

Exhibit E: Excerpt of Planning Commission - Board of Zoning Adjustments Worksession Meeting Minutes, January 30, 2014

Item 6A: Work Session

Consideration of Amendments to the City of San Leandro Zoning Code related to Industrial and Commercial Uses; Telecommunications; Hazardous Materials; Recycling; Signs; Parking; Application Processing; and a General Text Update.

Planning Commission Chair Abero described the process the meeting would follow, with clarification-type questions coming first, and discussion-type questions and comments later. She said time would be allowed for public comment.

Secretary Liao explained that the proposed Zoning Code changes came from staff's experience in recent years interpreting the Zoning Code. He added that the intent is to streamline the code and make it more flexible, as well as modernize it to adapt to changes resulting from the City's efforts to attract high-tech businesses such as Lit San Leandro and the Next Generation Workplace District Study.

Planner Barros noted that in addition to some "cleanups" that are needed for consistency and clarity, the proposed changes build on the energy throughout the City in terms of positive change, particularly in the industrial sector. Referring to a table of amendments for general clarification in the January 30, 2014 staff report, Planner Barros explained that each item is covered in the definitions section. She invited questions about clarification.

Mortuaries: **Planning Commission Vice Chair Hernandez** asked about the reason for excluding cremation. Planner Barros said that about five years ago, the City handled a difficult case of a mortuary that wanted to do cremations. At the time, she said a moratorium had been passed on crematoria, and it was taken out of the Zoning Code, but as staff was reviewing for cleanups, cremation remained in the definition.

Medical Marijuana: In response to **Vice Chair Palma**, Planner Barros said that medical marijuana is an informational item on the agenda for the BZA meeting on February 6, 2014 and then will go to the Planning Commission on February 20, 2014. She said the item could go to the City Council on March 17, 2014.

Substantive Changes

Planner Barros said that she used the matrix that was included in the meeting packets to show changes proposed for Articles 6 and 7, which pertain to commercial and industrial zoning. She dealt separately with proposed process-oriented changes to Articles 21, 22, 27 and 28.

Commissioner Rennie asked whether the matrix would become part of the Zoning Code. Planner Barros said no, but said it's a great tool that staff has been using at the counter for reference on a daily basis for years and distributing it as a handout.

Planner Barros reviewed the substantive changes listed in the staff report. In alphabetical order, following are items that Commissioners and/or BZA Members commented on or asked about per Planner Barros's presentation.

Beer and Wine Stores: Planner Barros explained that staff proposes tightening the definition to ensure that it doesn't morph into facilities such as package or convenience stores. **Vice Chair Palma** questioned no food sales because beer and wine stores are very likely to want to sell some type of food such as cheese with wine or pretzels with beer. She is concerned about limiting what

could be a gourmet kind of establishment. Planner Barros confirmed that the beer-wine only is the primary use, with food as a possible accessory use, and that a more upscale shop with beer, wine and food could be a Neighborhood Specialty Market. In response to **BZA Chair Mendieta**, Planner Barros said that to her knowledge San Leandro has no stores that sell beer and wine only. She noted that the definition was created in 2004 during work on the East 14th Street South Area Development Strategy.

Brewpub: In response to **Vice Chair Palma**, Planner Barros confirmed that the brewery, not the restaurant, would be producing beer. A question whether brewpubs could serve only beer produced onsite and whether the Zoning Code definition should reference the federal Alcohol and Tobacco Tax and Trade Bureau definition of a brewpub led Planner Barros to indicate further research to clarify the definition. Planner Barros explained that the definition in the proposal comes from the California Department of Alcoholic Beverage Control (ABC).

Business & Trade Schools: **Commissioner Rennie** asked about the logic behind wanting these facilities downtown. Planner Barros said they would tend to draw people and high-tech and other industries have indicated they may want technical schools nearby. **Vice Chair Palma** suggested that the definition also could include universities, extension universities, etc.

When **Commissioner Fitzsimons** asked whether this should come under the existing “Schools” definition, Planner Barros said “Schools, Public and Private” comprises K-12.

Catering Services: **Vice Chair Palma** suggested including commissaries in the definition.

Community Gardens: Planner Barros described this as a whole new concept for San Leandro, whereby community gardens (subject to Administrative Review) would provide amenities for local residents and businesses as well as employees whose jobs bring them to San Leandro. It is proposed for all zoning districts except for CS, P and PHD Districts.

