

The following transcript is provided for your convenience, but does not represent the official record of this meeting. The transcript is provided by the firm that provides closed captioning services to the City. Because this service is created in real-time as the meeting progresses, it may contain errors and gaps, but is nevertheless very helpful in determining the gist of what occurred during this meeting.

Planning Commission  
Wednesday, June 9, 2010

COMMISSIONER JENSEN: Good evening. 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, June 9, 2010. Please remember to turn off your cell phones. Parking ticket validation machine for the garage under City Hall are 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, 4A, and not PD06-023. 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 card 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 two minutes. After 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 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 agenda 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. Order of business, roll call. Please legality the record reflect that all Planning Commissioners are here. 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 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 remaining items 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, we have three proposed deferrals, CP 09-064 and ABC 10-are 001, conditional use permit and determination of public convenience or necessity to allow a drinking establishment in an existing 462 square foot retail facility in the D.C. downtown commercial zoning district. B, CP09-042, conditional use permit to demolish existing gas station building, construct a new 3200 square foot pump canopy and 2400 square foot retail building in 24 hour use and offsale of alcohol on a 1.28 gross acre site on the CP commercial pedestrian zoning district. 4610 pearl avenue. And C, PDA 91-006-83, an appeal of the Planning director's decision to approve a planned development permit amendment for country view custom estates to install entry gates across private streets at three separate locations in the APD zoning district located at the corner of Hollow Lake Drive and Quail Crest Drive, at the corner of Hollow Lake Way and Glen View Way, at at the start of the private street at the cul-de-sac of Glen View drive approximately 550 feet south of Echo View Drive. Item D, the projects being considered are within -- are C&D related? The projects being considered within a 98,000 square foot industrial park development

located on the Northeast corner of Piercy road and Hellyer avenue in the IP industrial park zoning district, CP 09-057, CP09-058, CP09-0 begin and CP09-061. Staff.

ORATOR: Staff wanted to note that A B and C are being recommended to June 23rd. Item D is being recommended to be deferred to the July 14th Planning Commission hearing, and staff also recommends that item 3A the Planning Commission bylaws due to a staff error in the description of the items, we need to defer that to June 21st, as well as June 23rd, just to make sure we have opportunities on both the agendas. So that's the additional recommended deferrals.

COMMISSIONER JENSEN: Thank you, staff.

ORATOR: Move approval.

COMMISSIONER JENSEN: There's been a motion and a second. We have a speaker light on, Commissioner Zito.

COMMISSIONER ZITO: Thank you, Madam Chair. I understand that due to some wording problems, Item 3A has to be deferred to 21st and 23rd that's fine, I have no objection to that. I just wanted to essentially notify the chair that we had gotten some responses Commissioner Kline, regarding the wording, and with the permission of the chair, he and I will review that and try to get those items ironed out so that we would have a cohesive item to bring before the commission on the 21st.

COMMISSIONER JENSEN: Commissioner Kline?

COMMISSIONER KLINE: That's fine with me.

ORATOR: Commissioner Jensen: Okay, great. So Commissioners Kline and Zito will work on the modified bylaws and if the motion passes we'll hear them on the 21st. There was a second, can we vote by light? I'm so sorry, Commissioner Cahan. Yes, Commissioner Cahan.

ORATOR: Commissioner Cahan: Thank you, