and in various stages of development. We definitely want to build more locations, and we're excited about coming to Mission, which has been identified as having a good bit of opportunity. In 2009, we were voted Business of the Year by the Small Business Association. We're very serious about what we do.

A little bit about car washes of this magnitude. This concept is referred to as a spray-wash on the agenda there. It's not a self-service spray car wash. It's not a full-service detail wash, where you hand your keys over to folks and they detail the inside. The customer stays in possession of their vehicle. We've got four attendants on site most of the time. If it's a slow day, we could get down to as few as two. The customer stays in the vehicle. We assist with the payment process. They load their own vehicle onto a conveyor, keep their vehicle in neutral, and it pushes the customer through the tunnel. They come out clean and dry in roughly three minutes. As they exit the facility, they can opt to use our self-serve vacuum system, which is not individual canister vacuums. It's a centralized unit powered by a 25 horsepower motor, which we have in special enclosures that are not visible, and you're not able to hear them as well, the way we designed it. The customers have the option of whether they would like to vacuum their vehicle, or not.

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Like Paul said, we would have regional headquarters upstairs. We thought about the aspect of retail and just felt like, knowing what's on the market, we didn't want to compete in that space. We're not landlords, we don't want to be, but in the effort to satisfy a Form Based Code in the city and the vision to build a two-story building, to make use of that ourselves we felt was the best thing to do.

There's roughly 27,000 of these type of conveyor car washes in the country. There's an industry magazine that rates us every so often, called *Modern Car Care*. We've consistently been in the top 50 car washes over the year. It's something we're proud of. We're very serious about operating clean, friendly environments. We have a similar vision as Chick-fil-a as far as quality of service that we offer, the friendly staff, etc. Our goal is not to be the most attractive car wash in a market. Our goal is to be the most attractive business in the market. And I can tell you, at the 30-some-odd locations we've done over the years, we have not built one to this magnitude. This is - in Paul's words - a Taj Mahal, and it will be. Our average car wash is somewhere in the neighborhood of \$3 million. We haven't formally bid this out yet, but we're pretty sure it's going to go north of \$4 million. So, we've got our due diligence in what we think that car wash can generate, and we feel certain that we can afford to design that and make it work. We're very proud of it. There's nothing in the country that looks like that.

Having said that, we want to be the most attractive business in the community, not necessarily the most attractive car wash. There are other car washes out there. It's not hard to be more attractive than them. We want to be just as attractive, if not more attractive than some of the later, newer buildings that have been developed recently in Mission. Like Paul mentioned, we're definitely clean, green, recycled water. The chemicals are not hazardous to the environment. We discharge into the sanitary sewer system. We are open 7 days a week. Hours are not set in stone. Sometimes on Sunday we may open a little later. But point being that we're not open after dark. So, in the wintertime, when it gets dark earlier, we may shut down at 5:30 or 6:00 o'clock. In the summertime, we may stay open as late as 8:30. People generally don't wash after dark.

We talked about the recycling of the water a little bit. I'll tell you, you can't recycle 100 percent of the water because when you use fresh water to wash a vehicle and you recycle that water, it's somewhat dirty. So, even though you've recycled it through a really good, sophisticated filtration system, you can't ever really get it back to that quality of truly-fresh water. So, we're able to use that recycled water, about two-thirds of the car wash, in the early process. For instance, high-pressure water that cleans wheels or undercarriage, things like that. You really can't use recycled water to mix with chemicals, and you surely don't want to use recycled water at the end of a car wash. But, somewhat clean water in the final rinse processes. So, you're not able to obtain 100 percent. But, if we didn't recycle water, we'd use about 47 gallons of fresh water per vehicle. Over the years, the equipment has come along, we've gotten better. We're able to now use 14 to 20 gallons of fresh water per vehicle, as opposed to some folks who said if you run a garden hose out on your driveway, you might use north of 50 gallons,

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80 gallons - whatever it says. Point being, if someone washes their vehicle in their driveway, those chemicals and all that water is going down the storm drain, straight into streams and creeks. We capture all the water, recycle it, filter it through underground tanks, and discharge it into the sanitary sewer.

We definitely give back to the community. We're very big on donating to the 501(c) 3 organizations in each location. Site managers are responsible for finding who they want to donate to each year. The third Friday in September every year, at every location nationwide, we donate 100 percent of, not profits, not money we've made, or a portion of it, but every single dollar that comes in that day, we give to charities. The founder of our company has a disabled child, and that's kind of where this came from. It's really been effective over 15 years and been greatly appreciated. We definitely like to be partners in the community and good stewards of it.

This is our site plan. Johnson Drive is running east and west up this way. Customers will pull into here, the pay lane there. Pull under this canopy here, and there's two pay stations. It's more like an ATM style machine where the customers can pay. We have an attendant there at all times, assisting with payment. Once the customer pays, this is another canopy that we may or may not leave there, just because it's a little bit tight. If someone has ice on their vehicle, or some heavy-duty bugs, things that we know the automated equipment may not get off their vehicle, we can do some prep work here. We'll do it here, or we'll try to do it up front. Again, the customers stay in their vehicle. They've already paid. They put their vehicle in neutral. It pushes them through the tunnel, which takes about three minutes. As they exit the tunnel here, if they do not want to vacuum, they can leave straight out and go back on Johnson Drive. If they did want to vacuum, they take a right here and choose a vacuum in any of these spots. Or, this is an uncovered area, and if it's cold outside, people may want to be out in the sunshine. But if it's drizzly, or snowy, or what-not, and they want to be under the canopy, they can come under here, not a canopy, but a two-story building, and pick from one of the spots here. There's five spots over here, maybe six over here and five over here. This central area here is a stairwell, and we've got some vacuum equipment. The equipment that produces the suction will be housed inside the building, and it's piped out to both sides, which has the nozzles for each of those spots. After the customers finish vacuuming, they come out the same exit here. It's a consistent flow. It's one way in and it's one way out.

