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City of San José Planning Commission Hearing
Wednesday, April 9th, 2009

[Gavel pounding]

COMMISSIONER ZITO: Good evening. My name is Jim Zito, and I am the chair of the Planning Commission. On behalf of the entire Planning Commission, I would like to welcome you to the Planning Commission public hearing of Wednesday, April 8, 2009. Please remember to turn off your cell phones. Parking ticket validation machine for the garage under City Hall is located at the rear of the chambers also want to welcome our TV viewers. We've been televised for the last nine months or so. If you have been flipping through the sponge Bob reruns, thank you very much for watching us. If you want to address the commission, fill out a speaker card located on the table by the door on the parking validation table at the back, and at the bottom of the stairs near the audiovisual technician. Deposit the completed cards in the basket near the planning technician. Please include the agenda item not the file number for reference, for example, 4A. The procedure for this hearing is as follows: After the staff report, applicants and appellants may make a five-minute presentation. The chair will call out names on the submitted speaker cards in the order received. As your name is called, line up in front of the microphone at the front of the chamber. We ask that you identify yourself. Each speaker will have two minutes. After public testimony, the Appellant and applicant may make closing remarks for an additional five minutes. Planning Commissioners may ask questions of the speakers. Response to commissioner questions will not reduce the speaker's time allowance. The public hearing will then be closed and the Planning Commission will take action on the item. Planning Commission may request staff to respond to the public testimony, ask staff questions, and discuss the items. If you challenge these land use decisions in court, you may be limited to raising only those issues you or someone else raised at this public hearing or in written correspondence delivered to the city at or prior to this public hearing. Planning Commission's actions On rezoning, prezonings, general plan amendments and code amendments is only advisory to the City Council. The City Council will hold Public hearings and make decisions on those items. Okay. First order of business tonight is roll call and let the record reflect that we have all hands on deck. Everyone is present and accounted for. Item 1, deferrals. Any item scheduled for hearing this evening for which deferral is being requested will be taken out of order to be heard first on the matter of deferral. A list of staff-recommended deferrals is available on the press table. Staff will provide an update on the items for which deferral is being requested. If you want to change any of the deferral dates recommended, or speak to the question of deferring these or any other items, you should say so at this time. To effectively manage the Planning Commission agenda, and to be sensitive to concerns regarding the length of public hearing, the Planning Commission may determine either to proceed with remaining agendized items past 11:00 p.m, continue this Hearing to a later date, or defer remaining items to the next regularly scheduled Planning Commission meeting date. Decisions on how to proceed will be heard by the Planning Commission no later than 11:00 p.m. Staff, deferrals.

SPEAKER: Thank you, Mr. Chair. We have a number of deferrals this evening. CP08-0 distribution, this is an application that is being dropped per staff's request at this time. We would renote that item and bring it back if we can bring it back at a later date. Item 1B, file number CP08 019 and ABC 08-0002. This is a conditional use permit and determination of public convenience or necessity to allow offsale of alcoholic beverage, Story Road, has been withdrawn per the applicant's request and will not be coming forward at a later date. Item 1C is file number CP07-081. This is a conditional use permit to allow a 4500 square foot addition to an existing private school gymnasium for the liberty Baptist church. That is requesting deferral to April the 22nd per the applicant's request. And lastly Mr. Chair, item D, CP08-077. This is a conditional use permit to allow religious assembly use in a portion of an existing industrial office building at 175 Bernal road. That is also being deferred to 4-22-09 per applicant's request.

COMMISSIONER ZITO: Any comments? Seeing none. Commissioner Campos.

COMMISSIONER CAMPOS: Thank you, Mr. Chair. Move the deferrals.

COMMISSIONER ZITO: Any further questions? Seeing none, and that Marty passes unanimously. Send. The consent calendar items are considered to be routine and will be adopted by one motion. There will be no separate discussion of these items unless a request is made by a member of the Planning Commission, staff, or the public to have an item removed from the consent calendar and considered separately. Staff will provide an update to the consent calendar. If you wish to speak on one of these items individually, please come to the podium at this time. Okay, staff, any further comments on consent?

SPEAKER: I do not believe there's any additional comments, Mr. Chair.

COMMISSIONER ZITO: I don't believe this card is on consent either. There are two items on consent. Commissioner Campos.

COMMISSIONER CAMPOS: Thank you, Mr. Chair. Move approval on the consent items.

COMMISSIONER ZITO: I hear a motion on consent. Any further comments, questions, concerns? Seeing none, all in favor? Opposed? Seeing none that motion passes unanimously. Item 3, public hearing. Generally, the public hearing items are considered by the Planning Commission in the order which they appear on the agenda. However, please be advised that the commission may take items out of order to facilitate the agenda such as to accommodate significant public testimony or may defer discussion of items to a later agenda for public hearing time management purposes. First item, 3A, Amendment to the strong neighborhoods initiative and projects area. Proposed amendment to the strong neighborhoods initiative project area authorizing the collection of tax increment from a portion of the area bounded by Santa Clara Street, the union Pacific railroad, park avenue, and the Guadalupe/Los Gatos creek. council district 6.

SPEAKER: Adele Larasas from staff. Available to answer any questions.

COMMISSIONER ZITO: There are two items to this. Amendment to the strong neighborhoods initiative project area authorizing the collection of tax increment from a portion of the area generally bounded by Santa Clara Street to the north, the U.P. railroad to the West, San Carlos street to the south, and the Guadalupe/Los Gatos creek and highway 97 to the East. Second part is a revision to the redevelopment plans for the merged project area to clarify the list of potential public improvements in each project area to specify sports and entertainment facilities. Commissioner Kamkar.

COMMISSIONER KAMKAR: Thank you, Mr. Chair. Question for redevelopment agency. If you could please give us a quick overview as to what the item is asking us to approve, thank you.

SPEAKER: It is asking the Planning Commission to find that the two amendments are in conformance with the general plan. The First Amendment is to collect tax increment from a portion of the SNI project area, which we're calling the arena Diridon area. The second amendment is we're just coming back with revised language to the plan amendment that we brought to the Planning Commission on February 11th to clarify that we are adding sports and entertainment facilities, to the list of projects that can be -- the list of projects that the redevelopment can fund.

COMMISSIONER KAMKAR: Is this a new -- so would this be a new fees, if you will for the area that you're talking about or would this be a redirecting of the fees that are already being collected?

SPEAKER: We don't collect -- currently we do not collect tax increment from the strong neighborhoods initiative area.

COMMISSIONER KAMKAR: So this would be new fees that are collected?

SPEAKER: Right.

COMMISSIONER KAMKAR: Okay. And do we know what the average -- I guess impact to the average business would be out there, or average -- would this be a property tax increment then? What would be the average impact to the, I don't know, average lots, if you will?

SPEAKER: When a project area is established, there's -- and if it's going to collect tax increment, there's a base year that's established. There's a base year that would be established for this area. And any increment from that would be what the redevelopment agency would receive. So it's no new taxes to any of the properties. It's existing taxes.

COMMISSIONER KAMKAR: But that being directed to some other program, it would be directed to redevelopment agency?

SPEAKER: Instead of being directed to other entities, it gets split, in a very different formula, using the different formula.

COMMISSIONER KAMKAR: Which a home other than would probably not see a tax increase.

SPEAKER: Right, that's correct.

COMMISSIONER KAMKAR: Thank you.

COMMISSIONER ZITO: Thank you, Commissioner Kamkar. I guess the question I had, as you mentioned we did consider what seems to be a similar program, whatever you want to call it in February. How does this differ from whatever we already considered in February?

SPEAKER: What we brought to the Planning Commission in February was the plan amendment to increase the tax increment limit the agency could receive. So we went from -- we were proposing a -- moving from \$7.6 billion to \$15 billion. This money would not add additional money to that plan amendment. It's just being able to collect tax increment from the Diridon area in order to receive moneys sooner to do projects within Diridon and the merged project area.

COMMISSIONER ZITO: So it doesn't change overall forecast limit?

SPEAKER: Limit.

COMMISSIONER ZITO: How is that addressed?

SPEAKER: That is so all the plans have consistent language related to sports and entertainment facilities. Just making each plan so that they have consistent language.

COMMISSIONER ZITO: Okay, that is good. Any speaker comments? Any comments from the commission? Mr. Campos.

COMMISSIONER CAMPOS: Thank you, Mr. Chair. Prepared to make a motion. Motion to close public hearing and then I'm prepared to make a second motion.

COMMISSIONER ZITO: Okay, the motion to close public hearing, second, all in favor, any opposed, seeing none go ahead.

COMMISSIONER CAMPOS: Thank you. Move that we consider the director's CEQA determination for an overall increase in the agency bonding cap in accordance with CEQA. Recommend to the redevelopment agency board that an amendment to the SNI project area authorizing the collection of tax increment from a portion of the area bounded by Santa Clara street, the union Pacific railroad, park Avenue, and the

Guadalupe/Los Gatos creek is in conformance with the San José 2020 general plan, as recommended by staff.

COMMISSIONER ZITO: There is a motion and second. Any further comment, questions, concerns? Seeing none, let's vote by light. I guess we'll take each section separately. Let's vote by light on this one. That motion passes unanimously. Commissioner Campos, you wish to continue? Okay.

COMMISSIONER CAMPOS: And I further recommend that the Planning Commission find that the proposed redevelopment plan amendments described are in conformance with the City of San José's general plan and that the Planning Commission recommend approval of such plan amendments to the redevelopment agency board.

COMMISSIONER ZITO: There is a motion and second. Further comments? Seeing none, let's vote by light. And that motion passes unanimously. Okay. Thank you. 3B. CP08-0007 and ABC 08-0009. Conditional use permit and determination of public convenience or necessity to allow offsale of alcoholic beverages at an existing retail store on a .13 gross acre site in the CP pedestrian commercial zoning district located open the Northeast corner of bird avenue and Auzerais avenue. 394 bird avenue. Staff.

SPEAKER: This is a conditional use permit finding of public convenience and necessity for offsale of alcohol. Convenience store, currently selling a mixture of convenience items and Ethiopian related goods. Because this project is located in the Delmas park strong neighborhoods initiative area and also because the proposed project is located within 150 feet of a residence, the City's municipal code requires that staff and the Commission recommend denial on this proposed project. This project is exempt from environmental review. So that staff is recommending denial, thank you.

COMMISSIONER ZITO: Thank you, staff. You're the applicants, is that correct? So before you begin to speak, do you understand what staff just explained regarding the requirement that the Planning Commission would have to find? Given the fact that your location relative to the SNI and other residential properties?

SPEAKER: Yes. Except that the –

COMMISSIONER ZITO: I'll give you your chance to speak, I just wanted to know up front whether you're aware of how we are bound by the current code.

SPEAKER: Yes.

COMMISSIONER ZITO: All right, please go ahead and speak.

SPEAKER: One of the items that this location being 150 feet from the residential area, the location, you know, something that has to be highlighted is the position or the direction of the front side, is the residential area at that time back, and the store is facing away from the residential area. And I believe that should be a consideration.

COMMISSIONER ZITO: Okay. I'm sorry, and what was your name?

SPEAKER: My name is Muli Geta.

SPEAKER: My name is Asaveda, I'm the owner.