She said it would be helpful to hear Commissioners’ and BZA Members’ thoughts on allowing Community Gardens in residential districts with Administrative Review.

Commissioner Fitzsimons said the reading is hard to follow. For instance, he said that the staff report section includes a sentence reading, “The use includes, but is not limited to, home, kitchen and roof gardens.” This suggests that kitchen gardens could in the future be defined as a Community Garden. Kitchen and home gardens don’t sound like Community Gardens, he said, adding that the term Community Garden implies a vacant lot where people in the community get together and grow things.

Commissioner Fitzsimons noted that Community Gardens are defined as “non-commercial,” but elsewhere in the proposed Community Garden definition says that “sales . . . of fresh food and horticultural products grown on-site are permitted” in all districts, while also allowed in residential districts “where the primary ingredients are grown and produced on-site.” In addition to noting that the definition should be consistent in both places, Commissioner Fitzsimons asked whether sales are or are not allowed, and if so, recommended clarification of the circumstances.

Other questions he raised concerned:

- Whether Administrative Review would be used to approve Community Gardens in residential districts.
- The need for clarity about responsibilities, including liability issues, dispute management, garden maintenance, etc.
- Whether a Community Garden would involve multiple people independently growing things on parts of a piece of land, or whether one person would operate it.

- Height limitations on plantings (as there are with tall weeds).
- Whether standards would be enforced, what penalties would be incurred if a Community Garden is neglected or becomes an eyesore.
- Whether livestock and beehives should be explicitly excluded.
- Whether “private farms” should be removed from the definition.
- The reason for express prohibition against growing cannabis for personal consumption

Commissioner Rennie agreed it’s important to think carefully about how Community Gardens would function, but said they would be a really good complement for multi-family residential developments, as well as a good buffer or interface between uses.

Dance Club: Planner Barros said this has been difficult to enforce, because if someone wants to dance at a bar, it suddenly becomes a Dance Hall. Commissioners and BZA Members discussed whether a monthly or annual limit on the number of dance activities should be used to establish a threshold for the Dance Club definition, but ultimately concurred that adding the word “primary” to “use” or “activity” or “purpose” in the definition might be the solution.

Entertainment Activities: Planner Barros explained that after reviewing how other communities (including San Francisco, Walnut Creek and Fremont) handle Entertainment Activities, staff is recommending moving Entertainment Activities from the City’s Zoning Code to the Municipal Code. That would add flexibility, she said, because it would allow establishment of Entertainment Activities in the City on a much broader basis.

The shift to the Municipal Code would involve creating an Entertainment Permit process that also would define Entertainment and establish performance regulations. Community Development Director Battenberg said the Zoning Code recommendations and text for the Municipal Code amendments would go to the City Council concurrently, so there would be no gap or overlap in coverage.

As an Alameda County staff member, **Vice Chair Palma** said Fremont’s approach has been a disaster, particularly with special events that include entertainment. Fremont has established numerous requirements that conflict with County regulations, she said. Commissioner Rennie asked if the proposed shift means that San Leandro would no longer regulate night clubs and similar venues from a land use perspective in terms of size, location and other factors.

There was discussion about the ABC-police relationship when it comes to dealing with problems in bars or nightclubs and the difference between use permits and operating permits.

Chair Abero told of having to go to the Police Department to obtain a permit for a church picnic, and said the Police Department is likely to have more input into the kind of businesses operating in the community. She said the entertainment issue warrants a closer look, because we don’t want to create a situation in which we have more legal issues stemming from the way we administer it.

BZA Member Crawford expressed concern about discriminating against potential business owners and operators with misdemeanors on their records.

Fast Food Restaurants: **Commissioners Fitzsimons** and **Rennie** said they oppose Fast Food Restaurants in the SA-2 District due to the proximity of elementary schools.

Health & Fitness Centers: When **Vice Chair Hernandez** asked whether bowling alleys and skating rinks aren’t more “dedicated” activities than health and fitness centers, Secretary Barros said the idea is to expand the Health & Fitness Centers definition to include such “sporty” activities that aren’t really considered entertainment. **Chair Mendieta** pointed out that bowling alleys also sell food and liquor, and perhaps should stand on their own.

Live-Work: With Administrative Review being recommended for Live-Work project proposals, **Member Crawford** advised crafting a less ambiguous definition, considering environmental hazards (e.g., asbestos and liability) of allowing residential uses alongside industrial uses. **Commissioner Fitzsimons** said he opposes Live-Work uses in industrial districts on the basis of land-use incompatibility.