Staff had concern about trash or any other service vehicles that come. This is our proposed trash dumpster here. This exit is primarily during the daytime, 100 percent for customers or employees leaving. Trash comes at night. There's a gate here, and the trash guy can have a clicker and open that gate. He's coming after hours, so he's not going against traffic to pick up the trash. That's the general flow of the property.

Thomas Wells, Consultant, appeared before the Planning Commission and made the following comments:

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Mr. Wells: The other concern that was raised by the City's civil consultant is creating another median break or access point off the entrance drive into the retail/office area. We don't have an issue providing that secondary break.

Mr. Scheppers: And that is listed on the material that I just handed out. We reluctantly caved on that point.

Mr. Wells: This is a front view of Johnson Drive, our two-story mixed use. As stated before, the upper level would have the Tidal Wave division offices, training room, material storage. The lower level would be retail of vending machines, products associated with the car wash tunnel, as well as the retail vacuum spaces in conjunction with the tunnel wash itself. That's a side perspective.

The materials that we have proposed - and this has been an evolution, as well. One of the points that was brought up earlier is providing information on the storefront facing Johnson Drive, north-face to meet requirements of the architectural guidelines of the Form Based Code. In essence, 60 percent of that building façade has to be glass, doors, windows, between the sidewalk and 18 feet up. And we have no problem making revisions to the architectural plans in order to meet that.

Another concern raised is the amount of EIFS or stucco where that is located. Again, we can make revisions to address those concerns. Typically, at the lower level, we have a split-face concrete masonry unit, and then a precast work table that sits on top of it, roughly about three feet up. And then, either a combination of stucco, EIFS or veneer stone that is above it. So, there's basically three primary products on the face, plus the glass, and then, we use an engineered, prefinished standing seam metal roof.

This is the exterior finishes. The one you can't see is the clear glass glazing. On the left is a representation of the split face masonry unit, and the color would be on the very lower level. The top-middle is the water table, water ledge that sits on top of the split face. And then, top left is a color representation of the hard coat stucco and EIFS that would be above that, and the stacked veneer stone that is used above that water table. Top-right is actually a change in the traditionally roof color Tidal Wave blue, in order to try and be more attractive along this style, which is one and only, you know, for the mid-rise two-story that's planned on the front.

This is floor plans. The top one is the lower level. You can see some of the vacuum stalls, and in the central portion, there is an ADA-accessible office. There will be some equipment in there, as well as vending services. Off to the far right is another stairwell and lower-level HVAC units. On the bottom section is Level 2 floor plan. Central stairway there. Emergency egress on the right side and two restrooms and office/storage/training rooms.

This is a perspective view of the accessory tunnel in the back that's considered the one-story. That's basically shielded from any views from Johnson Drive because our two-story mid-rise goes drive to drive. So, unless you look backwards or around the

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corner. This is a similar architectural theme, with the split-faced concrete masonry unit, the precast water table, and then, the veneer stone on the tower, and then veneer stone columns and accents, accent on the mechanical room, and then some of the EIFS and hard coat stucco on the mechanical room, as well.

Again, this is just a view of the various materials that we went over on the previous slide. As Mr. Schepers alluded to earlier, the top of the cupola on this property is somewhere around 22 feet based on standard design. This is an actual vacuum enclosure. A lot of car washes, you'll see the large canisters nearby a space. A very noisy mechanical unit. This is standard for all Tidal Wave locations, to actually enclose that equipment in a vacuum enclosure so that we're able to control the noise. Here in a very urban and commercial area, it's not a major concern, but it still would be beneficial for our employees, our customers, our neighbors, and was brought up by Mr. Bennett, one of our neighbors to the east, to address that.

This is the express pay terminal - XPT - and this is the pay canopy. It has two lanes, it's basically like an ATM machine. You pick how many dollars you want to put in by the type of car wash you select.

Ms. Dukelow: Where on the site is the vacuum enclosure?

Mr. Wells: It's this building right here, in that landscape aisle.

Mr. Hardin: This uncovered island here, that enclosure would be there, and the other would be inside to service that portion.

Mr. Wells: We talked about the divisional office. In our initial meetings with staff, you know, having a functional two-story building up on Johnson Drive was going to be paramount to meeting the spirit and intent requirement of the Form Based Code. So, that quickly developed as a prime location, central location to a lot of the locations that we currently have in our development pipeline here in Mission. Quik Trip's division office is right around the corner. They didn't put it there just because there was an inexpensive office building. They put it there because it's centrally located to their stores and employees, and easy access. QuikTrip is another entity that Tidal Wave tries to emulate.

This particular site is .76 acres. We've got an 18-foot drop-off to the back. Part of Mission West shopping center that surrounds, is in the rear, wraps around, comes back onto the front. So, kind of land-locked on the west and the east. We've got Exact Performance to the south and west, and to the east we've got Exact Performance. We've been in dialog with Mr. Bennett, who owns Exact Performance. He doesn't have any plans to go anywhere. So, we're landlocked with what we're able to do and the size of the property that we have to work with. We're kind of a hybrid of a service and a retail-based operation, so we feel like from a pure retail standpoint, we've got better longevity. With Amazon and the Internet, pure retail is evolving quickly. We feel like the longevity of our business plan, even with Uber or Lyft, there will still be cars to wash.

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Also, we feel there are ways that we could adapt this mid-rise building on the front, that at such time - 15, 20, 50 years - that Tidal Wave ceases to operate, there could be some adaptation of this building. But, at the same time, with the evolution of retail that's taking place, it's hard to guess what that adaptation might look like, or what we need to incorporate into the building now for some 15, 20, 30 year period out. This is one of our existing locations. It shows the intensity of landscaping. And then, the vacuuming canopy that we've eliminated on this one, so it will be open-air out front. You can see the mechanical room on the side. I'll turn it back over to Mr. Schepers.

Mr. Schepers: I will follow Mr. Olson to make sure I can respond to any questions you might have. But, at this point, I'd like to turn it over to Dave Olson, to express his own views on compliance of our plans with the Form Based Code, and in particular, with respect to those structures. Dave?

Dave Olson, Monarch Acquisitions, appeared before the Planning Commission and made the following comments:

Mr. Olson: It was about four years ago that I worked with staff, worked with the City, and we completed a development on Johnson Drive. It took a lot of work, but I won't go into a lot of details on that project. I want to boil it down. We have their staff report, eight pages, going through the rationale. So, being an engineer by trade, I've boiled it down to its essence. I've created a single-sheet scorecard. Look at what's possible, what's required. And in my opinion, what I think should have come out of the evaluation.

In the staff summary they talk about the code being a tool to evaluate the appropriateness of a project. So, we're sitting on a very small parcel, and you think about what's appropriate. I want to look at three things. I heard it mentioned earlier, but they're proposing - in my opinion - a two-story structure, office on top, retail on bottom. Certainly not a parking garage. And, they're proposing to build that second-story office space without any incentives. I know the last development that came before you went kicking and screaming about second story office space above retail. It would be difficult to lease. It's still vacant today.

That hits two of the three items that I want to put in your foremind. The third item is, I look at the rear building, the tunnel, as an accessory structure. I've also heard mentioned, as far as visibility, because of the almost complete frontage of the two-story building and the height of the two-story structure, you won't see the accessory structure. So, taking the scorecard - before I pass that out, again, I apologize. I got the numbers wrong on the actual score given to us from, from Chris. I somehow got it to 64 instead of 60. I'll pass that out. I want you to look back at the conditions that Mr. Schepers has provided, and as you look down the scorecard, I made brief notes on what the issues were that we didn't receive a passing grade. In each section, it starts out, you know, the rear building is not 28 feet high; under the regulating plan, the front building is interpreted as a parking deck and not 40 feet deep. The third item did not provide a traffic or turning template. With the access and introduction of the median break as

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some of the conditions, I think we're satisfying the traffic turning template issues, and if in your mind you consider the rear building as accessory and the front building two-story structure office and retail, I think we get to 15 points in all three categories.

Under step 2, the building types, the basic essence of why we're not passing. Rear building is not 26 feet high, and the front building doesn't have commercial use on the ground floor. Which, again, is part of retail sales. If you're collecting sales tax on the services that are being sold, to me, it has to be considered commercial use.

Step 3, the Urban Guidelines. You don't have to get the perfect score under Step 3. There's some elements of - You don't have to get a perfect score. But, that was actually a category we did well in, and I didn't change or amend any of the scores, other than with parking area and using the conditions that we proposed, which were complying with the required streetscape, the landscaping that's required on the side and rear yards, and the one item that I suggested we add as a condition, which is the pedestrian connectivity. Tidal Wave chose not to agree to provide pedestrian connectivity through their parking and vacuum area, which I understand they're not really wanting to - if pedestrians don't have a car, they're not going to be using the facility. So, under Step 4, the architectural guidelines, the intent, the materials, the configuration and technique, again, considering the rear building as an accessory use subject to the 26 feet in height. And then, the north building storefront being 60 percent to the 18 feet level, they've agreed to do that. I think they've given you compliance. So, given that, I would estimate the score somewhere between 90 and 91. Thanks for your time.

Mr. Schepers: Ladies and gentlemen, I know it's late, and I fear we've tried your patience already. So, unless any of you have any questions, we'll submit the preliminary development plan and request that it be voted to be approved, subject to the list of conditions that we've agreed to abide by that are on the handout I gave you earlier today.

Chairman Lee: Any questions?

Mr. Troppito: Did staff review your list of conditions that you passed out tonight?

Mr. Schepers: I did not have a chance to finish that in time. I gave it to Pete before the hearing. I don't have any problem with staff taking time to look at it. But, I will say that each of those conditions were derived from comments that staff made in their recommendation, which they asked, which formed the basis for their disapproval of the plan. So, it's not as if we pulled those out of thin air. We took the staff comments and addressed as many as we could by agreeing to, what we interpreted those to be conditions to the staff's approval. So, they're not secret, but I didn't hand it out until just today.

Mr. Troppito: You mentioned that you wouldn't mind taking the time. Can you quantify that? Two weeks? Thirty days?

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Mr. Schepers: Wouldn't mind taking the time to have the staff review it?