SPEAKER: And just to add one more thing. That's what our livelihood is. There is a reasonable amount of Ethiopian community here. And the wine and beer that we wanted to sell is primary imported from Ethiopia into the community. This is a neighborhood requested what their point of view is got petition for it. And generally, that is very okay with it, except that the people in front that have similar business probably they have some objection to it.

COMMISSIONER ZITO: Okay, thank you. Commissioner Kamkar has a question or comment.

COMMISSIONER KAMKAR: Thank you, Mr. Chair. The question I have is, does the establishment have a back door or you only enter it from the front and exit it from the front?

SPEAKER: Yes, only the front. You enter and exit from the front.

COMMISSIONER KAMKAR: So there is no back door to the establishment?

SPEAKER: No.

COMMISSIONER KAMKAR: Or fire exit or anything?

SPEAKER: This store -- on the side. And there is chains.

COMMISSIONER KAMKAR: Okay. So the reason you know, I ask that is, I need to know if the only ingress and egress from -- is from the front door, then you know, I can understand your point. But if there's some way of accessing the site from the side, you know I needed to know that.

SPEAKER: No, there is no access to, only exit door to use garbage or something.

COMMISSIONER ZITO: Thank you, Commissioner Kamkar. Actually there was two findings that couldn't be made, one was the SNI and the other was the access to a residential property. There are no speaker cards. Do you have any further comments that you would like to make?

SPEAKER: Just one highlight. Just this is how she lives. She used to work in the factory nowadays, the economy, this is how she supports her family with. So the demand for other stuff, somehow you know, will increase our revenue.

COMMISSIONER ZITO: You understand what you can do, if we in fact agree with staff, and go ahead and deny this, you have the opportunity to appeal this to the city council. And the city council really is the only body that has the authorization to override the guidelines, the ordinance as written. So many times, we have businesses in your situation who come before us, and we have no choice but to deny. And we often make recommendation as part of our motion that while we are denying it, we recommend city council to further review it, and grant it. So that is that option. But you would have to go ahead and appeal. So you know. Okay? I was just handed a speaker card. So I'm going to allow the next speaker to come up and speak for two minutes. Baktesh, is that correct? Please come up, state your name and you'll have two minutes.

SPEAKER: Thank you. My name is Baktesh Shamini. I just wanted to mention that there is many other grocery stores within the general area that already sells beer and wine. So if -- I think if you would have a concentration of those licenses, then it would attract negative like a negative type of image towards that community. And this comes at a time when San José is trying to develop its downtown image. That's one thing I would like to say. Right next door to this market is a housing project that's called Espiranza. And some of those people, their in that program, they're recovering alcoholics. It's a way for them to get their lives back on track. So I mean, having a store right next door, that wouldn't be good for them. Another thing is, Mr. Kimara had asked like if there was an exit or something of that sort. There's an exit on the side by the alleyway right next door to the apartment building.

COMMISSIONER ZITO: There is a question, Commissioner Campos.

COMMISSIONER CAMPOS: Thank you, Mr. Chair. Are you part of the NAC?

SPEAKER: No.

COMMISSIONER CAMPOS: Because in the staff report it did say that at least half the attendees at the community meeting, including the entire NAC were against it. But I'll just ask my questions of staff on that. Thank you.

SPEAKER: Thank you.

COMMISSIONER ZITO: I see no further speakers. Okay. There was one more, all right. If you have anyone else who was interested in speaking on this, please come up and fill out a card. Almaz, is that correct? Please come up.

SPEAKER: I would like to say, for the gentleman who was telling you, regarding to the people who was living in that apartment, if it's a closest street or next door it's the same thing he's telling. So we're just asking for our community, since she cater to the Ethiopian community, there's just special things we supposed to buy from her store. If we go and buy one thing, and we have to go across the street to his store to get the things

I need, it's like deterring her customers. So I wanted to just see that part. Because she just, he doesn't want her to have the same things he's having across the street. Thank you.

COMMISSIONER ZITO: Okay, thank you. No further questions, no further cards. The applicant, you may come up and respond to any of those comments if you choose, have you another five minutes or can you choose just to forgo.

SPEAKER: I guess we just want to highlight that most of the objection comes from people in the same line of business. And we do realize that, you know, the concentration of alcohol sell around, and it is not a good thing. But I think in this case it's within the limit that's allowed in the city code. Thank you very much. That's all I have.

COMMISSIONER ZITO: Thank you very much. There are no further questions. Is there a motion to -- there's a motion to close public hearing. Motion and second. All in favor, anybody opposed? Staff, any further questions, comments?

SPEAKER: I guess I neglected in my initial staff report to mention, I did hand out some papers, letters and petitions and a few e-mails out to you prior to the hearing date, including a petition signed by a number of members of the Ethiopian community in support and a few e-mails in favor of the proposal as well. And there was an e-mail from the president of the NAC again reiterating that the SNI, Delmas park SNI neighborhood action committee is strongly opposed to the proposed project, and also again to reiterate, the police have issued a memo that they were opposed to it, as well. And I guess, just to tag onto Commissioner Kamkar's question, I mean there is a second door on the establishment, basically required by fire code, that they do need a second egress. But it's not something that someone would come in through. So --

COMMISSIONER ZITO: It's not a typical --

COMMISSIONER ZITO: It is certainly not an entry way that a customer would use.

COMMISSIONER ZITO: Entrance or exit. All right. Commissioner Campos.

COMMISSIONER CAMPOS: Thank you, Mr. Chair. Staff, could you give an approximate number of people that attended that community meeting?

SPEAKER: I would actually not be the project manager at the time of the community meeting. I do have the attendance list in my file. I believe it was a good 40 or 50 people that were there. Kind of quick scan, yes, 39 people supposedly.

COMMISSIONER CAMPOS: Okay, thank you.

COMMISSIONER ZITO: Thank you, Commissioner Campos. Commissioner Kamkar.

COMMISSIONER KAMKAR: Thank you, Mr. Chair. I just wanted for verification, the committee was against these plans, even though you weren't there?

SPEAKER: From what I understand, the sense, the general neighbors who were associated with the SNI and the NAC, were overall opposed to it. But from what I understand at the meeting, there was also a significant representation of people from the Ethiopian community that wanted to support the proposal. But the NAC was certainly opposed to it.

COMMISSIONER KAMKAR: And I guess we don't know where the concentration of the Ethiopian community lived, how close to the project, right? It could be all over San José or –

SPEAKER: Not specifically. I know that the petition has addresses. Not going so far as locating how far those are to the project site but certainly some of them were definitely what I recognize as being in the general vicinity.

COMMISSIONER KAMKAR: Sure. The other question is, regarding I guess it doesn't matter where you measure the 150 feet from, but side door or front door, they're well within 150 feet?

SPEAKER: Certainly they are.

COMMISSIONER KAMKAR: Got it, okay, thank you.

COMMISSIONER ZITO: Thank you, Commissioner Kamkar. Commissioner Campos.

COMMISSIONER CAMPOS: I'm prepared to make a motion.

COMMISSIONER ZITO: Please.

COMMISSIONER CAMPOS: That we deny a conditional use permit and determination of public convenience or necessity to allow off-sale of alcoholic beverages at an existing retail store on a .13 gross acre site on the CP, pedestrian commercial zoning district as recommended by staff.

COMMISSIONER ZITO: Thank you. Any additional statements?

SPEAKER: Just that this isn't the final step. You can appeal to the city council. I like to get feedback from the community and also the NAC as to how they feel about the project. When other grocery stores or convenience stores have come before us and they've had strong support from the NAC and we know we've had no other choice but to deny it, we've given strong recommendation to go to city council and have them overturn us. However I don't see that here. There must be something there that we don't have the bird's eye view on but the NAC does. I couldn't make a strong recommendation to city council to overturn our decision. Thank you.

COMMISSIONER ZITO: Thank you for that, yes. And on page 7 of the staff report in the conclusion, I think staff did a good job of detailing what we have to do as a commission, and the fact that we couldn't make the required findings, two of them in specific, the SNI, finding and also the proximity to residential properties in addition, what would grade on me was the police department indicated it was opposed and also the SNI was fairly vocal in their opposition. So as Commissioner Campos had mentioned, I also could not necessarily make any strong recommendation to city council. But that option does exist once we vote on the motion, if that becomes what we recommend, then the city council could take it up if you choose to go that route. With that, let's vote. We got a second, right? Okay, with that, let's vote by light. That motion passes unanimously. Okay, item 3C. PDC 09-008. Planned development rezoning from the R-1-8 residential zoning district to the A(PD) planned development zoning district to allow up to 19 single family detached residences or up to 14 single family detached residences adjacent to a possible future new fire station on a 3.21 gross acre site located on the east side of South white road approximately 250 feet south of Cunningham lake court. Bishop of the church of Jesus Christ is the owner. Staff.

SPEAKER: Thank you, Mr. Chair. Staff has discussed the proposed development standards with the applicant. And we've agreed to some minor modifications, such as to architectural standards, rather than saying shall conform to the neighborhood, be more on the lines of being compatible with the existing neighborhood to allow for flexibility at the planned development stage. Additionally for the minor architectural projections to include a phrase at the end of which ever is greater but to conform with the building code requirements to also include that provided that such extension in the setback areas minimum side setback of three feet in order to better conform to the building regulations. And then finally for the environmental mitigation, clarify for the flood zone, that the requirement to meet the elevation certificate requirements are for those properties that are actually located within the AH flood zone as shown on the FEMA map. And then we also received some correspondence from the Santa Clara Valley water district. And our communications with them, we've agreed to include within the development regulations as was discussed in the initial study that no structures or deep rooted trees and shrubs be located within this easement and that there be a homeowners association and or CC&Rs be in force, and that there's adequate protection of the pipes within the water district's easements and these regulations are fairly standard practice within the City of San José. This concludes staff report, thank you.

COMMISSIONER ZITO: Thank you, staff. Is the applicant present? Excuse me. Good evening.

SPEAKER: Good evening. My name is Riad Katwan and I'm the applicant representing hawkstone. I wanted to thank staff, Vivian and Avril for all their hard work. Staff has done an excellent job and I'm here to answer any questions you have.

COMMISSIONER ZITO: Okay, questions from the commission? Seeing none, we have a speaker card. Bonnie mace.

SPEAKER: Thank you, Mr. Chair. Bonnie mace, president of district 8 community round table. We support this project. It's a good project whether it's in the configuration of a fire station or without. First of all it's in the northern section of the Evergreen project area, an area where we don't have a lot of potential allocations, this is greatly for us in the north. Second, we need a fire station in that area, fire stations are generally good neighbors and the applicant has assured us he will work within the neighborhood and setback issues. The project is consistent with the area. If this has a fire station we would like the setback, buffer to be as large as possible between Cunningham lake court and the associated fire station. With the sleeping quarters, closer to lake Cunningham court and the toes closer to the golf course. We prefer the 20% setback, it said 15 was acceptable but for the sake of the neighborhood 20 would be preferential. We want to make sure the pipes are protected, and the fourth is to make sure that there is a good interface between the new public street and white road. White road already has a lot of traffic. As people come out if the fire station is there and the fire truck has to turn around we want to make sure there's a good interface with these areas. Once again we support the project and look forward to seeing it happen. Thank you.

