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City of San José Planning Commission.
Wednesday, May 5, 2010

COMMISSIONER JENSEN: Good evening. Our apologies for our delay. My name is Lisa Jensen, and I am the chair of the Planning Commission. On behalf of the entire Planning Commission, I would like to welcome you to the Planning Commission public hearing of Wednesday, May 5, 2010. Please remember to turn off your cell phones. Or turn them on to vibrate. Parking ticket validation machine for the garage under City Hall is located at the rear of the chambers. If you want to address the commission, fill out a speaker card located on the table by the door on the parking validation table at the back, and at the bottom of the stairs near the audiovisual technician. Deposit the completed card in the basket near the planning technician. Please include the agenda item number, not the file number, for reference. For example, 4.A not PD 06-023. The procedure for this hearing is as follows: After the staff report, applicants and appellants may make 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. Each speaker will have up to two minutes. After the public testimony, the applicant and appellant may make closing remarks for an additional five minutes. Planning Commissioners may ask questions of the speakers. Response to the commissioner questions will not reduce the speaker's time allowance. The public hearing will then be closed and the Planning Commission will take action on the item. The planning Commission may request staff to respond to the public testimony, ask staff questions, and discuss the item. If you challenge these land use decisions in court, you may be limited to raising only those issues you or someone else raised at this public hearing or in written correspondence delivered to the city, at, or prior to, the public hearing. The Planning Commission's action on rezoning, prezonings, general plan amendments and code amendments is only advisory to the City Council. The City Council will hold public hearings on these items. Section 20.120.400 of the municipal code provides the procedures for legal protests to the City Council on rezoning and prezonings. The Planning Commission's actions on conditional use permits is appealable to the city council in accordance with section 20.100.220 of the municipal code. Agendas and a binder of all staff reports have been placed on the table near the door for your convenience. Roll call. Please let it be noted that all commissioners are here with the exception of commissioners Platten and Kamkar. And welcome to our newest commissioners commissioner whose name I've completely forgotten. Commissioner Kline. Next item, deferrals. Any item scheduled for hearing this evening for which deferral is being requested will be taken out of order to be heard first on the matter of deferral. A list of staff-recommended deferrals is available on the press table. Staff will provide an update on the items for which deferral is being requested. If you wish to change any of the deferral dates recommended, or speak to the question of deferring these or any other items, you should say so at this time. To effectively manage the Planning Commission agenda, and to be sensitive to the concerns regarding the length of public hearing, the Planning Commission may determine either to proceed with remaining agendized items past 11:00 p.m, to continue this hearing to a later date, or to Defer those items remaining on the agenda to the next regularly scheduled Planning Commission meeting date. Decisions to be heard by the Planning Commission no later than 11:00 p.m. On the matter of deferrals.

ORATOR: Thank you. Staff has one recommended deferral for an ordinance amendment to the zoning code, PP 10-059, related to parking requirements for the business destination area, our

recommendation is deferral to the May 19th, 2010, Planning Commission meeting. That's it for staff recommended deferrals.

COMMISSIONER JENSEN: Thank you. Are there any other recommendations? Commissioner Platten -- Commissioner Campos.

COMMISSIONER CAMPOS: We're both on either one end or the other. Just for the record, I wanted to state that I have not reconstituted myself for one of the items on the public hearing, I believe it is item -- what is it -- item 3B. And so I would not be able to participate on that vote tonight.

COMMISSIONER JENSEN: Are you requesting a deferral for that item?

COMMISSIONER CAMPOS: It wouldn't be appropriate for me to request a deferral given that at the previous meeting, the May 12th meeting was changed to the 19th. And since I was going off of the calendar, I have a commitment on the 19th. So I will not be at the 19th Planning Commission meeting so it would not be appropriate for me to request a deferral since I will not be here.

COMMISSIONER JENSEN: Thank you. Commissioner Cahan.

COMMISSIONER CAHAN: I'd like to make a motion to defer 3B so that more members may reconstitute themselves.