Mr. Troppito: I thought you were indicating that you would willing to provide extended time for the review of what you propose tonight. Is that correct?

Mr. Schepers: I'd rather just get the plan approved, but if Danielle is in a position to say she needs to review those, then who am I to say you can't review them because you had 30 minutes to look at it before the meeting today? So, yes.

Mr. Davidson: I have a question. Those offices above, as far as - and the four employees that are on site, or so, where would that office people and employees, where's the parking for them? And I understand that is a very tight project on three-quarters of an acre. I think that's a nice job, getting everything in according to how your national plan is. But, where would those vehicles be parking?

Mr. Wells: Two options. Obviously, depending on how busy the site is, some of the vacuum spaces could be used for employees while they are there. There are also plans that would be engaged to lease or rent off-site parking spaces so that employees wouldn't be taking up a space. And the idea of, you know, a lot of the training, team meetings, etc., will much likely be taking place after normal operating hours, which would then open up the entire facility for employees and team meetings.

Mr. Davidson: You're saying those office spaces would not be used during car wash hours?

Mr. Wells: Not to full occupancy, no. They would be operational people there during normal business hours, but as far as having team meetings and 100 percent occupancy of the office space upstairs, that would most likely be after operational hours.

Mr. Troppito: A question for staff. The varying conditions for approval presented tonight, do you feel you'll have adequate time to address these tonight? Or will you need more time?

Ms. Sitzman: Well, with a quick review of them while the presentations were going on, against the staff report, I feel like we could be comfortable with these tonight. I do have concerns about number 2 and the meaning of the "City agrees to provide power control equipment." I feel the topics raised cover the issues. I'm not sure that they're adequately addressed as worded.

Mr. Braden: Out of curiosity, what is Mr. Olson's relationship with this property, other than just -?

Mr. Schepers: I retained him as a consultant.

Mr. Braden: Is he getting paid?

Mr. Schepers: Yes. He loves the City of Mission, but not enough to waste his Monday evening here without being compensated.

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Mr. Braden: In your wash bays, since it's enclosed on all three sides, is there any means - and this gets into the internal part of the building - for exhaust, for vehicle fumes? Has that been addressed?

Marty Murphy, Project Manager, Tidal Wave, appeared before the Planning Commission and made the following comments:

Mr. Murphy: With the open-roof system, there's no issue with exhaust. We have an open-roof system where at the end of the gables, it has a place for the exhaust to settle. That would be something your fire marshal would have to look into. We pass that everywhere we go. I've been developing these all across the United States. Every one that's been developed in the last few years, I've been there. We pass every inspection and review by fire marshals and by fire code standards everywhere we go. Once they see our architectural and our plans, we don't have any issues with that.

Mr. Braden: You said you haven't had one with offices on top.

Mr. Murphy: We've never had offices above the parking, which is our back stalls downstairs, but it's open on the back side. It's like an open garage on the back side. It's only enclosed on three sides. There's not an issue of exhaust. And it doesn't cover the car completely. The rear end of the car stays out. What we try to provide is shade for you at the doors, hit the side of the car. We don't provide shade for the entire car. So, your parking will actually stop at about the 14-foot mark, so you would only be able to enter into the back canopy or the two-story mid-rise building approximately 14 feet.

Ms. Dukelow: I have a few questions of staff. I have a question on Sheet A2.1. I could not figure out what these elevations are for. As far as I can tell --? Sheet A2.1 [*Looking for form.*] So, the top two elevations on that sheet, can anybody tell me how those line up with the plans.

Mr. Wells: Yes. This an accessory building located on the southern portion of the site. This is a single-story structure. The top one is one of the perspectives. You've got the tunnel, and the mechanical room. The middle elevation is the south side elevation.

Ms. Dukelow: Okay. I've got you now. Thank you for that clarification. And is all this glass along these elevations clear?

Mr. Wells: Yes, ma'am.

Ms. Dukelow: Also, I want to ask about the glass that fronts Johnson Drive. The intent is for that to also be clear?

Mr. Wells: Correct. It's required by the Form Based Code.

Ms. Dukelow: Yeah, I'm remembering that now. Thank you. Just a couple more questions. It appeared from one of the perspectives that we saw that there may be drinking fountains and restroom facilities also included in this accessory --?

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Mr. Wells: Correct, in the mechanical room on the side of the tunnel, yes. There is an ADA restroom there, and there is a high-low drinking fountain provided on the side of the mechanical room. Another ADA requirement.

Ms. Dukelow: I also noticed on the site plan that there is an accessible parking stall at the back of that building.

Mr. Wells: Yes, on the southwestern portion of the site, the required ADA accessible, van-accessible parking space.

Ms. Dukelow: I didn't notice if there's an elevator provided in up to the office --?

Mr. Wells: At this point, no, there is not an elevator. Per the architect, based upon the size and occupancy load, etc., that is not required. But, I would have to defer to him on that.

Ms. Dukelow: Thank you. I have a question for staff, Mr. Cline, Mr. Heaven. I know that the sector plan shows extension of Walmer. But, with regards to that, I have several questions. One of them has to do with, how much of the property to the west of Horizons is owned by the district? I'm wondering about the feasibility of ever extending Walmer because the school district - I don't know who owns that property, but it may be the school district. And we all know that there's a dramatic slope. The other question I have is, looks like the fire station is not, is clearly out of the way of that. I really wonder about the feasibility, and would be interested in hearing more about that.