COMMISSIONER ZITO: Any further comments? Staff any comments?

SPEAKER: All the points that Bonnie brought up are things that we're going to address. There's not going to be any issue with the pipe. The pipe currently exists underneath existing streets, both capital expressway and the street above us. We're going to take care that there are no issues there. As far as the setbacks go, our current plan is to work with 20 foot setbacks. We have 20 foot setbacks now so that works. We're also under agreement for staff recommendation that for first floor, 20 foot setback for second floor and first floor at 15 feet. That should give us a little more flexibility should we need it. We're only talking about the setback up against existing neighbors. Our interior setbacks are fine. Otherwise, that's it unless have you other questions.

COMMISSIONER ZITO: Other commissioners? I don't see any. But I have a couple. I guess maybe curiosity. What you're proposing for the street is a cul-de-sac. Depending what is in there you have a couple of bulbs. I was wondering why you wouldn't follow the pattern of flint ridge creek road and essentially extend that out to white road?

SPEAKER: Okay, so there's a 96 inch storm drain line that runs approximately underneath that, the land plan for the street as we propose it. So it's an eight foot high pipe, that's part of old flint creek, that runs from existing flint crest down to white road. And it would be very difficult to relocate that pipe. There's some issue, hydraulic issues so we met with Santa Clara Valley water district, and that's why the plan looks the way it does. If you put the plan up, I can kind of maybe put my pointer -- I get to use my pointer, oh, my gosh. Okay so there's a current 50 foot easement that runs from flint crest all the way down to white road and the 96 inch pipe is approximately within that easement. So we tried to do our best to locate the street in the area where the pipe is and keep it away from front yards, and away from the future homes. Now, this is the plan that's you know without the fire station, the plan with the fire station is also the same. If you take a look at that time land, the next or the previous land use plan.

COMMISSIONER ZITO: What I'm hearing you say, if you extended the street in the straight line you would have houses over the pipe.

SPEAKER: You couldn't relocate the pipe hence the street is where it's at.

COMMISSIONER ZITO: I was looking at the fact that right now there are two cul-de-sacs, that have to do a 360 to get back onto white road. And if you look at that time aerial map on the front of the staff report it's pretty indicative of the fact that you've got two streets, I don't know what the names of them are, two cul-de-sacs, I guess they could go down that street there, so that's not too bad. Okay. So there is two methods to go in and out. All right, not so bad.

SPEAKER: We -- on this particular plan we, in order to accommodate the fire station which I believe is a good community benefit, you know, obviously the city's -- doesn't have the funding to -- so we had to maximize the yield on the project and still be -- meet the R-1-8.

COMMISSIONER ZITO: Okay, I see the mitigating circumstance here. Commissioner Jensen.

COMMISSIONER JENSEN: Thank you, Mr. Chair. And thank you for using the same exact question I was going to ask. So I'd like to go back and revisit the street question as well. So if I understand correctly in looking at the dashed lines that run parallel to each other, where the cul-de-sac is roughly on top of the dashed lines is where the pipe is?

SPEAKER: That's correct. There's a 50 foot Santa Clara Valley water district easement that runs across the property.

COMMISSIONER JENSEN: And as much as possible you tried to keep the street on top of that easement?

SPEAKER: That's correct. Now pipe is not exactly centered on that easement, within that 50-foot easement so we tried in fact to do our best to keep the street almost centered on the pipe so that that way, we can least impact the residential community and the pipe.

COMMISSIONER JENSEN: Okay. So as I'm looking at exhibit C, it appears that the easement actually stretches almost exactly into flint crest drive. So following on chair Zito's questions it's unclear to me why you couldn't just continue on keeping yourself centered over that 50-foot easement and push all the way to flint crest.

SPEAKER: Well, the pipe runs at a skew. It starts out centered on flint crest and then at the bottom, it's askew, it meets the edge of the property on the one side. I don't know if you see my pointer there. So it starts out, centered to flint crest, and it goes to this side of the development.

COMMISSIONER JENSEN: Right. But that doesn't explain why you can't continue the street on into Flint Crest Drive. And so perhaps this is a question for staff.

SPEAKER: Okay, let me explain that. Okay, so in the Flint Crest here, there is not a public right-of-way. There's an easement but this is all private property. So this area right here is all private property, owned by this particular -- they're lands of Quadros, and then the other one is lands of -- it's hard to read. I have the small-sized plan so you have to excuse me. But again we'd have to acquire this private property and those -- the people who currently own the property have issues with that. So that's why we have what we have.

COMMISSIONER JENSEN: But to continue being the devil's advocate, if that street were to be changed, if Flint Crest Drive would be changed from a cul-de-sac to a straight through street, they would be gaining additional land because the bulb that extends into their land, that could be a straight street. I'm going to request from staff to look into that possibility. It looks like a straight swap between existing public property of a curved cul-de-sac with what looks like not much private land for lands of Quadros as you mentioned, lands of Garalind, and we have unfortunately in the past, when we did a lot of these developments, we created nonpedestrian friendly communities, putting cul-de-sacs in everywhere so that cars were forced to drive around in circles trying to get in and out of neighborhoods. There's all this lovely green space across from White Road and around the side. And it would help to encourage a nice walkable pedestrian friendly area for at least some of those residents and it would probably make it easier for the fire department, if you know, they had to go from Fire Station 1 over to Flint Crest they had a straight shot, instead of getting out onto White and driving in a circle. I hear what you're saying but it looks like removal of a cul-de-sac on one end actually ends up benefiting those property owners. So I'm going to make a recommendation to staff, thank you.

COMMISSIONER ZITO: Director.

SPEAKER: Laurel Prevetti: If I may add a suggestion for the commission's consideration. I know the commission went through one of these processes, we're quite pleased of getting you to hearing within two months of filing. I would suggest, the ability to negotiate with two private homeowners to create a new street, I would suggest that maybe at some future time we look at pedestrian connectivity between the two neighborhoods. I think not approving the zoning or recommending the approval of the zoning because of the street might cause other ripple effects in terms of the fire station and other things that are proceeding. So I think this is something that even through general plan polls, we already encourage pedestrian linkages through back to back cul-de-sacs so I think there might be other ways of achieving the objective of connectivity, perhaps not for a vehicle, but at least for pedestrians and bikes. So that's a suggestion that you might want to think about in your deliberations.

COMMISSIONER ZITO: So for clarification, Director, does that mean that since I heard there was an easement over those lands if I'm not mistaken, we could recommend, not

necessarily condition, but recommend that the planning staff investigate extending a pedestrian walkway across those lands, is that something we could just suggest?

SPEAKER: Laurel Prevetti: I think it would be appropriate in your motion if you want to acknowledge the desire for connectivity. There are some legal issues. Sometimes these easements don't really avail themselves to these options but I think for the record the point is very clear in terms of your interest in connectivity. There are some legal issues that I don't think we would be able to resolve in a timely manner in terms of getting this to city council consideration. But the point is certainly a good one. And would be noted through the development process.

SPEAKER: If I may make a comment on my end, I would have no issue working to that end. I just have to be able to do it. There are some issues that are completely beyond our control.

COMMISSIONER ZITO: Appreciate that. Commissioner Kamkar.

COMMISSIONER KAMKAR: Thank you, Mr. Chair. Mr. Katwan, I'm looking at plan, grading and drainage plan, I guess 4.1 is the designation. And the issue that I see is, this 96 inch pipe, it would have to be, you know, probably 3, 4 feet deep into the ground. It couldn't be much closer. And so you take the street surface, you go three, four feet deep, and in addition to that you go the thickness of the pipe and the eight feet of the pipe. And then the other thickness of the pipe on the other side. And now, you're down to 12, 13 feet deep. Now you have to cross that pipe with your sewer lines. Because this would be your storm, your sewer lines have to cross it. Do you have the fall to be able to cross it or would you need two sewer lines on either side of the pipe, too?

SPEAKER: Okay, there's plenty of fall across the site.

COMMISSIONER KAMKAR: Okay.

SPEAKER: And in some cases, we have much more cover over the pipe and we've got, I think if you take a look at the grading plan, one side we're about 138 -- I mean I'm talking to civil engineer, civil engineers can talk, we're at 138 and at the bottom we're at 129. So we have approximately nine feet of grade elevation. There's plenty of fall to make the sewer work. If we have to go and put a parallel line for the four lots that are on one side we're willing to do that.

COMMISSIONER KAMKAR: That was basically my point. I'm sure in the areas have you the fall. But it's just being able to cross the you know pipes that are perpendicular to each other.

SPEAKER: At this stage we think we can do it without having to put the dual line. But we have not gone out and potholed the existing pipe to verify this. But we believe we can do it.

COMMISSIONER KAMKAR: Okay, that was basically my concern. But looks like you're on top of it. Thank you.

COMMISSIONER ZITO: No pun intended. Thank you, Commissioner Kamkar. Commissioner Cahan.

COMMISSIONER CAHAN: Thank you. I wanted to go back to the issue that Commissioner Jensen brought up and just get some clarification. It was my understanding that she was just making the recommendation that they look into the possibility of changing the road. And I concur with that. I believe that that's potentially a better alternative. And your comment made me believe that perhaps you thought she was making a change to the motion. Which I didn't hear that.

COMMISSIONER ZITO: My point was that we have to be careful how we word our recommendations based on legal capabilities.

COMMISSIONER CAHAN: Right.

COMMISSIONER ZITO: So yes, I believe the intention of Commissioner Jensen is clear, that we would ask staff to do what they can to look into that and see how to facilitate the best of their ability given the legal constraints and the geographical constraints. We couldn't say that it's conditioned and we want to make it clear that it is not.

COMMISSIONER CAHAN: Thank you.

SPEAKER: Just an understanding this is a rezoning going to council or not to staff, that staff would look at later. It is almost like you're saying that this is something that the council should consider.

COMMISSIONER ZITO: Right. Commissioner Do.

COMMISSIONER DO: Thank you, Mr. Chair. I was going to wait until after public hearing closes to make this point. But since we're on the point, I thought that it's a good time. I just wanted to add on to what Commissioner Jensen said. I think that the -- I think cul-de-sacs are negative for communities, in ways more than just in terms of not being pedestrian-friendly. I think that cul-de-sacs also from a traffic point of view also forces traffic, also limits the options for vehicular traffic. And I think all the planners know that, in current planning thinking or at least in new urban thinking we try to as much as possible discourage cul-de-sacs and try to respect the -- try to have street grids that are similar to a traditional city as much as possible. So I think the unfortunate thing is that while I think this project, there may be no choice around that. But it's one of those things where we, since we started back in whenever, the '60s or the '70s or the '80s doing this, now we keep doing it because we have no other choice, because we've set a pattern and we keep perpetuating that pattern. So my feelings are quite strong in supporting Commissioner Jensen's point, in encouraging, whether the message is to council, or

whether to request that staff consider those options, whether it's for this project or for other kinds of other projects. So thank you.

COMMISSIONER ZITO: Thank you, Commissioner Do. Any further questions for the applicant? Seeing none, is there a motion to close public hearing? Is there a second? All in favor? Any opposed? Seeing none, thank you very much. Staff, any further comments?