Massage Therapy: **Vice Chair Hernandez** noted that these facilities are listed under Retail Services as well as Health & Fitness. Planner Barros, citing the Bay-O-Vista Swim & Tennis Club as an example, said that Massage Therapy is allowed as an accessory use in the Health and Fitness category.

Mobile Food Vending: **Vice Chair Palma** suggested that, to be consistent with the California Retail Food Code, the definition should cover offering samples and giving out free food as well as selling it, and also include the requirement for a valid Alameda County Health Department permit.

Commissioner Fitzsimons said he finds the overlap in definitions between temporary food facilities and Mobile Food Vending facilities confusing. Referring to proposed amendments to Article 3 in the Zoning Code, he cited the Temporary Use definition, which indicates that the “period of operation does not exceed 45 days at any one time.” Planner Barros said that’s a mistake; it should be 90 days as it appears in the changes proposed in Use Permits, Variances and Parking Exceptions areas covered by Article 22, Section 5-222.E, Temporary Use Permits, Effective Date, Duration, Appeals .

Planner Barros also indicated that since preparation of the staff report, staff is adding the recommendation for a Administrative Review to allow Mobile Food Vendors in the Downtown Area Districts (DA-1 through DA-6). In response to BZA Member Houston, she said performance standards relative to Mobile Food Vendors are being developed for inclusion in a new section of the Municipal Code, to address such facilities on private property as well as in the right-of-way, to establish minimum distances from restaurants that serve the same type of food and to include reference to the required health permits. This Municipal Code amendment would take effect simultaneously with the Zoning Code changes. Secretary Barros also said the Administrative Review fee for Mobile Food Vendors would be in line with Temporary Use fees or Outdoor Facilities permits.

Vice Chair Palma noted that Oakland is having a difficult time getting a handle on its ordinance, which was intended to drastically limit food trucks. She invited staff to come to upcoming meetings to learn what the County is doing about Mobile Food Vendors. She said she likes the way San Leandro has been more fluid in terms of accommodating Mobile Food Vendors than most other communities in the County.

Commissioner Fitzsimons asked how hiring a caterer at an event differs from bringing in several Mobile Food Vendors to serve food instead. Planner Barros said that would be a private use versus an established use on private property. **Vice Chair Palma** added that two or more Mobile Food Trucks constitute an event and thus requires a Health Department permit.

Commissioner Leichner said “established” multi-vendor setups sound like mobile food courts, similar to Portland’s dedicated blocks of communal dining on fare served from trucks and carts. In response to **Vice Chair Hernandez**, Planner Barros suggested that the food pods illustrated in the City’s Next Generation Workplace District Study were more likely to be defined as restaurants and fast food establishments rather than mobile vendors.

Parking: **Chair Mendieta** said that in general, he favors parking standards that encourage use of public transportation and wants San Leandro to be even more aggressive in allowing higher densities, especially around BART. **Vice Chair Palma** agreed, adding that the Senior Parking

definition be expanded to Senior and Mixed Use Development Parking, at the minimum. **BZA Member Daly**, noting that the Downtown Transit Oriented District (TOD) Strategy already addressed minimized parking requirements for higher-density development downtown, warned against creating parking nightmares. **Commissioner Fitzsimons** agreed that senior facilities may have lower parking needs, but he also cautioned against too much relaxation of parking standards because cars are not going away unless the City receives benefits in return.

Paving in Front Yards: **Vice Chair Palma** asked whether paving in front yards, which was included under the “Parking” umbrella in the staff report, should specify use of pervious materials. Although it’s more expensive, she said, it’s much better for the environment. Planner Barros said this would be a great thing to examine more closely in the future, but that this proposal is to clarify the existing policy to limit impervious paving to fifty percent of a front yard. In response to **Member Daly’s** asking whether something like a red lava rock yard would be considered paving, Planner Barros said that red lava rock would be “pervious,” and staff also is proposing adding the definition of pervious to the Zoning Code (Article 30).

Recycling Facilities: In response to **Commissioner Fitzsimons** question about how the recycling center on the Safeway parking lot on Bancroft Avenue is categorized, Planner Barros said it would fit in the “small collection” category (Article 16, Section 1646-B). She said as she understands state law, recycling facilities are required within a certain radius of grocery stores.

Signs: In response to **Chair Mendieta**, Secretary Barros said the Municipal Code covers the issue of awning maintenance. Although no language change was proposed in the Zoning Code text about temporary political signs, **Commissioner Rennie** said he believes it needs to be updated to align with current law.

Tattoo Parlors: Although Planner Barros indicated that this definition would be removed and “tattoo studios” added to Retail Services, there was a question whether tattoo artists require licenses or certification, along the lines of the California Massage Therapy Council (CAMTC).

Wireless Telecommunications Facilities: **Commissioner Fitzsimons** raised several issues:

- Who in the City would be the one to determine an acceptable neutral paint color for freestanding towers and ground-mounted facilities if they don’t have a galvanized steel finish? The Zoning Enforcement Official, according to Planner Barros.
- The proposal includes a requirement that any exterior lighting must be manually operated; he would like freestanding wireless facilities able to use time-clock controls for any lighting that is allowed.
- Could the table summarizing the individual zoning district process for reviewing telecommunication facility applications be included in the matrix? Planner Barros said it would be in the matrix as well as in the Zoning Code.

Chair Mendieta expressed concern that the City does not require a certain distance between a wireless telecommunications facility and elementary schools. Planner Barros said staff would ensure that the City’s regulations align with federal regulations.

Article 21: Planner Barros said staff is proposing placing conditions of approval on the development application for Administrative Review. Further, staff proposes adding a paragraph stating that notices may be mailed to owners of adjacent properties when the ZEO determines that granting a permit via Administrative Review could generate significant public concerns. At this time, she added that the Administrative Review process requires no public outreach.

In regard to Section 5-2106 Effective Date; Lapse of Permit; Appeals, **Commissioner Fitzsimons** noted that the language addresses applicant appeals, but has no indication of the

process for *non-applicants* to appeal if they object to a ZEO decision. Planner Barros said the non-applicant process is covered in Article 28, but should also be made explicit in this context.

Vice Chair Hernandez asked who the City's ZEO is. City staff indicated that the Community Development Director Battenberg is filling that role. Mr. Pio Roda explained that the Municipal Code provides that the City Manager or a designee can name the ZEO.

Article 22: Staff proposes deleting a paragraph from Section 5-2208.B that calls for posting notices on or within 300 feet of a property for which a public hearing on a proposal is scheduled. **Vice Chair Palma, Commissioner Rennie, Members Daly and Hudson** were among those who want to retain posted notices. **Commissioner Fitzsimons** said he would like the notices to also include a rendering or simulated photo to make proposals easier to visualize.

Planner Barros said that staff proposes amending Section 5-2218.E to extend the renewal period for use permits, variances, height exceptions or parking exceptions from one to two years if the findings required by Section 5-2212 remain valid. Discussion led to agreement that the extension would be granted for one year at a time, as **Member Crawford** suggested, and up to two years past the original year's expiration date.

Article 28: In regard to Section 5-2808, **Commissioner Fitzsimons** asked whether the fact that a hearing is not held within the specified timeframe constitutes a "failure to act." Planner Barros confirmed that it does, that failure to act affirms the original decision, and that's why staff has proposed extending the deadline to schedule a hearing on an appeal from 45 to 60 days from the City's receipt of an appeal.

Explaining the process going forward, Planner Barros said that when the time comes, staff will go back to the BZA for an informational review of items on which work will continue from tonight's meeting. Following the BZA review and comments, the package would go to the Planning Commission for a public hearing and its recommendation, and then on to the City Council. **Vice Chair Palma** asked why the BZA doesn't get to vote on zoning amendments. Planner Barros said the BZA votes on CUPs and variances, whereas the Planning Commission votes on policy matters and planned developments. Commissioner Rennie clarified that per State law, zone text amendments go to a planning commission for a recommendation to the legislative body (e.g., city council). As Vice Chair Palma acknowledged, not all jurisdictions have a separate BZA.

Chair Abero opened the session for public comment, giving each speaker up to three minutes.

Chris Crow, Sylvia Way, said this process needs to slow down. It's too rushed and some things are being circumvented and not necessarily streamlined. Mr. Crow said that most cities use zoning codes to regulate entertainment activities, not police departments. The Bal Theatre situation was resolved because it was covered by the Zoning Code, he noted, pointing out that the City has lost in court on land-use decisions related to entertainment, assembly and wind turbines.

Dan Dillman, Williams Street, owns the BAL Theatre, said that taking power from the people, from the boards and giving it to staff is not worthy of consideration. He said the Police Department needs to focus on crime. He said you might get exercise from bowling, but bowling is entertainment. Mr. Dillman also objected to anyone with even a misdemeanor on his or her record not being allowed to apply for a permit. He also said it's inappropriate to have the Community Development Director serve as the ZEO.

David Johnson, San Leandro Chamber of Commerce CEO, said that he serves on the Board of the Paramount Theatre of the Arts, which he said operates in an entertainment district that's geographically defined. He said the Paramount works in partnership with the Oakland Police Department to ensure that activities and entertainment are safe for patrons, and he trusts that whatever goes forward in San Leandro would respect that.

Mr. Johnson also said allowing more uses in San Leandro's industrial districts is an important shift, and many of the changes proposed for the Zoning Code complement those efforts. Referencing the Live-Work category, he said a Work-Live category also would be advisable. It would enable anyone who buys or leases property in a live-work environment to clearly understand that he/she lives in an industrial area. He recommended the City contact Tom Dolan, an Oakland architect who has done this kind of work throughout the U.S. for years.

Dave Ehrlich, Lewelling Boulevard, said he's part of a broad coalition that includes all nine Bay Area Counties, fighting the Plan Bay Area regionalization that would phase out local governments. He said it's been a hard sell, because local officials have trouble grasping the idea of flipping governance into a social-engineering phase with transit-oriented and live-work/work-live developments. He said SB1 proposes transforming the former redevelopment agencies into sustainable community development funds, which Mr. Ehrlich states would take away private-property rights, change the meaning of blight, and usher in inappropriate land uses.

Derick Lee asked for more information about San Leandro's strategy for attracting more creative people and businesses geared toward technology and innovation, beyond the interest in creating more work-live/live-work opportunities.

With no other speakers coming forward, **Chair Abero** brought the discussion back to the Commissioners and BZA members.

BZA Member Hudson said she wanted to be on record as objecting to two proposals. She strongly opposes any changes in terms of Entertainment Activities because the topic went through considerable contemplation and discussion. To put it under the auspices of the Police Department would be the wrong way to go, she said. She also said she wanted posted hearing notices to continue.

BZA Member Thomas also expressed concerns about Entertainment Activities falling under the auspices of the Police Department. Among the reasons he cited were the potential for banning involvement by anyone with a record and the additional burden on the police when officers have so many pressing issues to deal with already.

Vice Chair Palma said Entertainment Activities under police auspices would be "flat-out wrong." She also expressed favoring continued posting of hearing notices as a public benefit that should not be taken away. As for Mobile Food Vendors, Vice Chair Palma said they encounter extraordinary barriers in Oakland, but every city has its own idiosyncrasies about food trucks.

If people perceive that San Leandro is setting up barriers to Entertainment Activities, **BZA Member Houston** said it would undermine the extensive work and progress we've made in the entertainment arena, the efforts to attract more wine bars, microbreweries and other activities the City wants to encourage, and to draw increasing numbers of young people coming to town and spending their money. She said she doesn't want to put up roadblocks that would preclude continuing the positive, progressive moves we (the City) have made to more strategically place ourselves in a position from make this a community that draws young people to live and work.

Chair Mendieta said he agrees with his colleagues about keeping Entertainment Activities in the Zoning Code and with the BZA. In terms of Parking requirements, he said some residential structures within a certain distance of BART stations could do with less than one space per unit. He said the definition of Community Gardens should spell out responsibilities and address liability issues. The groundwork for San Leandro's transformation has been laid with the construction of the Kaiser facility and the installation of the fiber-optic network, Chair Mendieta noted, but it's disappointing that the Village Marketplace is just a strip mall downtown and not a mixed-use development. He favors San Leandro becoming more aggressive in terms of height and density.

Member Daly said he wants the City to keep posting notices because he reads them and believes a lot of other people do too. As for Entertainment Activities, he said if the system's not broken, don't fix it. It should stay in the Zoning Code, and if some problem emerges, maybe we can figure out how to address it within the existing framework. He would be cautious about eliminating downtown parking in high-density residential developments because some of those people would have cars and it would affect parking in the surrounding neighborhoods. He said while our long-range goal may be for everyone to ride a bike or take the bus, we have to understand the reality that not everyone's personal habits will change.