Mr. Cline: Sure. There are a number of places in the Form Based Code area where street realignments were considered, and this was one of them. Danielle touched on one of the primary reasons for that initially, was the large block size. There's a lot of property here to work with. The slopes, all that engineering has to be worked out as to where that alignment falls and how to make it connect with Martway. But, it would be feasible to do that in a number of different configurations. So, the intent behind the original code showing some type of connection here was to try to provide a mid-block connection between Johnson Drive and Martway. So, you can see there, I believe right where the Z is, I believe that parcel of property is part of the school property. It wraps around that commercial business there that's located just to the north.

Ms. Dukelow: So, that's shown directly along the west side of the district property.

Mr. Cline: Correct. And the intent was to line up with Walmer across the street and try to, since Johnson Drive is the busier street, to try to create a four-way intersection at that location. So, there was consideration made on that end to make that alignment at that location versus one of the other two blocks. Split the difference between the other two streets, to the east and west. You can see where Walmer lines up just to the north. Any anticipation as a part of all of the Form Based Code is that at some point, some of these properties may redevelop. So, if there was an opportunity in conjunction with

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some other redevelopment that might occur to the south, all of those connections could be made and considered at that time.

Chairman Lee: How much of the cost of the car wash is reduced if I decide not to use the vacuum? What is the cost of going through the car wash if I opt not to use the vacuum? The reason I'm asking, you keep referring to the front being retail, which would be the vacuum. So, the value of that vacuum is how much in relationship to the cost of washing my vehicle? Which is really not being done in the accessory building. Isn't that where the retail actually is taking place?

Mr. Murphy: As you pay for the wash, that's part of the wash. It's not an option. If you need a percentage breakdown, I'd be glad to get you that information.

Chairman Lee: My point is that you refer to this front building as where retail at the first level is taking place. There is no retail being taken. If I can't pay for that service, where's the retail component?

Mr. Schepers: All I can tell you is that you pay for the right to use the vacuum when you buy your car wash.

Mr. Murphy: Yeah, there's retail sales and vending in that area.

Mr. Schepers: Yeah, there's going to be deodorizers, wipes...

[crosstalk]

Chairman Lee: Off the top of your head, what percentage of your business uses the vacuum?

Mr. Schepers: What percentage of the people who use the car wash? Use the vacuum?

[crosstalk]

Chairman Lee: Is that 10 percent of the sale? Five percent? Eighty percent?

[crosstalk]

Mr. Hardin: Of all of our revenues, how much is vending? It's not a huge portion.

[crosstalk]

Mr. Hardin: --- it's five percent, maybe?

Chairman Lee: So, you're saying retail that is taking place on the first floor is just that vended portion.

[crosstalk]

Mr. Schepers: As counsel, I would say that the retail service that you buy when you pay for your car wash includes the use of the vacuum.

Chairman Lee: I understand that.

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[crosstalk]

Chairman Lee: -- there's no reduction if I opt not --

Mr. Schepers: The only reduction would be fewer people might buy car washes if they didn't get a complimentary vacuum.

Mr. Murphy: If we had a car wash, which in some big metro areas, I know some folks in Houston, Texas, where they had a very small site, much smaller than this, and they don't have vacuums. They have just a tunnel car wash, and they're cheaper because they don't have to buy as much property, buy the equipment. There's definitely a lot of dollars saved with electricity, running motors, that type of thing, associated with the vacuums. And it's a huge part of our business. If the vacuums were not available, probably 60 to 70 percent of the customers do use the vacuums. They can use them for five minutes, or 20 minutes. It's a very significant business model.

Chairman Lee: At this time, we're going to call the public hearing. If there is anyone who wants to get up and speak either in favor or against, this would be the time to do it.

Ben Bennett, Exact Performance, appeared before the Planning Commission and made the following comments:

Mr. Bennett: I'm to the east of the project. My concerns are traffic, noise, but I'm also tired of looking at, just a desolate piece of property next to me. So, I feel like it's kind of up to you guys to make the proper choice. I don't feel that a car wash is a bad decision. I don't know if there's a better decision out there, but I don't think it's a bad one.

My concern is Walmer Street. The comment I heard from Pete is, "it's moved to the east".

Mr. Heaven: No, that wasn't Pete who said that. I'm Pete, and I'll tell you this. That is a futuristic street plan, and one of the reasons we didn't press it in this case is we don't see it happening in the near future. It may be when your building comes down. Whenever that might be. The City has no interest in trying to condemn land or take buildings down and build streets.

Mr. Bennett: Or move businesses.

Mr. Heaven: Right. Absolutely.

Mr. Bennett: Yeah. Because I feel like I'm established, for 20 years. Our birthday is coming up this week. I feel like I contribute to this community.

Mr. Heaven: Absolutely. There is absolutely no intention --

Mr. Bennett: So, if there's any threat to my business, I want to know about it. Other than that, I'm fine. I hope he gets some business.

Chairman Lee: Anybody else who would like to speak, either for or against?