SPEAKER: To address the pedestrian-friendly issue of the project, given that this is a general development plan that we're recommending to city council, if we don't need -- let me rephrase it. Planning and Public Works can work at the planned development permit stage because there's nothing in this zoning that would prevent us from working out some sort of pedestrian access. Even if there is a cul-de-sac through to the rest of the neighborhood. So there potentially could be something in place to allow for a public right-of-way that's not vehicular to go through. However it would require getting the consent of the two adjacent property owners to either have property dedicated or some sort of agreement worked out to allow for public access to connect to Flint Crest Drive from this development. So that is something that planning staff can work at, at the planned development stage, with the adjacent property owners.

COMMISSIONER ZITO: Director.

SPEAKER: Laurel Prevetti: Thank you. I think the spirit of the discussion has been really good in terms of trying to look at connectivity. As a zoning, we do try and look at the street. So if it is the wish of the Commission, and it appears that the applicant is also interested, since we do have some options, we could do an option with the street. It may affect the layout of how many units are actually -- that can actually occur on the site. It appears that at least on the concept 3.1, it wouldn't affect your yield there. But if there was no fire station, since the street configuration is different, it might affect your yield. So if it is the wish of the commission to really look at it both for vehicular and pedestrian, there would need to be some sort of diagram of that so council could actually consider it. Again, that could be an option in the report going to the full council. But I think the reality of getting the other adjacent property owners to agree and our working knowledge of this neighborhood just from some past planning activities, made indicate that there may not be neighborhood support for connectivity as much as we all understand that that's good planning practice, the neighbors might have a different opinion about the project, if they find out that the street goes through.

COMMISSIONER ZITO: Okay, thank you for that. Staff, I was just curious, average lot size, does it change much between the two scenarios with and without the fire station?

SPEAKER: The average lot size would result in the same amount, because the overall density would not be allowed to exceed the dwelling units per acre. The way the two plans are drawn, what do we have here, C 3.2, and 3.1, so you're saying that the average lot sizes of the 14 homes versus the 19 homes would be approximately the same?

SPEAKER: Right. They would both result in eight dwelling units per acre.

COMMISSIONER ZITO: About eight dwelling units per acre. Could you spend a moment and speak on the impact on the Evergreen hills development policy, to me this is the first application since the application of that policy.

SPEAKER: Correct, the Evergreen east hills development policy was developed last December and this is first development to come forward to Planning Commission and then to city council. The project is considered a small project because it is less than 35 units and they are required to pay the approximately \$13,000 per unit for the required traffic impact. And this money will go into a pool to address overall traffic impacts within the area. And that will cover conformance with the Evergreen east hills development policy.

COMMISSIONER ZITO: And this would be essentially credit against the 500 unit pool?

SPEAKER: Correct.

COMMISSIONER ZITO: Okay. I have no further questions. Any further questions of the commission? Seeing none, do we have a -- we closed public hearing, right? Okay. Is there any other comments, questions, concerns, motions? Commissioner Do.

COMMISSIONER DO: Thank you, Mr. Chair. I'd like to make a motion.

COMMISSIONER ZITO: Please.

COMMISSIONER DO: To consider the mitigated negative declaration in accordance with CEQA. Recommend approval of a planned development rezoning from R-1-8 residential zoning district to the A(PD) planned development zoning district to allow up to 19 single family detached residences or up to 14 single family detached residences adjacent to a possible future new fire station on a 3.21 gross acres site as recommended by staff. With the recommendation of another option, the study of another option, to have a through-street, connecting to the adjacent cul-de-sac for both vehicular and pedestrian traffic.

COMMISSIONER ZITO: There is a motion and second. Further comments, questions? Commissioner Kamkar.

COMMISSIONER KAMKAR: Thank you. I just would like fellow commissioner do to please be clear when you say, with vehicular access, you mean thorough street, two-way thorough street? So they can enter from each side, both ways? Just want to be clear what that -- thank you.

COMMISSIONER ZITO: Okay. Commissioner Jensen.

COMMISSIONER JENSEN: Thank you, Mr. Chair. And I'd like to thank the director for pointing out that it may be -- the he residents may not be all that interested in it. But I

have great faith in the diplomacy of our staff, in explaining the through-connectivity and the benefits to the development of a truly urbanized pedestrian friendly vehicle friendly city that we're trying to go for. And I think all you have to do is say, if your house is on fire it will take 30 seconds instead of however long it would take, you know, minutes. I have great faith in your diplomacy in your being able to talk to them, thank you.

COMMISSIONER ZITO: I have a couple of questions of staff, one is how close is the city in making a decision regarding the fire station?

SPEAKER: I would have to ask Neil Stone from the Public Works Real Estate division to be able to answer that question.

COMMISSIONER ZITO: Okay, please do.

SPEAKER: Good evening, Neil Stone, I'm the manager of the Real Estate division of the city. As the chair mentioned, we are in the process of processing a CEQA clearance for this site, for the fire station. The city is precluded from making an offer for real property until such time as we have CEQA approval. So to answer your question directly, this is among the sites that we are looking at. And we are anxiously working with planning staff to complete that CEQA review. Once that's completed, we think within a matter of weeks, we'll make a decision as to whether this is an appropriate site, and whether we're able to reach agreement on the purchase of the site with the property owner.

COMMISSIONER ZITO: I understand being from the area, that there has been consideration of an adjacent site as well at one point for a fire station.

SPEAKER: There is CEQA approval for a fire station located on the golf course site in the proximity of the entrance, across the street from the entrance to Lake Cunningham.

COMMISSIONER ZITO: I see.

SPEAKER: And there's a third site in the same general area that we are exploring simultaneously.

COMMISSIONER ZITO: Assuming that CEQA passes, and that's an assumption, would you be able to go forward on this site sooner if it was your choice to do so because the other sites are still up in the air? Sounds like the development plans on this site are much further along. The reason I'm asking that question is, I'm wondering how much time is going to go by, before the -- I mean, we rightfully celebrated the fact that we got this application through pretty quickly. And I'm just wondering how long before they can start assuming that this gets approved based on the fire department's or the real estate department's choices.

SPEAKER: It is the expectation of the party that I spoke to this evening to close escrow at the end of June of this year. And their desire that the city, if we are purchasing, close

escrow simultaneously. So it's our desire to have the opportunity to pursue that. So as to close escrow by this June.

COMMISSIONER ZITO: Okay. Thank you very much. If I could ask the question of -- do we have a representative from the fire department here as well?

SPEAKER: We do.

COMMISSIONER ZITO: If I could ask a question, if they don't mind, regarding the -- from procedural perspective, let you come up to the podium.

SPEAKER: Hi, my name is Jeff Cady, bureau of support services director and strategic planning for the fire department where we put our fire stations.

COMMISSIONER ZITO: You heard our discussion regarding the finding. Does the fire department have a preference either way?

SPEAKER: I recognize the commission's desire to create a through-street through there. Our side of it, additional traffic from the street would create from the standpoint of having a company return, and you may have noticed that there's a driveway that leaves the street, goes into the back side of the fire station and then we respond out to the front side. So having additional traffic on the street would create some additional navigation, additional challenge, correct in terms of bringing apparatus back through the station. But one of the other commissioners' comments about the potential of having a fire in one of those back streets, of course you have that potential. But we would have to go back on white and come back up the street. Because we leave the fire station on the front side leaving white.

COMMISSIONER ZITO: So it wouldn't change much in that regard?

SPEAKER: Right.

COMMISSIONER ZITO: I wanted to give you an opportunity to weigh in. Because we are moving forward on important design goals and wanted to have your perspective if that mattered either way.

SPEAKER: The return route coming back into the fire station would be improved somewhat.

COMMISSIONER ZITO: Appreciate that, sir. Jeff, Commissioner Kamkar may have a question for you.

SPEAKER: If I may just in response to your last question.

COMMISSIONER ZITO: Sure.

SPEAKER: While it is clearly the purview of yourselves as commissioners and with the advice of planning staff as to whether the through-street is preferable. It would require the acquisition of additional easements, which would complicate the acquisition of the property for the fire station.

COMMISSIONER ZITO: Okay. Commissioner Kamkar.

COMMISSIONER KAMKAR: Thank you, Mr. Chair. Have you considered the possibility of having an opening, but only open to fire station access, not for public vehicular traffic thoroughfare? You know, I mean, at Stanford they have streets where only certain cars can go through, not the average car, otherwise they would bottom out. Is that a possibility, where you could get best of both worlds, you have fire station access, I mean fire truck access but not the vehicular traffic?

SPEAKER: Yes, you're thinking between the two cul-de-sacs?

COMMISSIONER KAMKAR: That's correct.

SPEAKER: We have other areas in the city that we have actually emergency vehicle access only. That would improve the response time into the area without having the through traffic.

COMMISSIONER KAMKAR: Without having through traffic. Would that be something you would advocate?

SPEAKER: I defer up the hill. The gentleman in the seat is responsible for our facilities construction, very familiar with apparatus and how we use them. I think we would, that would be something that would improve performance into that neighborhood.

COMMISSIONER KAMKAR: Thank you very much.

COMMISSIONER ZITO: Thank you very much. I appreciate you commenting and additional questions. I brought that to the commission because I felt we should have the opportunity to talk to the fire department to get that perspective. Commissioner Cahan.

COMMISSIONER CAHAN: I just wondered if that would cause additional delays, would that cause additional easements that we would have to obtain and potentially prevent us from having that as a fire station location?

COMMISSIONER ZITO: I see that as a possibility but with the motion for staff to study this, I wanted to kind of fill out the scope of the study in the sense of what all had to be taken into consideration. And I think again, Commissioner Kamkar brings a good point up. There is technology that's used in other areas. Should that be considered? We'll leave that to staff discretion. And getting the perspective of the fire department, I think that that also could help guide their discussions and maybe even streamline it to a certain

extent. But yes, if it did -- my guess, and I'll leave it to the director and to also respond, is that anything that changes the projects is going to cause some delay.

SPEAKER: Laurel Prevetti: Thank you. I think the intent here is for you to articulate your recommendations to the city council. And then the city council will weigh and balance, because they will understand the interest in having the connectivity, bringing the two neighborhoods together, balancing fire safety, ettes. So I think your recommendation is fine. I think staff would just need to work with the applicant to make sure we had a sheet in the plan set, so that way, the council could see what a visual of your recommendation would look like, and then really, the final decision would rest with the council.

COMMISSIONER ZITO: And if I could speak for the commission, basically, I think it was certainly our intent to have the -- if it wouldn't have happened already, to have the council cognizant of these opportunities and to look into those to the extent that they felt that it was appropriate. Okay, with that, let's vote by light. And that motion passes unanimously. Okay. Thank you. On to 3D. Status report on the general Plan housing element update process for 2007-2014 planning period. Staff?

SPEAKER: Give staff a moment to get settled.

COMMISSIONER ZITO: Certainly.

SPEAKER: Thank you. My name is Allen Ti, from Planning, Building, and Code Enforcement we discussed last time the requirement from the opportunities and challenges facing that the city would be facing during this housing element update. Today what we want to do is provide you with a status report on the housing element cost center.

COMMISSIONER ZITO: There is a video for commissioners.