COMMISSIONER JENSEN: Thank you. Is there a second? There's a motion and a second. All those in favor? That motion passes. Is there a motion regarding deferrals? Commissioner Zito.

COMMISSIONER ZITO: Madam Chair, I move that we accept staff recommended deferrals (inaudible) appropriate date as specified.

COMMISSIONER JENSEN: Thank you. Is there a second? Second. There's a motion and second. All those in favor? Thank you. The matter of deferrals is now closed. Thank you. On the matter of consent. 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 being made by a member of the Planning Commission, staff, or the public to have an item removed from the consent calendar and considered separately. Staff will provide an update on the consent calendar. If you wish to speak on one of these items individually, please come to the podium at this time. First item is item 2A, CP08-084, a conditional use permit to convert residential service facility with the interior and exterior CN commercial neighborhood zoning district, located at 3900 Monterey road. Staff.

ORATOR: Staff has no additional comments on consent items.

COMMISSIONER JENSEN: Thank you. Is there a motion? Thank you, and a second? Great. All those in favor, please say aye. Thank you. Commissioner Zito.

COMMISSIONER ZITO: I was going to move that we accept the consent calendar as recommended by staff. I believe that just passed.

COMMISSIONER JENSEN: Great, thank you. Commissioner Kline.

COMMISSIONER KLINE: I have to pull 2B for the purpose of abstaining.

COMMISSIONER JENSEN: So you're not voting on 2B. Thank you. We're smoking. Moving on to the 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 is item 3 A. City's proposed 2011-2015 capital improvement program. Approval of the Planning Commission's report to the city council transmitting comments and recommending adoption of the proposed 2011-2015 capital improvement program. Is open for discussion. Staff.

ORATOR: Thank you, Madam Chair. Michael Bill, city planning staff. Immediately prior to this public hearing the Planning Commission conducted a study session. This study session was noticed as a public meeting. However no citizens chose to attend. The Planning Commission's role in reviewing the CIP is prescribed by city charter which states that the commission shall have authority to make recommendations to the city council, respecting capital improvement programs. The CIP implements the goals and policies of the City's general plan and general plan consistency is an important consideration in the commission's review of the CIP. The study session included a presentation by staff from the City Manager's budget office, and active commission discussion occurred with representatives from city departments. The CIP is organized around six city service areas or CSAs along with 14 capital programs. These capital programs include neighborhood service such as parks and libraries, the airport, Public Safety facilities, traffic and parking, and the City's water and sewer systems. This year, discussion at the study session included the developer assisted projects, capital program in the community and economic development CSA, the sanitary sewer and storm sewer system, as well as the water pollution control, capital programs within the environmental and utility services CSA, the parks and community, the facilities capital program in the neighborhood services CSA, the community service program, the programs within the transportation and aviation CSA and finally the service yards capital program in the strategic support Sandra CSA. At this time staff requests that the Planning Commission provide their comments and recommendations on the CIP. These recommendations will then be incorporated into a written addendum to the manager's budget proposal and transmitted for council consideration. That concludes this staff report. Thank you.

COMMISSIONER JENSEN: Thank you. I would just like to note an appreciation on behalf of the commission to staff for providing the commission with the CIP, well in advance of tonight's meeting, giving them a full two weeks to be able to review it. That was very much appreciate and I know how hard it was to get that out. For the public, as Mr. Bill's indicated a public study session is provided to the commission and any interested parties in advance of the commission hearing, during which time commissioners have the opportunity to ask questions regarding the

capital improvement program recommendations. During this hearing, the commissioners will have the opportunity to provide their comments and recommendations which they may have made during the study session and are which are going to be forwarded to city council. Are there any comments from the commission? Seeing -- Commissioner Zito.