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Sandi Russell appeared before the Planning Commission and made the following comments:

Ms. Russell: I'm a Mission resident, as well as a business owner. I have Twisted Sisters coffee shop on Johnson Drive. When you keep asking about the retail, isn't the cost of the charges for the car going through to get cleaned, is that not considered retail? I'm trying to get it clear in my head. So, they're paying money for a service, just like they would pay money for a service that they walked into. They're just driving in. So, I would consider that retail. I think it's an awesome-looking project against what's sitting there now, and has been there for years. We don't have much development on the west side, and that would be an awesome start. Unfortunately, Mission is kind of going through a phase now where people are moving out, businesses are moving out. So, for a business to come in, that would be awesome. And to have them not ask for any incentives, that's even more incredible. That's it.

Cathy Casey appeared before the Planning Commission and made the following comments:

Ms. Casey: I'm a business owner of two businesses in Mission, Casey's Auto Repair and Casey's Auto Repair on the Drive. I would just like to say, I challenge you to have the same landscaping that we offer at our shop. I agree with Sandi on everything she said. One thing I'm really troubled about is you're talking about Walmer going through. Why was it brought up? Why did he have to get a lawyer to come and talk to the City? Because it was brought up. Makes no sense to me. We have somebody who's going to have a beautiful building in Mission. Try and help them. Give them every chance to open up, instead of having them have to contact lawyers all the time to try and get something done. I would really like to hear that things are happening in Mission without having to get a lawyer to fight. That's what I'd like to say, and that's it.

Kevin Fullerton appeared before the Planning Commission and made the following comments:

Mr. Fullerton: I'm a resident of Mission, and I'm also a business owner. I own Springboard Creative down on Johnson Drive. One of the things I've been worried about, we have a Mission business partnership, of which I'm the president. We've been getting a lot of feedback from our businesses that our city has become very business-unfriendly. And as I sit here and look at the struggles they're having to go through to get in front of you all, to get in front of the City Council, that concerns me greatly as far as what other kinds of businesses are going to want to come to Mission.

It was mentioned earlier that we've got businesses that have been leaving. Bad timing. We've lost several. But, let's not make it harder for people to come into Mission, to start a business, to do it without asking for any incentives whatsoever. To me, all I had to hear was "no incentives," and that's great. And what they're doing, the way they've bent over backwards to get where we want them to be, has been amazing. So, I hope we

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can bring in a great business like this to be part of the Mission business community. Thank you.

Mr. Schepers: I'd like to add for the record, not a single one of those people who just spoke was compensated in any way.

[Laughter.]

Chairman Lee: With that said, I'll close the public hearing.

Ms. Dukelow: Mr. Chairman, I have a question regarding next steps. I'm wondering if we - I don't know what, what would be the preferred way. If we choose to deny versus table, would that enable the applicant more opportunity to -? Would they still be able to take advantage of the expedited procedures that would be provided by the Form Based Code? Is that desirable? I mean, I'm just trying to figure out through these options what the outcomes of them would be for this particular project, on this particular site, for this particular applicant.

Ms. Sitzman: With the score they have currently from staff, they would still need to go to City Council for a final determination. If you wanted to make a motion to table this and direct staff to apply a different building type, if you were to tell us you have listened to comments tonight and you think the mid-rise building height should be evaluated, we can certainly come back to you with a revised score based on that direction. If they were to get a score that was 90 or better at that point, they could go back to the Form Based Code review that ends at the Planning Commission. That would address the expedited versus the normal review.

Ms. Dukelow: And if they were to, if we were to do a mid-rise building type review and they achieve the 90 points, then they would be here in a month?

Ms. Sitzman: Right.

Ms. Dukelow: I'm just trying to figure out how these things are going to impact, be impacted by schedule.

Ms. Sitzman: The next meeting is April 16th, a little earlier than usual. It's the third Monday. I think there is still time to prepare a review and have it before you at that meeting.

Ms. Dukelow: And then, the alternative would be, if we choose to do that, if we were to proceed and send it to City Council, staff would have time to review and go on --?

Ms. Sitzman: Right, and the meeting for City Council would be the Wednesday of that same week April 18th.

Ms. Dukelow: So, from a schedule standpoint, it really doesn't make a difference.

Mr. Schepers: Excuse me, Ms. Dukelow, if I might make this quick point with respect to that. My concern is that we've been what we thought was very close to the finish line several times, only to have it moved. So, if what happens, based upon your suggestion,

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is we're back here on April 16th with the staff saying, "We've looked at it, it looks like a parking garage to us, no passing Form Based Code grade," now you've set us back even farther. And if that were the way it plays out, I would just prefer that you go ahead and approve it subject to our conditions and let the City Council make a final decision.

Ms. Dukelow: I have another question of staff. I'm not familiar with the history of this project, so I'm wondering, how long has it been, really? How long have we been -?

Ms. Sitzman: I don't have the timeline in front of me, but there was a period of time where the applicant took some time to consider how they wanted to proceed. They took several months to consider this.

Unidentified: Fourteen months.

Ms. Sitzman: That sounds correct.

Mr. Braden: I have a question of staff. Again, can we just go over what the big heartaches are? I remember reading that there was a tough time telling what kind of building this is, so it was assumed a parking structure.

Mr. Cline: This one has been challenging because it doesn't neatly fit into any of the building type considerations. So, when I'm interpreting what's in the code and how to rank this project and score it appropriately, I had to look at the information that's here in the code about this type of use. So, a car being inside part of the building. When looking at mid-rise, or parking structure, or low-rise, all of them say accessory units prohibited. So, when we talk about this, the car wash in the back being an accessory use that was part of the score, accessory uses are not permitted with any of those building types. So, if you were to direct us, that this is a mid-rise building and score it that way, when I look at a mid-rise building type, it still doesn't allow for an accessory use. So, the structures in the back really need to be considered as one of these building types, which I consider it as a low-rise building. And it doesn't meet the 26-foot requirement. We've had other submittals in the past that have come through a few times before they finally meet the 26 feet.