SPEAKER: So let's begin by just giving you a refresher on some of the basics of the housing element. As you may know, the housing element is one of seven elements that's required as part of a city's general plan. It is also one element that is subject to the most requirements under state law. For example, there's a mandatory review and certification process by the state. And this must be done every five years. The housing element, the purpose of it is really to study the City's housing needs, across various income levels. So in addition to demographic analysis that we have to conduct, we also have to talk about what are some of the constraints to residential development in this city. These may occur in the form of residential -- I'm sorry, governmental constraints or nongovernmental constraints such as the economy and market forces. Something that we'll talk about a little bit more. And the housing element really is to document how the city is planning for housing, and facilitating actual residential development, and implementing programs that add additional housing opportunities in the city. And we also have to demonstrate that we have done our work in terms of land use planning, so that there are adequate sites to accommodate the housing needs. For this housing element update, we would also need

to update our policies, and revisit our ordinances to make sure that we're in compliance with new state legislation. For example, AB 162 requires that we study our housing sites to make sure that they're not located in our flood planes. And it's also part of the requirement to look at the 200 year flood plane. We would need to look at whether our zoning accommodates special needs housing. One specific requirement is AB 2348, which requires that we prepare an inventory of all of the housing sites in San José to demonstrate that we have sufficient land capacity to meet the housing needs. And state -- the requirement also stipulates that sites that we qualify for affordable housing must require minimum density. And that would be minimum density of 30 units per acre. Also, part of the new requirements is that we study needs of the extremely low income households, and after adopting our element, that we forward it to water and sewer providers to ensure that there's sufficient capacity to support the housing development.

SPEAKER: One of the most important components of the housing element is for the city to plan to meet its regional housing needs allocation or RENA which is assigned to the city by the association of Bay Area governments or ABAG. For 2007-2014, the city was assigned a 33% increase from the previous period, covering 1999 to 2006. That's over half of the county allocation. Of the 34,721 units, about 56% of that are allocated towards affordable units. So 19,271 affordable units. The affordable units are further broken down into more refined income categories. So there are the moderate income categories, the low income, the very low income, and the extremely low income. And really, the extremely low income is half of the -- it's really the very low income, the extremely low income that's split up into a 50-50 split. What you see there are income ranges associated with each income category and that's based off of a household size of four. That income range can go either up or down, depending on whether the household size is bigger or smaller. So for example, household size of four, from 53 to 85,000 qualifies for a low income unit. And just for comparison, a single household, one-person household would be make about at the top end just under \$60,000 to qualify for a low income housing unit. Very quickly, the low income, very low income categories experienced significant jump as well in terms of housing needs so that will make it somewhat more challenging for us to meet those goals going forward.

SPEAKER: So while the RENA target is very challenging, they have been very effective for the city. In fact we actually exceeded our previous housing allocation, about 26,000 units so we want to continue that trend and promote housing in areas where we can maximize the efficient use of existing infrastructure, placing housing near existing amenities. The housing element is actually consistent with a lot of the funding criteria in state law for residential development. Moving forward with the same strategies will likely help us meet the state law requirements for residential development policies. Where we can expect to see development, additional residential development occur would be in areas like downtown, north San José, along transit corridors and planned BART stations. One of the things that we highlight in the housing element is, the fact that our housing sites are most likely going to be in infill areas, much smaller parcels that would require development that's much more compact and at much higher densities. At the same time, that would require us to look at our residential design guidelines to ensure that these higher density residential development would be compatible with existing

neighborhoods. Earlier I mentioned that the state law requires our housing element to include a sites inventory. And as part of that, we identified sufficient sites for development to accommodate approximately 49,000 new housing units, by 2014. We can accomplish this without making any land use changes, so this is basically -- it generally represents the general plan residential holding capacity minus the anticipated residential development in subsequent phases of the north San José development policy. We're not saying that these units will be built by 2014, but we're merely demonstrating that the city has completed the necessary land use planning efforts such that if developer interest and if market conditions were right, that there is adequate land available for these units to be developed. So state law requires us to look at constraints to housing development. And in terms of governmental regulations, we do need to look at our zoning ordinance to see, you know, if there are any provisions that may impose requirements that add time and cost to the development process. Same as looking at our processing time, fees and taxes, to see if there's anything out of the ordinary. But it's important to recognize that governmental constraint may arise out of regulations that seek to achieve other important public goals. For example, the requirement for setbacks, include setbacks for a project is really to ensure that there's compatible land use, and respect for privacy, and fire code safety, and similar goals. And as well as you know level of service policies requiring land dedication for street improvements, these are all requirements that also serve some other purpose. Although they may contribute to extending processing time or add cost to development.

SPEAKER: At the other side of the constraints are the nongovernmental constraints. And we all know right now that the overall economic and market conditions is the greatest constraint right now. We have faced other constraints over the last few years, with production cost such as steel and concrete, the lack of availability of financing right now is very much tied with the economic recession and the housing downturn, and there are other issues as well such as environmental issue, soil conditions, brown field conditions, and whatnot. Regarding the availability of financing, that goes for both market rate developers and affordable housing developers for both developers, all developers there's just a lack of lending right now, hopefully that will break through soon as the market starts to settle and consolidate a little bit and hopefully some of the economic stimulus funds actually flow through and reach its intended recipients. As you may know, the state, last December, regarding affordable housing projects, froze payments for all bond-funded projects, in response to the California state's budget problems and its inability to sell bonds. So this has impacted the city's affordable housing program in two specific ways. The state owes the city about \$3 million in funds advanced for projects but not yet funded at the time of the freeze. In addition, state commitments were put on hold indefinitely. So that does create a big impact in terms of our development as well as putting people to work on these projects as well. On March 24th, the state did manage to sell \$6 billion of tax exempt bonds. \$4 billion will be used to pay other state departments for other specific projects and the other \$2 billion are still being worked out. So the housing department will be working very closely to try to get some of those funds that should be advanced or should be paid back to the city in order to get these projects moving again. But that does indicate the need to have a housing element that's certified so that we can continue to qualify for these funds. The -- there is

an impact on our housing programs, regarding the funding issues, but we are trying to do our best with what we have at the moment. We have several different housing programs in the city, and they range from homeowner programs, first time home buyer programs, teacher home buyer programs, there's, excuse me, those were for the home buyer programs. The homeowner programs are more on the side of housing rehabilitation programs for low income homeowners, upgrading homes to make sure they're up to health and safety standards, programs which is one of the City's largest activities in terms of providing gap financing for affordable housing developments.

SPEAKER: Other programs that the city has implemented and will be implementing, we're proposing to be included in our implementation program, includes items such as the adoption or secondary unit ordinance. This is something that council had formally adopted last year. The implementation of high rise design review process. We helped define the parameters for which developers can build higher density housing in the city. The same, drafting our transit oriented design guidelines, examples of process improvement that we have implemented to help address some of these constraints that we've identified. Moving forward, as part of the housing element update, we are looking at our zoning ordinance to see if there's a possibility of establishing a conventional multifamily zoning district that would allow residential development at minimum of 30 dwelling units per acre or more. Again, this is the state requirement that I mentioned earlier, and at the same time we're going to be looking at our general plan land use designations such as the transit corridor residential and the residential support for the core, to increase the minimum densities from 20 and 25 to 30, to comply with state law. So these are some of the proposed implementation items that you'll be likely seeing in the next month. So in terms of schedule, staff has completed a draft housing element. We have submitted the draft document to the state Department of Housing and community development for a 60-day review period. The 60-day review period will end early May, and in the meantime, we have been doing additional community outreach. There will be another community meeting next Monday. In addition, we have been presenting to council committees. And we are asking the public and outside agencies to provide comments by Thursday, April 23rd. So that would allow us enough time to respond. You would expect staff to bring forward the general plan housing element update for your recommendation in May, and we will take those to the city council in mid-June, in time for our submittal to the state by the June 30th deadline. So that concludes the staff presentation.

COMMISSIONER ZITO: Okay, thank you, staff. Are there any questions of the Commission? Commissioner Kamkar.

COMMISSIONER KAMKAR: Thank you, Mr. Chair. What happens if we don't achieve our allocation? What's the punishment, if you will?

SPEAKER: There's actually no punishment. If we don't actually build out the total number of housing units. As Allen mentioned, before, the goal of the housing element is to show that we've taken the proper steps to enable housing development should it occur based on market conditions, availability of financing, and so forth. On our side it's to

ensure that there's adequate land capacity and other governmental processes to facilitate housing should it happen. But we're not actually required to actually meet it. You know, we do our best to try to do so.

COMMISSIONER KAMKAR: Okay then –

SPEAKER: Mr. Chair, if I may add a comment on this it's important not to miss or gloss over. It's precisely there is no punishment that there are some of our neighbors which should go nameless tend to build more industrial job creating and more job creating development as opposed to housing, is because there's no punishment involved.

SPEAKER: But I might add that even newer state legislation such as SB 375, it pretty much tells the story of where the state wants to go. And that is for cities that don't need or don't have a certified housing element, they -- it would shorten their housing element review cycle. And in addition, it would require them to make very special and difficult findings for them to deny residential projects. So you could kind of see that the direction from the state is really to adding more teeth to the requirement that cities really be responsible for their fair share of the housing.

COMMISSIONER KAMKAR: Okay. I guess my second question then would be, what's the incentive for exceeding the goals that are set? You know, can we work out a -- you know, I was thinking an accommodation to ABAG or state or whoever sets these, what if we do our due diligence but not only achieve but exceed our goals, what is the incentive? So you know maybe we should approach it in that sense. Try to get some recognition, some funding. Because along with creation of residential and dwelling units, you've got infrastructure cost, you know, if that's all your schools, libraries, fire stations and all the other stuff that goes underground. I wish we could have some kind of feedback to that.

SPEAKER: I would say currently the incentive is, if you have a certified housing element, and you are eligible for the state funds for various state programs. But I don't think there is an incentive or additional incentives if you exceed the requirements.

COMMISSIONER KAMKAR: It would be good to be eligible for something that has funds available in it. You know, right now the state's broke. So –

SPEAKER: Laurel Prevetti: Mr. Chair, actually we tried that legislatively last year and our bill did not get out of committee. So we made a good faith effort. We agreed, we felt that those of us who are doing our fair share should be getting a larger share of the infrastructure dollars. We may try again.

COMMISSIONER ZITO: Commissioner Platten.

COMMISSIONER PLATTEN: Thank you, Mr. Chair. I would point out the director is correct. This is an area of housing that I'm sure the federal government will wade heavily back into as part of national policy. I would indicate that this is both a legal, moral and societal responsibility. By providing this housing we ensure housing for those in the

society who are lower income levels. We ensure diversity in our community. We meet our democratic responsibility as citizens in this government. We provide the living that most of us don't want to do, don't recognize and don't feel like it's worth paying for. So it's not the question of advantage or disadvantage. It's the question of responsibility of government. And I assume that the federal government will, with continued prodding by the league of cities and other focus groups respond appropriately as it has failed to respond in the opposite direction for the last 29 or so years.

COMMISSIONER ZITO: Thank you, Commissioner Platten. I surely hope so. We've certainly been doing our part for these past years that I'm aware. Commissioner Jensen.