COMMISSIONER ZITO: Thank you, Madam Chair. We were requested to re reiterate some of our questions and comments so that the public would have the benefit of those. So couple of points that I had requested information on was especially with the -- let me find the wording of it, the environmental and utility services area, sanitary sewer and storm water and recycling programs. We're looking at approximately \$400 million in that arena, \$393 million. And my comments were, with that type an investment, you have an opportunity to forward some leading-edge technology and make investments in areas where we possibly could actually turn what is a cost into possibly revenue generation through turning some of our waste into co-generation, energy-producing facilities, selling water back, if we could recycle that to a potable level. And essentially, the composting plans that we have, taking that and making that possibly revenue generating as well. I understand from the feedback we got from those departments, that they are looking at those areas, they have made investments in those areas which was very good to hear. I think, though, that we have an opportunity to make a large statement in this regard. We've been leading edge, San José has been leading edge in the technology area for quite some sometime and I know they're making some pilot advances in those areas and I'm just suggesting that maybe we could make larger advances in those areas seeing that we've got a pretty significant amount of investment over the last five years and we could really make a statement. Also investing in our own businesses, the mayor's Green Vision is requesting that we cut our waste down considerably, and he is also providing an incubator for green businesses and I think we could turn some of that investment into our own city residents or I should say city businesses as well. So I'm sure the council will have an eye toward that I'm sure our departments will as well, but I just wanted to make that a public comment. So we have some revenue opportunities there, and also, the ability to advance some leading edge technology. The other statement I'll make is, to be cognizant of the fact that the city has, the city residents have voted on bonds for capital improvements in parks, fire safety, libraries and so on and while we completely understand the need to defer certain projects, to essentially offset the O&M costs that would be incurred services and those are quality of life issues for residents. But again we know completely the -- understand completely the idea of having to defer some of that because of O&M costs. So just to keep that -- and finally, making the tough decisions, it was brought up in the discussion that, you know, the services that we provide, we currently have TIFS in certain specific plan areas, traffic impact fees. There's a discussion of services and the cost of delivering services to our residents and how we're growing vertically and how we need to revisit how we provide those services. And sitting on the general plan task force it is going to be a difficult situation to swing the pendulum in the other direction going from a .8 jobs-housing ratio to a 1.3 jobs-housing ratio. There is a possibility that the city should possibly investigate the SIF, services impact fee on development projects to cover the cost of what it would be to provide these services to provide this capital infrastructure necessary to deliver those services. Those would be my comments. Thank you Madam Chair.

COMMISSIONER JENSEN: Thank you, Commissioner Zito. Commissioner Kline.

COMMISSIONER KLINE: I guess a new commissioner should never be allowed to comment on a 15 year CIP am but audience and TV you can see this binder, that basically represents the CIP that we are reviewing today. The presentation that the staff gave me and addressed the commission was outstanding. It basically condensed things into chunks very understandable even for somebody coming in. So for the future I would suggest that voters who are interested to come to these public meetings. They are very insightful and not as tough as this binder would make you believe. Thank you for doing a great job.

COMMISSIONER JENSEN: Thank you, Commissioner Kline. Commissioner Cahan.

COMMISSIONER CAHAN: Thank you, Madam Chair and thank you staff for the wonderful presentation today. In that presentation we discussed the park maintenance cost by potentially putting in artificial turf. And the city agreed to looking into the artificial turfs to make sure that any they would purchase or have purchased are safe for our children and do not have high level of lead or other materials that would negatively affect them.

COMMISSIONER JENSEN: Thank you, Commissioner Cahan. Commissioner Campos.

COMMISSIONER CAMPOS: Thank you, Madam Chair. I just want to reiterate, thank you staff for the great work that you put into this. But I did want to make a comment and perhaps as the next priority comes for undergrounding, the undergrounding program, for undergrounding utilities in particular neighborhoods that consideration be given to some of our older neighborhoods, and particularly, East of 101 where you still find a number of low-hanging wires in the front part of homes as opposed to the rear, you know, the backyards where you know they're not as unsightly. And I've been into neighborhoods where if there was an emergency it also looks like you could have a problem getting large fire trucks in there with, you know, with ladders and so forth. So I would like for that to be considered, thank you.