BZA Member Crawford commented that in his years working with former Mayor Jerry Brown on Live-Work facilities in Oakland, he said it became problematic in the Embarcadero corridor where tenants began suing the city because of the asbestos in their units. He agreed with Mr. Johnson that San Leandro should consult with Tom Dolan to ensure that the language in our Zoning Code is not vague and ambiguous and possibly leading to lawsuits. As for Entertainment Activities, Member Crawford said we've come too far now to add more restrictions and guidelines. If we want to be inviting to businesses, it makes no sense to set up more hoops for them to jump through. If there are problems, call the police, but don't give the police the responsibility for entertainment. He said, too, that we must make sure that when we establish rules and regulations, they aren't in conflict with those issued by the County, State or federal government. According to Member Crawford, it's also important to keep posting hearing Notices, in part because they contribute to transparency on the part of the City.

Commissioner Collier said she's concerned that Administrative Review cuts out the possibility of BZA Members or Planning Commissioners discussing issues and projects, and also that applicants would prefer learning what needs to be changed about a proposal from their peers rather than from a single staff member. She described an Administrative Review experience in Oakland in which she – the property owner – was not even invited to the hearing and no notices were posted. She added that being cheaper and faster doesn't make Administrative Review better. She also noted that while San Leandro has an excellent staff, we don't know what that staff will be like 10 years from now.

Commissioner Fitzsimons pointed out that San Leandro, for example, has a very good BZA, but one need not go far to the north to find one that does not work very well. In that case, Administrative Review is the better option, and such decisions can always be appealed. He said one element missing from the staff's Administrative Review proposal regards noticing for projects undergoing Administrative Review, and recommended developing a liberal noticing policy, including renderings when appropriate. Commissioner Fitzsimons also commented on:

- **Floor Area Ratio**: He wants to allow variances for FAR where appropriate and wants multiple parcels to be considered as part of equation to encourage more of the "campus-like" projects that tech companies favor. He noted that the Berkeley Municipal Code has language that addresses such parcel combinations.
- **Live-Work**: He opposes Live-Work development in industrial districts, because residential and industrial uses are incompatible. Over time, residents prevail because they vote.
- **Community Gardens**: This piece needs to be thought out more, particularly in terms of rules and regulations.
- **Mobile Food Vendors**: We should require the same of Mobile Food Vendors that we do of restaurants. He said he doesn't want to see the City's restaurant stock fail.

- Entertainment: There's a lot of emotion around this issue, but not a lot of facts yet. He suggested taking the Entertainment piece out of the proposals for the time being to give it more thought.

Commissioner Rennie said he'd like to see the definition of dwelling unit expanded, but suggested removing the reference to "interconnected interior space" because some residences may not meet that criterion. Noting that he saw Beer and Wine Stores limited to 10:00 p.m. in one district, he said that should be the limit in all districts. He also expressed a concern about proposed changes in the CC Community Commercial District because they don't seem appropriate in the area along MacArthur Boulevard between Estudillo Avenue and Dutton Avenue. He said that section should perhaps be re-zoned because it's more like a Neighborhood Retail District with successful operations including coffee shops, bagel shops, ballet and martial arts studios and a restaurant, which are all neighborhood-serving retail uses. He said other permitted CC District uses such as auto parts retail and recycling don't fit in that character and the direction MacArthur Boulevard has taken since the streetscape improvement.

Commissioner Rennie agreed that posted paper notices should stay, in part because they provide some relief to the "cacophony of digital noise." Noting that Mobile Food Vendors can be detractors as well as catalysts, he also agreed with Commissioner Fitzsimons that we have to be careful about where we allow them.

In regard to Entertainment Activities, Commissioner Rennie said he's spent most of his 18 years as a public lawyer dealing with rogue establishments and has not found zoning to be the best way to deal with problems that arise from "secondary effects" such as patron conduct or a poorly operated business. With land use, rights become vested, he said, and they run with the land and can be difficult to reverse. He noted that police focus on crime; they aren't interested in or trained to write administrative reports. On the other hand, planners don't have the same information police get when they respond to calls.

Commissioner Rennie suggested that the metrics that warrant attention when thinking about how to regulate on an operational basis might involve serving alcohol, dancing, amplified sound and the nature of the live entertainment provided. Land use has a role in terms of location, size of the business, concentration and number of patrons assembled, he said, but you can't deal with a 500-person nightclub the same way you deal with a 49-person bar. He said we need to see a better plan, yet be open to how it addresses problems of secondary impacts without overtaxing police resources and without over-regulating to the point that businesses can't flourish if they operate responsibly.

In terms of Administrative Review, Commissioner Rennie said the noticing for an Administrative Review may not need to be as robust as it is for a public hearing, but it may be worth considering written hearings.