COMMISSIONER JENSEN: Thank you, Mr. Chair. First I'd just like to add on to Commissioner Platten's comments regarding the sort of folks who are going to be living in the housing. I think we had some of them here earlier today with firefighters, and I think we often see them in terms of teachers, the folks we expect to train our next generation. I'd like to ask a couple of questions about how, first, how did we do with respect to the goals for our previous RENA goals that we have, the ones you have on page 2, table 1 the change in the RENA goals. I see from the 1999 to 2006 we had a series of goals there, and I just was wondering how we did with respect to meeting those goals.

SPEAKER: We did exceed those goals. We came up short in some of the lower income categories. We did well in I believe it's the above moderate, I believe it is the market rate units. That really helped the city carry and meet its overall RENA goals. But it's where the extremely low income units and the very low income units were involved, it was a little bit harder to meet those particular subcategories.

COMMISSIONER JENSEN: And do you have any actual numbers to attach to did do well and didn't do well?

SPEAKER: That is something we could bring back with accurate numbers when we come back.

COMMISSIONER JENSEN: That would be great, thank you. When you talked to the establishment of a 30 acres per unit area, did you locate where?

SPEAKER: No, this is an exercise we will explore doing after adoption of the housing element update. So what we'll be bringing tot Planning Commission and city council is the recommendation that we study, the crafting and zoning.

COMMISSIONER JENSEN: The creation, all right. And I assume that in doing so you'll be working closely with the general plan task force, which is going through trying to figure out where to put things?

SPEAKER: Right. We will try to coordinate that exercise.

COMMISSIONER JENSEN: Okay. And then you had mentioned AB 162, having to do with flood zones and flood planes and an additional review of the 200 year flood zone area. And can I ask how this might affect development projects going on in Alviso, and I'm assuming it takes into account global climate change and the prediction that the tidal - the bay tidal area is going to grow by 50 feet?

SPEAKER: I would say -- what we will be doing to comply with that state legislation is, looking at our current flood policies, which currently are pretty overarching. And then ensuring that we do have language referencing new FEMA maps, and adding policy in the general plan text that references the 200 year flood plane. So specifically, it would not get down to a site-specific level. We wouldn't say that okay, we're not redrawing any flood plane boundaries. That's something we're still anticipating from the FEMA and the state Department of Water resources who are still currently preparing those maps. But it is state legislation that we update our policies to reflect the 200 year flood plane.

COMMISSIONER JENSEN: And I'm sorry, can you help me understand perhaps a little bit better than what is our policy then with respect to putting housing in flood planes? Because Alviso basically is one big flood plane.

SPEAKER: I would say at this time we don't have the specific requirements to illustrate which sites are going to be in the 200 year flood plane or not.

SPEAKER: Mr. Chair, I would add or to elaborate on Allen's point is that until the maps are available, we're waiting for these maps from the other agencies, once those are available then we can begin to go through the exercise of it, primarily assessing as individual projects would come forward how they are interacting or not, how they're complying or not with the new flood regulations. But until we have the maps and the other information we can't actually do that evaluation yet.

COMMISSIONER JENSEN: Okay, great, thank you very much. And then I'm prepared to make a motion.

COMMISSIONER ZITO: Okay.

COMMISSIONER JENSEN: That we accept the status report on the general plan housing element update for the 2007-2014 planning period as recommended by staff.

COMMISSIONER ZITO: There is a motion and second. There are additional comments. One that I'd like to add onto is to underscore Commissioner Jensen's question regarding interfacing with the 2040 general plan task force. Certainly what we're dealing with is where will the population-job centers be located, how will the appropriate mix of housing and jobs be studied? I for one sitting on the task force there are three commissioners who also happen to sit on the task force, would be interested to know, given the ABAG commitments that we've made, and our desire as a task force to rebalance the housing-jobs balance, you know, how that either works in conjunction with

each other or as opposed to each other, wonder how that would go, if there is a mechanism to get that back to the task force that would be very useful, I'd appreciate that. Commissioner Cahan.

COMMISSIONER CAHAN: Thank you. I do agree that it's our governmental duty to make sure that we provide housing for all income levels. And I also think it's our governmental duty to make sure that we are building in a green manner. And I want to get assurance that we are doing everything we can to actually exceed the standards that the general policy, general plan has put in place, and look at our neighboring cities such as San Francisco to see how they are doing things to help the environment, and see what we can incorporate in our plan.

SPEAKER: The discussion of energy efficiency in residential development is actually a requirement in our housing element that we do have a chapter devoted to the discussion of our residential green building policy and efforts to encourage green building in residential development.

SPEAKER: In addition on the affordable housing side, the housing department works closely with ESD to try to improve some of the energy efficiency standards within the housing units that the housing department helps fund. One such project is the Gish housing, that is won numerous national awards with its solar panels and I believe it's the first LEED platinum affordable housing project. So it has really done quite well. There is a priority and focus to make the affordable projects as green as possible.

COMMISSIONER CAHAN: I'm really encouraged hear that because as a person who has looked into solar personally, I understand how extremely expensive it is. An for someone on an affordable budget, well, I guess we're all on a budget. But for someone who falls into these categories that we've discussed, I don't know how that could possibly do a solar project or some of the other environmentally friendly projects without our assistance as a government.

COMMISSIONER ZITO: Thank you, Commissioner Cahan. Any further comments from the commission? I have a couple of questions, and I was just wondering how the current housing recession has affect they had report, maybe in areas of you know, what is considered affordable anymore as far as the housing elements and also, has it changed the thresholds of affordability, given what I'm guessing is the average household income decline.

SPEAKER: That's really a good question. The affordable ranges for the various income categories, that's derived off of the yearly income limits set by HCD. We're waiting for 2009 income limits to come out. They haven't been published yet so right now it's off of 2008 income limits. And those haven't really reflected any sort of new economic realities. Regarding whether -- there's a good point that with the housing drop and the decline in the median sales prices of homes, that they are starting to come quite close to affordable deed restricted units. But they are still expensive at the height of the market, San José had a ratio of -- housing value of 10 to 1 based on the housing price versus the

median income. Nationally and historically, the ratio of 3 to 1 is the average. Right now with the drop, we're about 5 to 1. We're still above the historical average. So relatively speaking, it's come down quite a bit. Historically speaking we're still there.

COMMISSIONER ZITO: But assuming a house especially on the low end is hit the most, assuming bang repos and bankruptcies. Would that be counted in our income for the purpose of meeting these goals?

SPEAKER: What you'd likely have to do to meet the state requirements is you would have to actually go in and deed-restrict the units. So even though you have market rate units that are more affordable, because it can go back up given a market return, they wouldn't continue to be restricted at that price. And so for HCD requirements in order for the count that needs to have long term affordability deed restrictions.

COMMISSIONER ZITO: That's interesting. So there was some pretty clever discussion going on as far as how you deal with you know, deed restriction and the pool. I think it was something that came before us, just a couple of months ago, regarding how you deal with the affordability in different processes to keep homes in the pool, affordability pool. Again, given the recession in the housing prices, is there any opportunity to somehow capture those through programs? And using some of these more how can I say flexible means?

SPEAKER: I could say one of the things that the housing department has done is to apply for funds through housing economic recovery act at the federal level. That was based on a formula and we had to show the impact and the extent of foreclosure rates and which geography the foreclosures hit neighborhoods the hardest. Out of that we received just over \$5 million, off of that. So that doesn't go that far in terms of acquiring housing and deed-restricting those. We continue to make every effort to get as much federal funding and state funding as possible. But the amount of resources out there, it's not sufficient enough to make enough of a dent in that sense of actually acquiring foreclosed units, for example and deed restricting them.

COMMISSIONER ZITO: Out of 9 billion we got \$5 million. I thought that was allocated for this purpose but it seems pretty marginal. Commissioner Campos.

COMMISSIONER CAMPOS: Thank you, Mr. Chair. I just wanted to caution that if you do attempt to restrict those homes that have been foreclosed on, if you look at the zip codes, what you do is you recreate or perpetuate low income zip codes. And you don't get the opportunity for someone that will come in, that not necessarily be categorized as low income. They spread that to all council districts and of course, in order to -- I believe in order to put restrictions, deed restrictions, government has to get involved and then that's the trigger.

COMMISSIONER ZITO: Sure.

COMMISSIONER CAMPOS: That's what gives you the ability to have deed restrictions. If it's a bank owning a house, they could sell it to whoever they want.

COMMISSIONER ZITO: What I was going toward, I don't want to belabor this conversation too much. We had talked about earlier, I say earlier, a month or two back when we were considering that proposal for creating affordable homes, how -- the notion of affordability was tied more towards the money and not toward the unit itself, basically having the affordable element in every development that came before us, right? We were talking about the affordability component for the city developments across all districts like you mentioned but not tying it to the affordable itself but tying it to a pool of money that could subsidize someone to make the home affordable for that person, which doesn't put the restriction on the house itself but puts the restriction more on the applicant, if you will, and then when they -- if they reach above the moderate, then they no longer qualify. When they sell their home that money goes back to the pool and gets freed up to someone else who is now, how could I say qualifies for affordability. And that's the kind of what I call forward-think that I was wondering as far as these homes that have come down into the affordability ranges that we are maybe be more clever as opposed to what you said now nail down that's affordable housing from this point on. And I can see your point, that's a good point.

COMMISSIONER CAMPOS: I think those programs do exist, I know the teacher loan program, they're not restricted to just you know, buying an affordable home. They could find a property and apply for those loan programs. And there's a bunch of other programs that neighborhood housing services of Silicon Valley could certainly do a whole presentation on that. But don't want to belabor this -- there was already a motion on the floor, right?

COMMISSIONER ZITO: No, there's a motion. And my concern is, not, you know, reading through this pretty broadly, I didn't get inside of every nitty-gritty detail. But I'm trying to see how this is aligned to what has come before us, how they have what I believe has put forth some more flexible means of meeting these goals.

SPEAKER: If you are referring to more of the inclusionary meetings, the city is working on the details of the ordinance itself. So that's still in the works. Regarding the objectives and the goals that we have here, I think right now, what's happening is, we're most concerned about trying to get the financing available to even do any housing at all. So in addition to these RENA goals, the city needs to estimate what it actually believes its true quantified objectives are, factoring in its ability to finance projects. That's the major sort of issue that we're doing right now. There is a lot of moving parts, there is the general plan task force as you mentioned, the economic condition, there's the inclusionary ordinance that still needs to be worked out. That's a good question. I think that's the best I can say to that at this point.

COMMISSIONER ZITO: My concern is we've got talented and dedicated groups that are working towards similar goals. You've got the task force, you've got inclusionary housing, you've got yourselves. And what I'd like to recommend if you will or to bring to

light is the ability to get these ideas together, and to connect the dots. Right? And not go off on your own tangents and meet your own goals without taking into consideration these other groups that are work towards similar goals. Director.

SPEAKER: Laurel Prevetti: Mr. Chair, that's an excellent point and let me say in a sense bringing this to you as a status report is our attempt to try and connect those dots. As you mentioned three of you are serving on our general plan update task force. We're grateful for that. Looking out to 2040, what kind of an exciting community we will become. The housing element is the tighter snapshot, 2007 to 2013. That builds upon the general plan that we have, how we are planning for our future. Mechanisms such as the potential of a zoning code change to raise minimum densities or to actually implement inclusionary housing, think of those as more implementation measures that can happen in the immediate term or in the short term. But we still need to have that longer-term plan. And then of course as a Planning Commission, you will be seeing the immediate issues as you see individual development proposals coming forward. So you know, as the Planning Commission, you get to see that entire spectrum from the long range to the medium term to the short term. And so this status report helps you see that connection through the spectrum.