COMMISSIONER JENSEN: Thank you, Commissioner Campos. Seeing -- Commissioner Zito.

COMMISSIONER ZITO: If it pleases the commission and chair I'd like to make a motion.

COMMISSIONER JENSEN: Thank you.

COMMISSIONER ZITO: I recommend to city council the adoption of the proposed 2011-2015 capital improvement program as recommended by staff and the commission.

COMMISSIONER JENSEN: Thank you we have a motion and second. Commissioner Cahan.

COMMISSIONER CAHAN: Thank you, Madam Chair. I thought at our meeting earlier Commissioner Kline made excellent points about attracting businesses and retaining our businesses by making sure that our city is up to speed as much as possible, including our libraries and our community centers that Commissioner Zito discussed trying to make sure that we get those going as soon as possible.

COMMISSIONER JENSEN: Thank you, Commissioner Cahan. Commissioner Zito I neglected to ask you if you wanted to speak to your motion.

COMMISSIONER ZITO: No I think I've said enough. I understand the department won an award again this year for their compilation and of their CIP and I think it is an award well deserved.

COMMISSIONER JENSEN: We have a motion and second in front of staff is there anything more you want to say ?

ORATOR: No additional comments.

COMMISSIONER JENSEN: Thank you. May we vote by light, then? Hang on just one second, and -- thank you, Commissioner Kline. That motion passes unanimously with commissioners Platten and Kamkar absent. Thank you. Item 3C. PDC 10-003. Planned development zoning to support the relocation of a card room and to construct a full service hotel and associated parking including an off street parking facility on a 6.08 gross acre site located on the southeast corner of airport parkway and old Bayshore highway. Staff.

ORATOR: Thank you. As presented in staff report, this is a planned development zoning to rezone the subject site from the existing planned development zoning which was for a multifamily residential development with commercial, to a planned development zoning with a base district of IP which is the underlying industrial park land uses, to accommodate the relocation of a card room as well as a full-service hotel of up to 600 room capacity and associated parking facility. As presented in the staff report the primary reason that they have to do the PD is, the applicants or development group want the ability to consider integrating a stand-alone public eating establishment with the project. And if it was just the IP zoning, so for the current planned development zoning for residential reverted back to an IP which is an underlying industrial park land use, that stand alone public eating establishment is not a use, a relocated card room can be considered an IP district with a conditional use permit under current zoning regulations as well as a hotel is a conditional use in the IP district so I just wanted to kind of highlight that. Our review of the proposal, you know, analyzed its consistency with our general plan, specific plans and other applicable policies, and again as presented in the staff report, the Rincon South Pacific plan identifies this site as a preferred hotel site as well as recommends support of a mix of uses which kind of, you know, supports the airport land, the airport land use as well as places, uses that do does not impact nearby residential districts. Also with this being in the North San José development policy area, the traffic impacts by any of the future development will be required to adhere to any traffic impact fees, and again, that's really going to be the future hotel as in phase 1 the relocation of the card room any traffic that's generated that is less than what the existing industrial development would put out on the street. So again, staff is recommending approval of the proposed planned development zoning because of its consistency with the general plan, specific plan and other applicable policies, and I'm here to answer any additional questions you may have.

COMMISSIONER JENSEN: Thank you, staff. Is the applicant here? You may have up to five minutes to speak on this.

ORATOR: Madam Chair, have to learn that, I was afraid I was going to come up here and misspeak. First of all let me congratulate you to your appointment to the chairpersonship.

COMMISSIONER JENSEN: Thank you.