Mr. Braden: How short are we of the 26 feet?

Mr. Cline: There was one case where it was four inches short and it failed. So, that precedent was set. The intent behind a low-rise building having such a tall profile was to create a sense of scale out here, and to make sure that the building fit the area a little better. I've been very fair and consistent in the way that we've scored that throughout that, and that's why that back unit being less than 26 feet doesn't qualify as a mid-rise building.

But, when I look at the mid-rise building, even when I get to the urban guidelines that are located in Chapter 4, page 3, it says: [Reading] *Depending on lot size and block configuration, parking may be provided under the building (below grade) - not on the ground floor - in a structured garage behind the building or in a well-designed surface lot*

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behind the building. So, it provides three different options for how to address parking a vehicle as a part of the mid-rise building type, and none of those conditions say you can park directly underneath the building in the ground floor. So, when I look at what's written here, I don't consider this a mid-rise building based on this definition. So, the closest thing I could find in a building type to what's being proposed is a parking garage, and a parking garage, it says there has to be 40 foot of depth, a linear building, if you will, for retail use or some type of use out in front of the parking garage. That's where we came up with the 40 foot as a minimum depth. That's where it's referenced in the definition here for parking structure.

So, I've been trying to figure out how to adapt this to what's written and what's defined, and that's what I put in my report, is the way it stacks up with the way it's written right now.

Mr. Taylor: And I understand the challenge there, and I appreciate all the work that you all are doing to make this assessment. It occurs to me, I'm looking for other comparisons, types of businesses that might utilize this space and house cars. We have two others who spoke today who are mechanics or auto care companies, and I'm just curious, as a new member of the commission, how would those types of businesses qualify? Would they be parking structures? Can you speak to that at all?

Mr. Cline: Like I said, I'd have to see the floor plan and understand what it is --?

Mr. Taylor: It's not that simple?

Mr. Cline: Yes.

Mr. Taylor: Okay. The other question, I'm curious about the process. If we move forward and allow this plan, they would go outside of the Form Based Code and work with City Council. Not gaining any benefit. And they've spoken as though they accept that term.

Mr. Schepers: We came here resigned to the fact that we weren't going to get a passing score from Mr. Cline. Consequently, in my discussions with Mr. Heaven, we came to the conclusion that the path forward for us was to present this as any preliminary development plan outside of the Form Based Code areas where people presented, subject to your approval under the criteria that's set forth in the process for consideration of preliminary development plans. At that point, whether you vote it up or down, it goes to the City Council, which is really where we'd like to head.

Mr. Cline: I've done my best to be fair in the application of these standards to every application. I want the applicant and the City to know that I've tried to be very consistent and look for opportunities to score this as best I possibly can. I'm constrained by what's in this document just as much as anyone else.

Mr. Davidson: And I understand, you try to place a rubber stamp on something, you know, to keep uniformity throughout the city, through all these projects. And when we agree that we have this code on a property that we didn't want to say yes in this

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situation and no in another situation. But I think these gray areas that the Form Based Code is based upon, it is a gray area. Meaning it's not a parking garage, but that's the closest definition you have in your descriptions. I think it comes to a point in time when the Planning Commission, it becomes our place in a gray area to say, do we like this project, or not? I'm talking about that single structure, the accessory building being six feet short from that 26-foot height, or what-have-you. But when you see that structure from the south and you have an elevation drop of 16 feet, you're looking at that structure, you know, 16 feet up in the air. And a lot of times you're not going to be able to tell if it's six feet taller than it is, or that kind of thing. So, I'm just saying, the logistics for this piece of property, those are the kinds of things that we as a Planning Commission have to use our common sense.

As far as the project, I think what is there and what they are proposing is quite, I mean, a wonderful use of the property. And I am familiar with cities that sometimes can be very difficult for businesses, and we don't want Mission to be like that. I hear that resident loud and clear, as well.

Mr. Bruce: Mr. Chairman, I'd like to jump in on what Brad was saying. We've heard from our business community this evening. There seems to be a general feeling that we're not supporting the business community. I think that ought to be one of our highest priorities as a group here, and also as a group at the City Council meeting, is to support, encourage and develop our business community.

Now, it looks to me like they have gone through a lot of exercise here to meet the requirements of the Form Based Code. Mr. Cline, I apologize, but it seems like we have a legalistic issue that is dividing us from accepting a viable development here because of some wording that says, either the rise, or on something else. So, my personal feeling is that I would like to see this move on to City Council and let them determine how strongly they want to support the Form Based Code when you have a project of this quality sitting as a potential along this eyesore of Johnson Drive. Thank you.

Mr. Heaven: If I could try to put this in perspective. The Form Based Code is a vision. It's kind of a general vision for what we want our city to look like. And the reason that we adopted the Form Based Code was to accelerate the process. If you meet our criteria, you get a passing grade, you basically go straight to the Planning Commission then you get your building permit. The idea was to promote business, not slow it down. But we do hit these gray areas. So, when we do hit a gray area, we circumvent the Form Based Code. The fact that you don't get a passing grade doesn't mean you can't do your project. It just means you can't have the accelerated process. So, you have every right to approve this project tonight, recommend approval to the City Council. You don't have to worry about the Form Based Code. It doesn't pass the Form Based Code. So, get over that. Let's not try to make it pass something it can't pass. And that's our fault. Our code doesn't deal with this.