COMMISSIONER ZITO: And I appreciate that. And just think, the purpose of the -- one of the purposes of the Planning Commission is to try to bring continuity to a lot of these programs from start to finish. And a lot of times, given the fact that we all have, you know, our day jobs, we tend to deal with each of these issues discretely. Not often do we have a opportunity to bring these together. We think these are all good processes and we've got such talented people that are doing this hard work or have them work in concert or at least being cognizant of the other work being done that there wouldn't be replication of efforts or essentially divergence of goals, that's my only point there. I appreciate the work that you're doing and I think it's a very good update and you know we'd like to see more. Any other comments, concerns, questions? Okay, with that, vote by light. And that recommendation passes unanimously. Okay, thank you very much. That ends our public hearing. Petitions and communications. Public comments to the Planning Commission on nonagendized item. Please fill out a speaker's card and give it to the technician. Each member of the public may address the commission for up to three minutes. The commission may not take any formal action without the item being properly noticed or placed on an agenda. Any cards from the public? None, okay. Item 5, referrals from city council, boards, commissions or other agencies. any? None. Item 6, good and welfare. Report from city council.

SPEAKER: Laurel Prevetti: I don't have a report for you this evening. I know they've been considering a fair number of zoning matters. And that sort of thing. We will be getting to the next item where we'll be talking about the Rules Committee. But I believe the council has been moving forward with the zoning and land use actions as they've been coming up to them on a timely manner based on the recommendations that you have made. And I don't recall any major divergence from the recommendations you have made.

SPEAKER: I think the one I would report back to you on is the fact that if you didn't hear with regard to the Tommy Smith house, the 55 north 11th street project, that the council did vote, if I've got this correctly, to refer that back to the matter to the historic landmarks commission for consideration, for landmark designation with the understanding that that wouldn't in any way impede the ability of the applicant to continue to go forward with their project, but they did refer that back to the landmarks commission.

COMMISSIONER ZITO: All right, thank you. Okay 6 B, report from the March 18th Rules Committee and discussion of Planning Commission deferral protocol, me. Sure, I'm sorry, Commissioner Jensen.

COMMISSIONER JENSEN: Yeah, thank you. I'd like to just back up for just a second.

COMMISSIONER ZITO: Certainly.

COMMISSIONER JENSEN: Can I get a clarification to what the commission's recommendation to the city council was for the Tommy Smith was and what the recommendation was that the council actually voted on?

SPEAKER: I think, Mr. Chair, I think that your recommendation was very similar to what the council actually did. I don't know if -- I don't recall, Mr. Chair, if they aligned completely. But I think the essence of what the commission was concerned about was what the council went with. And so the council was -- passed a resolution to initiate the landmark designation process, so the next step is that the historic landmarks commission now needs to reconsider their prior evaluation, and make their recommendation on potential landmark designation back to the city council. So essentially the council started, initiated that landmark designation process.

COMMISSIONER JENSEN: If I can ask a question.

COMMISSIONER ZITO: If I remember correctly, you had proposed the motion to actually send it back and that ended up not make it.

COMMISSIONER JENSEN: Right, that's not going anywhere, right. I'm not going there. What the land use was.

COMMISSIONER ZITO: What we did do was make a recommendation on I believe two homes instead of three and that was what we recommended with the overall discussion showing that the commission's intent was to really focus on the historical aspect of the property, and to have the city council recognize that. And I guess what I'm hearing staff say is that city council did recognize that. Now whether or not they took to the two versus three --

COMMISSIONER JENSEN: Yeah because I actually had the pleasure of being at the council meeting. And if I recall correctly, it was for up to three additional units.

SPEAKER: That's what the commission recommended.

COMMISSIONER JENSEN: No, we recommended up to two additional units and the original house.

SPEAKER: And the council approved a total of four. , instead of three.

SPEAKER: Which is different than what we had recommended.

SPEAKER: The council went with the applicant's request, essentially.

COMMISSIONER JENSEN: All right.

COMMISSIONER ZITO: Okay, anything further on report from city council, none. Okay report from the Rules Committee. I'll let director speak first.

SPEAKER: Laurel Prevetti: Thank you. Thank you on March 18th, chair Zito and I went to the Rules Committee. We presented the report from the -- from this commission recommending that an ordinance not be initiated with respect to the deferral issue. They were very appreciative of the data table. I think that went a long way to allay any concerns about the performance of the commission. We did have a discussion, though, about deferrals. And the request coming from the Rules Committee is that while they will not procure an ordinance, they have requested the Planning Commission to come up with protocol or procedures, or criteria under which you would consider deferral. So in the event that there is a deferral, that there are some standards that you would use, in terms of making that decision. The Rules Committee requested that that protocol be written down and then provided to the full council in the form of an information memo. There was some discussion, just so you know by some members of the Rules Committee who felt that an ordinance was still needed. Because while this sitting commission, they felt, was doing a good job, they recognize that there's turnover and change. However, the majority of the Rules Committee felt that there was no need to do that. In fact, one Rules Committee member mentioned that this was like a 2% problem so we didn't need to use a solution that was much greater than what the real issue was. So this evening, we wanted to certainly give you that comment. We felt that it was a good solution, and then we wanted to open it up for a discussion of what that deferral protocol might be. So you know, this is an opportunity to just brainstorm some ideas, and then we would come back with a formal proposal for your consideration at a later meeting. We would like to do this, like to be able to bring this to you at your next meeting if at all possible just so that way the goodwill of the Rules Committee and the full council will continue to be on the side of our Planning Commission. And that concludes staff's report.

COMMISSIONER ZITO: Thank you, staff. Commissioner Jensen.

COMMISSIONER JENSEN: Thank you, Mr. Chair. So I would like to recommend that we send this in to a Planning Commission subcommittee, rather than have a

brainstorming says here that could extend well into the evening. And would I also like to suggest that for the folks who do go off and do that work, that full consideration be given to the entire planning process, given that the Planning Commission is the very last stop before it goes to city council, we need to be able to have the flexibility of making a decision on our own, regardless of what the perceived time challenges on the part of an applicant. And in the event that the applicant has been caught up and bottlenecked along the way, it doesn't seem appropriate for, at least not to me, for the Planning Commission to be asked to be pushing something through, when there doesn't seem to be a clear need. If it's gotten caught up in bottlenecks along the way that occur without the benefit of the plannings creating those bottlenecks, then I'm not sure that the Planning Commission is responsible for erasing that time challenge.

COMMISSIONER ZITO: So if I could, I completely respect what you're saying, Commissioner Jensen and I understand, and I felt the same way as I was testifying in front of the Rules committee. I took a step back and thought what the members of the committee were trying to say, the ones who were being vocal in that regard. And being from an analytical background, what I asked myself was, what problem were they trying to solve? What it sounded like to me was to add a little bit more, what can I say, predictability and criteria around what it would take to defer an item, okay? And so as we have done very well in the past and I think especially for the longer sitting commissioners, we've done very well in policing ourselves and putting together guidelines that we could pass on our progressive legacy to future commissioners, I think what we've been asked to do is to say similar to the public convenience ordinance, put together criteria that would have to be met in a sense to say that does it meet the criteria for deferral? In other words, we need to have A, B, C and D in order to make a decision on this. We can articulate that we're missing B and C and that gives us grounds to defer the item. That gives us more of the objectivity and less of the subjectivity of the deferral. If I were to take the emotion out of it, if I were to take the, I'll even say politics out of it, it seems if we could as a commission or as a subcommittee come up with criteria to say that, you know, were the signs up? Did the community get enough opportunity to weigh in on the subject? Is there enough feedback from –

COMMISSIONER JENSEN: Chair Zito if I may interrupt just a second.

COMMISSIONER ZITO: Certainly.

COMMISSIONER JENSEN: That's the reason I gave the recommendation to defer it to a subcommittee. That they could do that. It's fine to have guidelines in place but that the subcommittee needs to take into account that there may be circumstances beyond the Commission's control that have created an artificial time constraint for the project. And the committee should reflect on that and be able to provide guidance that would take into account an artificial time constraint that is no -- was uncaused by the commission, and still allow the commission to be able to do its job in the full knowledge that they're doing their best to serve the community.

COMMISSIONER ZITO: Yes, and I agree. And basically, regardless of what the time constraints are, just like any general plan update, or I mean not update but general plan amendment that comes before us, we have to make findings. If we can't make findings we can't do our job.

COMMISSIONER JENSEN: That's why the recommendation to sends it to committee, rather than doing it now.

COMMISSIONER CAMPOS: If that's a motion I second it.

COMMISSIONER ZITO: So that sounds like creating a subcommittee, I guess the question then is what is the appropriate number of commissioners to sit on that subcommittee and what is staff's feeling on how that would progress?

SPEAKER: Well, certainly the subcommittee could be composed of no more than a maximum of three, correct. Preferably two. But no more –

COMMISSIONER ZITO: What is staff's feeling on -- I would like staff to weigh in on how they would perceive this going forward.

SPEAKER: Laurel Prevetti: As you well know we have downsized our organization considerably. So our ability to staff subcommittees would not be feasible. We would be happy to work with the subcommittee of the size that the commission has recommended. However we would recommend that we handle this in a single meeting and get this done in a timely manner. If I may add, I think that our prompt response back to the council would be a really important step, so that way, they are -- they can see that we are responding in a timely way. Timeliness was one of the comments that did come up in the discussion of the council and the Rules Committee member. So I think this is another opportunity for us to demonstrate that we do have an efficiently running commission and can get down to business and get things done.

COMMISSIONER ZITO: Sure. So let me ask, staff, if just again thinking off the top of my head here, May 13th there is no study session and I don't believe there is one proposed either. It is supposed to be a general plan meeting but not a study session. Does it seem feasible to have a meeting of the subcommittee before the May 13th Planning Commission meeting, let's say meeting at 5:00, and for an hour and a half or an hour and 15 minutes to formulate and then present those findings at that meeting? Does that seem a reasonable proposal, again, to meet your concern about timeliness and also, to try to consolidate meetings so that we don't have commissioners attending multiple meetings as opposed to coming early?

SPEAKER: Laurel Prevetti: Would it be the intent then that the subcommittee would report-out at the May 13th meeting? That we anticipate an agenda item so that way, the discussion can be had with the smaller group and then we do a quick report-out, and if it appears that it's heading in the right direction, then we maybe agendaize it as a consent item in -- for your May 27th meeting, is that the -- would that be a possibility?

COMMISSIONER ZITO: Commissioner Jensen is that something that would meet with your concern?

COMMISSIONER JENSEN: If the members of the subcommittee think that they can meet and put together a report and present it the same evening, that's fine with me.

COMMISSIONER ZITO: Okay, so let's vote on that motion with that concern or that consideration, and then we can decide based on that which commissioners can make it, if at all. So Commissioner Kamkar.

COMMISSIONER KAMKAR: Thank you. We're not saying that we're limited to just that one, we're saying that that would be one of the times when a predetermined is, and if the members of the subcommittee wants to meet before that, they would be open to that?