ORATOR: And would also like to take the opportunity to congratulate Mr. Kline for his appointment to the Planning Commission. This project has proceeded very quickly. We talked about wanting to work at the speed of business. If you look at the date here this was filed I think it would be hard to argue that this didn't move almost faster than the speed of business. So we really appreciate Jean Hamilton's work to bring this to you tonight and on to the council in a couple of weeks. I'm also glad to stand here tonight, being able to support the staff's recommendation as opposed to having to make a case against the staff's recommendation. So it's particularly delightful to be here under such good circumstances. I'm joined tonight by Matt love who is also representing the Garden City casinos in their desire for a relocated casino. The specifics of the casino and house the development would actually occur would occur at the planned development permit stage so it will await that discussion. I think Jean pointed out that there was a community meeting and actually Matt love had been talking with Rosemary gardens community prior to the formal community meeting. There were questions that were asked, they were answered and I think in general my understanding is that the Rosemary gardens neighborhood is generally 74thive of the planned development zoning. With that I'll stand back, answer if I in questions you have, and if you have any specific questions with regard to the casino, I'll ask Matt love to come forward.

COMMISSIONER JENSEN: We don't have any speaker cards, no questions from the commission. Motion to close public hearing. Second? All those in favor? Public hearing is now closed. Staff do you have any additional comments you would like to make?

ORATOR: No.

COMMISSIONER JENSEN: Commissioner Zito.

COMMISSIONER ZITO: Just a clarification, if I understood staff, about this designation, the IP would have been fine if it had only the casino and hotel, but because of the restaurant?

ORATOR: There was an ordinance passed within a year or whatnot which allows for the relocation of a card room through a conditional use permit in the IP district. And again, for hotels, specifically where the general plan is supportive of that use, and as I indicated, Rincon South specific plan has this site identified as a preferred hotel site. So it's really that independent restaurant that would not be integrated within a hotel, or within a card room, that is not either a permitted, special, or conditional use in the IP district.

COMMISSIONER ZITO: And that's why it's before us, essentially. Madam Chair, if it pleases the commission I'm ready to make a motion.

COMMISSIONER JENSEN: Please.

COMMISSIONER ZITO: I recommend that we consider the North San José development policy update EIR, resolution number 72768 in accordance with CEQA. Recommend approval of a planned development zoning to support the relocation of a card room and to construct a full service hotel and associated parking including an off-street parking facility on a 6.08 gross acre site as recommended by staff.

COMMISSIONER JENSEN: Thank you. Director.

ORATOR: Laurel Prevetti: Do you want to see if there's a second? I just have something to add for the Commission's consideration.

COMMISSIONER KLINE: Second.

COMMISSIONER JENSEN: There is a second.

ORATOR: Laurel Prevetti: Thank you very much, Madam Chair. I just want to point out for the record that this proposal is consistent with the North San José development policy. Staff did a good job explaining how the policy relates to traffic. And as you know, that's really a jobs-first policy in terms of how we can intensify a key employment center for San José, and this proposal is consistent with the spirit as well as the letter of that policy. So the general plan and the specific plan have the more detailed land use guidance in terms of land use designations. But in terms of the larger intention of North San José, this project also fulfills those obligations. Thank you.

COMMISSIONER ZITO: And if I could speak quickly on the motion.

COMMISSIONER JENSEN: Please.

COMMISSIONER ZITO: Very simply as I'm familiar with where the other site is, not that I frequent it, but I know where it is. And the fact that they're moving this, and the fact that they're integrated a restaurant is in fact going to enhance its usability and soften the card room genre if you will, and I think the fact that the hotel and card room and the fact that it's a card room, is a nice balance and going to be enhanced overall and be a good thing for the city.

COMMISSIONER JENSEN: Thank you. There are any other commissioners who wish to speak? Okay, if we can vote by light, then. And that passes unanimously. With commissioners Platten and Kamkar absent. Moving on to petitions and that closes the public hearing portion of this meeting. Thank you all. Moving on to petitions and communications. Public comments to the Planning Commission on nonagendized items. Please fill out a speaker's card and give it to the technician. Each member of the public may address the commission for up to three minutes. The commission may not take any formal action without the item being properly noticed or placed on the agenda in response to public comment, the commission is limited to the following three items. We can respond to question, we can request staff to report back on a matter, or we can direct staff to place an item on a future agenda. Are there any -- there are no speaker cards

for public petitions and communications. Referrals from city council, boards, commissions or other agencies. Report from city council? Yes, thank you.