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I say, tonight, just make a decision. Decide whether you think the project is good and recommend it to the Council, or decide it may not be the best use and recommend denial. Really, the Form Based Code should be a guide, but - it's not deal-killer. It's something that would accelerate the process, and it doesn't qualify. So, I'd say go ahead and vote tonight if you can.

Mr. Braden: I have a question, and I know the Form Based Code kind of incorporates that, to not only speed up the process but give us an idea what this area is supposed to look like. In this case, maybe that's not sensible for this particular application. But what I want to make sure is that if we do go ahead and approve this, does that set a precedent for projects moving forward? That would be my main concern. Also, I would suggest that we find a definition in the Form Based Code that meets one of these kinds of structures. I think we need to look at that.

Mr. Heaven: Mr. Braden, I think the precedent you'll set tonight, if there is a precedent, is that you as a Planning Commission can rise above the Form Based Code and make decisions for the city. I don't think you're locking yourself into doing anything in the future that would be bad for the city. I think you're retaining your discretion to do what's good for the city.

Mr. Braden: Thank you, Pete.

Mr. Troppito: I have a question for Pete. Pete, you suggested we make a motion to approve this and move it to City Council. But, to what extent do you envision such motion would be including the conditions for approval that were passed out tonight?

Mr. Heaven: I believe in your packet, Danielle has given you a proposed motion with some conditions. One is to approve and send on. I have gone through what was prepared and handed out tonight by the applicant. I have no problem with it. I do have the same concern Danielle does. I don't understand exactly what it says, when we're going to agree to provide power and control equipment for street lights. I'd want to clarify that. But, I think with the conditions that Danielle suggested, and these conditions, in addition, I'm very comfortable with it.

Mr. Schepers: I have a question, Pete. Does the City not pay for the electricity for lights that are on public right-of-way?

Mr. Heaven: Yeah, but I don't know what you mean by control equipment. What is that?

[Overlapping comments.]

Mr. Schepers: The thing that turns it off and on. Like that photocell thing. The power and off-and-on thing.

Mr. Scott: You have to provide lights that conform to our design code. Beyond that, we pay for the power.

Mr. Schepers: Yeah. And we're applying for that. That's what we meant to say.

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Ms. Dukelow: Mr. Chairman, I will make a motion.

Ms. Sitzman: Ms. Dukelow, I'm sorry, you're going to have to read some conditions into the record, however, if you don't want to read all of the ones in the applicant's handout, you can simply say "conditions 1 through 6 as provided in the handout." We will provide a full record to City Council as to what that means.

Ms. Dukelow: Provided by applicant?

Ms. Sitzman: Yes. Although staff would recommend you simply strike the last part of number 2, starting from the word, "provided, however, the City agrees to provide power and control equipment."

Ms. Dukelow: Okay, so, the suggestion is to strike the last portion of condition #2 after the semicolon, which says, "The City agrees to provide power and control equipment for the street lights."

Ms. Sitzman: Correct.

Ms. Dukelow: Okay. Mr. Chairman, I move to adopt the following findings of fact and recommend to the City Council to approve Case #17-11, the Preliminary and Final Site Development Plan for Tidal Wave Auto Wash development, with the following stipulations. And these are as written by staff:

Prior to the issuance of a building permit:

- Complete information about percentages of EIFS and storefront glazing are to be provided for staff review and approval.
- Along the Johnson Drive frontage, windows are doors shall meet the minimum 60% total coverage of the storefront and EIFs or stucco shall not be used within 8' of the ground nor comprise more than 25% of the first story.
- Complete information regarding trash enclosures, retaining walls, other screening, pay canopy and pay kiosk in compliance with the Form Based Code standards shall be provided for staff review and approval.
- Complete details regarding the site landscape and public streetscape including street lights, benches, trash receptacles and bike racks in compliance with the Form Based Code standards shall be provided to staff for review and approval.
- The median break in eastern entrance driveway shall be relocated to allow vehicles to leave the wash tunnel queue before the pay station.
- Complete details regarding the circulation of trash and other service vehicles on site shall be provided for staff review and approval.

In addition to those conditions provided by staff, those will also include those conditions as provided by the applicant, and the amendment to the conditions provided by the applicant. We shall strike the last portion of item #2, in which the City agrees to provide power and control equipment for the street lights.

Mr. Troppito: Second.

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Chairman Lee: Call the roll, please.

The vote on the motion was taken (8-0). **The motion to approve this application carried.**

Mr. Hardin: I want to personally thank staff for working through the challenges so far with this project. I know it's been a gray area, and I appreciate your willingness to work with us. Our work has just begun, but I want to personally thank everyone involved in this. Thank you so much.

Mr. Schepers: I echo that. Thank you.

Planning Commission Comments/CIP Updates

Mr Braden provided the Planning Commission with an update on the CIP Committee's activities.

Staff Update

Staff provided an update on current and upcoming projects and events.

ADJOURNMENT

With no other agenda items, **Mr. _____ moved and Mr. _____ seconded a motion to adjourn.** (Vote was unanimous). The **motion carried.** The meeting adjourned at _____ P.M.

Mike Lee, Chair

ATTEST:

Ashley Elmore, Secretary