COMMISSIONER ZITO: Certainly, certainly. And I was hoping that the director would pick up on my thoughts there, and I think she did in the sense of that meeting would be one to -- if that were the first meeting would be one to get the ball rolling, report back, see if we're heading in the right direction, and with the intent that that wouldn't be if end if that's not complete. And a meeting before the 14th, surely that's possible. With all that consideration the motion is on the floor to appoint would you say up to two commissioners? Is that --

COMMISSIONER JENSEN: Right, up to three, no less than two.

COMMISSIONER ZITO: So that's a clarification on the motion. Up to three, no less than two. With a potential first meeting on May 13th. Anything further? Okay. There was a motion and second. All in favor? Any opposed? Seeing none that motion carries unanimously. Now take nominations. Who all would find themselves available? Commissioner Kamkar.

COMMISSIONER KAMKAR: I would nominate Commissioner Jensen to lead that committee.

COMMISSIONER JENSEN: I'm afraid I must respectfully decline. My plate is already very full. Thank you very much for the honor.

COMMISSIONER ZITO: Any other commissioners who are available?

COMMISSIONER KAMKAR: I would make myself available, as one of the members.

COMMISSIONER ZITO: And I'll have to look at my schedule but tentatively, no one else is up for it or available to do it, I could possibly make that, as well. Is there another backup, just in case? Okay. Commissioner Platten, thank you. All right, so we've got two, two and a half one way or the other, commissioners. I might be the half. Okay. So we'll go forward in that vein. Fabulous, okay.

SPEAKER: So you may meet before May 13th, but it seems like the subcommittee might have its first possibly second meeting on May 13th.

COMMISSIONER ZITO: If there's a trail is it appropriate that we could even start via e-mail? Counsel.

SPEAKER: Typically the meetings of the subcommittees are not held via the e-mail communications. So if it's possible, it would be better to have the subcommittee meet –

COMMISSIONER ZITO: Certainly. And I don't mean exclusively. I was referring more to get the ball rolling to throw out some ideas to give us a starting point, maybe throw some ideas out and then those items would be discussed –

SPEAKER: And you would bring those documents to the meetings?

COMMISSIONER ZITO: Certainly. Finding the availability for commissioners to meet is a challenge.

COMMISSIONER KAMKAR: Wouldn't e-mail be more transparent?

SPEAKER: You can't e-mail the world. Are you going to do it –

COMMISSIONER ZITO: Within the subcommittee.

COMMISSIONER KAMKAR: Within the subcommittee. Not an open meeting.

SPEAKER: If you are going to bring those documents to the first meeting you could I suppose get ball rolling.

COMMISSIONER ZITO: An hour and a half to think about it to discuss it to make a recommendation might be really quickly.

SPEAKER: In a way, it's similar to your own staff report, you want something to read over and advance and mull over and make it available and have it at your first meeting.

COMMISSIONER ZITO: Frankly, I would recommend that if staff had an idea to throw out a seed as well, that would be very helpful. And being present at that Rules Committee meeting, I think that you know, one of the reasons I volunteered is I could certainly weigh against what I thought the Rules Committee was looking for. So okay. Commissioners reports. If there's nothing further on that commissioners reports, Norman Y. Mineta San José international airport. Commissioner Campos.

COMMISSIONER CAMPOS: Thank you, Mr. Chair. The committee has not met. Maybe everybody is sending e-mails to my old e-mail address but I think I've updated. If staff might be able to give me an e-mail from the director.

SPEAKER: Mr. Chair, yes, staff will send an e-mail over to our counterparts and contacts at the airport and see if we can help you out.

COMMISSIONER CAMPOS: Okay, thank you.

COMMISSIONER ZITO: Okay, envision 2040, Commissioner Kamkar.

COMMISSIONER KAMKAR: Thank you, Mr. Chair. We did have a meeting last month, towards the end of last month. I believe it was March 26th, I'm guessing. But it would be a Monday. Sorry for the date. But we are pretty much to a point where I guess the rubber meets the road. You know, we are beginning to pick alternatives as to what are the four different scenarios that we would like to study further. We voted on those four scenarios, the most popular scenarios with 29 votes was 339,000 new jobs and 179,000 new dwelling units. Then next two alternatives received the same number of votes, 18, that was again 334,000 jobs, with 137,000 new dwelling units. Then, my phone went dead, sorry. Okay. 327,000 new jobs, 90,000 new dwelling units, and then the fourth popular alternative was the one with biggest jobs, 432,000 jobs, and only 60,000 new dwelling units. So you know, that was pretty much the range within the 37-member task force as to what are the four different alternatives that ought to be studied. One of the alternatives that chair Zito offered was pretty popular but didn't make it into the top 4. And that's basically where we stand. The next meeting is towards the end of this month. Where we will take those alternatives and refine them further. Thank you.

COMMISSIONER ZITO: Okay, very good. Synopsis of the last meeting which was very adequately chaired by our vice chair. Commissioner Kamkar. Any comments, questions, concerns is there a motion on the –

COMMISSIONER CAMPOS: Move approval.

COMMISSIONER ZITO: There is a motion to move approval. I will abstain because I was not present. All in favor? Opposed? That motion obviously passes with an abstention from me. Study session dates and/or topics. Staff anything further?

SPEAKER: I guess to bring the Commission's attention to the fact that April 22nd there will be the historic preservation process study session. And then, in May, may 6th, there will be the study session on the CIP, and also then we've got on May the 27th, yes, the green principles update study session. So again the calendar reflects what we understood the commission's desires were. If you'd have any additional comments we'd like to hear those at this time.

COMMISSIONER ZITO: Comments, questions, concerns? One question I have is we have three meetings planned for May. I understand typically the first one is because the CIP has to be brought forward to the city council in a timely manner, right?

SPEAKER: Right.

COMMISSIONER ZITO: Do we anticipate, and I realize this is maybe speculative, but do we anticipate the possibility that we will not need one of the other two?

SPEAKER: The next item on the agenda Mr. Chair is actually asking you to set the 13th and the 27th for general plan hearing dates. I think previously we had said, I had said, I'll take credit for that that I was overly optimistic that we might not need all three of the meetings in May. It turns out that we do. We do have a fairly good slate of general plan amendments to bring forward so we do feel we will need both of those hearing gates.

COMMISSIONER ZITO: Looking at that schedule, it looks like those are the only opportunities for general plan amendments at the current time. So that would be the ones for this year essentially.

SPEAKER: We would anticipate there will be another set later on in the fall, November-ish I would guess, some time about that time that we would have additional -- October-November I'm told we do.

COMMISSIONER ZITO: Okay.

SPEAKER: We do have another round of hearings.

COMMISSIONER ZITO: Maybe at that time I'll ask you just from my understanding is that the change in the process was that there were one major general plan, and there really wouldn't be a second, or special circumstances or something along those lines?

SPEAKER: Thank you, Mr. Chair. Typically we have had the one major hearing in the spring. This year given just where the major pending general plan amendments are, with their environmental clearance process, we determined that it would be more efficient to propose to have the fall hearing be the major hearing. And so the spring hearing will not involve an employment land conversion.

COMMISSIONER ZITO: Okay. That's fine. Okay. So I guess we'll -- we've incorporated F, which -- okay, Commissioner Cahan.

COMMISSIONER CAHAN: Thank you. I went to the planning conference and the next one next year at the end of March is in Monterey. And I'm wondering if perhaps we could plan ahead if that falls on a date that we have a commission meeting that we could cancel that meeting so all the commissioners can attend, since it's so close.

COMMISSIONER ZITO: Thinking a year ahead, good. Item 6 F, do we have anything further on 6 F as far as setting -- we have to vote on that actually, all right. So there is a proposal by staff to set both the 13th and the 27th of May as general plan hearing dates. You've heard from staff that they believe that we are going to need those dates. How many applications are going to be before us, do you think?

SPEAKER: Thank you, Mr. Chair. We're looking at, well you saw tonight the housing element as one of the major, major in terms of significant, not involving any employment land conversions, but a significant text amendment to the general plan for the housing element. And then as well, the city has initiated general plan amendments related to supporting a form based zoning along a portion of the Alum Rock neighborhood business district. So those are from the City's point of view some amendments we expect to be heard during those two hearing dates. As well, there are some general plan amendments that are privately initiated associated with the Evergreen development policy now being updated, these amendments can go forward, and we expect that some of those will be heard.

COMMISSIONER ZITO: If I could ask staff to resurrect the criteria around the general plan meetings that was passed in the latest or is it last year when it was revamped as to how often there could be general plan and what things could be considered just to refresh our memories, I appreciate that very much because making sure that we're doing things correctly.

SPEAKER: Yes, I can remind you, the current text, as amended by council, requires at least two general plan hearings a year. And requires that no more than one of them be the hearing for major issues, as defined as general plan amendments, minor improvements to the urban growth boundaries, we do have to hold at least two hearings a year and by state law we cannot hold more than four.

COMMISSIONER ZITO: Okay. I had thought for some reason that we actually limited it to one a year with some very minor, that's 80 wanted the clarification. I appreciate that. Commissioner Campos.

COMMISSIONER CAMPOS: Thank you, Mr. Chair. Move approval of the staff recommendation for the two dates in May for general plan hearings.

COMMISSIONER ZITO: Is there a second? Motion and second, all in favor, any opposed, seeing none, that passes. Okay, thank you for that. Distribution of the fiesta restaurant and night club management plan. Any questions about it? The only thing I'll say is something I brought up earlier this evening was, if staff has an opportunity to comment on this management just to clean up some of the cut-and-paste here and on page 15 they talk about sodas or nonalcoholic beverages and they talk about their wait staff recommending types of wine. So obviously there was a disconnect in their dialogue here so just to review that. I'm sure they don't want to talk to customers who want nonalcoholic beverages into drinking that night, so it was a very comprehensive document. One question I have, just a couple of meetings ago, we put together a subcommittee to review the public necessity, PCRN. Just wondering where that's at.

SPEAKER: Well, in the meantime we've been working with staff on identifying the full extent of the list of ordinance changes that are already sort of in the queue and in the works. So that's on the list. It's hoped for in the current year. And you'll be seeing that other things staff has been engaged in will be coming to you at subsequent hearings. Our

next hearing we have several ordinance proposals that will be to the commission for review. So we have some research, background research happening with staff and the office of economic development around the parameters of the size of grocery stores and other things that we think will be useful and we would like to get started on that but we have several other ordinances in the works. Counsel has something to add.

SPEAKER: I was just going to add, I did notify after the meeting that the commission took, I did notify the staff person who has been taking the lead at least on setting up the internal staff meetings to tell them that they were taking too long, so the commission ended up forming a subcommittee, because really there had been a -- there had been staff meetings on the issue. And for whatever reason they stalled probably for the reasons that the director noted. And so I did alert him that there now was a Planning Commission subcommittee, and that the first meeting should include the Planning Commission members.

COMMISSIONER ZITO: Okay. So that hasn't been set yet, though?

SPEAKER: No. Like I said, the Thursday morning after you took your action, I did alert him to this.

COMMISSIONER ZITO: Okay, just was wondering if there was anything. Okay, seeing nothing else, no other comments, questions, concerns, none, is there a motion? I hear a motion to adjourn the session. All in favor? Second? Any opposed? None, seeing none.