ORATOR: Laurel Prevetti: I just wanted to let the commission know that the city council started its general plan hearings, and for the most part endorsed the recommendations that you brought forward. In some cases you had a different opinion than staff's recommendation. In those instances the city council actually agreed with the Planning Commission. There was one item that was continued to May 18th. It was the dove hill site that Mr. Sal caruso was working on. We wanted to do additional noticing and an additional public hearing, excuse me, an additional community meeting and that item will be coming forward to council on May 18th and then that will be the close of the general plan hearing. And that concludes the report from the city council.

COMMISSIONER JENSEN: Thank you. Commissioners' report from committees. Norman Y. Mineta San José international airport noise advisory committee. Commissioner Campos.

COMMISSIONER CAMPOS: Thank you, Madam Chair. They did meet, however I missed that meeting. They met last week so nothing to report.

COMMISSIONER JENSEN: Thank you. Envision 2040 general plan update process. Commissioner Kamkar is absent. Commissioner Zito.

COMMISSIONER ZITO: If I remember correctly, we did have a meeting since the last Planning Commission meeting, they do them twice a month now. They just continued on the land use scenarios and the intensification questions, we discussed the Specific Plan areas and where they were going to be intensified and the transportation areas as well. And I know there was another area that was fairly heavily discussed but it just slips my mind. Maybe director or chair could –

ORATOR: Laurel Prevetti: We discussed thank you, the land use designations for the plan and for the commission's benefit as well as the public we will be having a public workshop on Saturday, May 15th at 9:00 here at City Hall in the wing rooms and everyone's invited to participate. Oh and good news. We also received a northern section California American planning association award for community engagement for the work we've done to date with the general plan update. So we're very happy about that. So thank you.

COMMISSIONER ZITO: And the one specific about what the director Prevetti had just mentioned is that they've reduced the number of designations from like 93 down to 21 or 22, something along those lines and that's a significant simplification of the general plan, overall which should be helpful for future commissions and councilmembers.

COMMISSIONER JENSEN: Thank you, Commissioner Zito. Thank you director, and congratulations to staff for receiving that award. Review and approve the synopsis from 4-21-10. Commissioner Kline.

COMMISSIONER KLINE: I'll be abstaining from this.

COMMISSIONER JENSEN: Thank you. Commissioner Campos.

COMMISSIONER CAMPOS: I will also be recusing myself.

COMMISSIONER JENSEN: We don't have enough members to --

COMMISSIONER ZITO: Three.

COMMISSIONER JENSEN: All right we will then --

COMMISSIONER ZITO: Defer that item.

COMMISSIONER JENSEN: May I have a motion to -- is that a motion?

COMMISSIONER ZITO: That's a motion.

COMMISSIONER JENSEN: We will defer the approval of the synopsis of the four-21 meeting to may 19. Any outstanding business? Director would you like to speak to our next study session?

ORATOR: Laurel Prevetti: Thank you. Our next study session will be on May 19th, at 5:30 p.m, third story of the City Hall tower. We're going to talk a little bit about grocery store off-sale of alcohol rules, what those rules are, what motivated them, what they consist of and really engage the commission in a discussion about how we might want to clarify some of those rules, especially as it pertains to grocery stores. We may want to define a grocery store as well as procedural matters, I know this is something of great interest. May 19th?

COMMISSIONER ZITO: I think you said --

ORATOR: Laurel Prevetti: May 19, one-nine, thank you. We will be putting out an agenda so you will have an opportunity to see it in advance. We want to make sure it is a productive meeting so as we benefit of your own experience and bring it forward. Thank you.

COMMISSIONER JENSEN: Thank you, director. With no further business, this meeting is adjourned. Thank you.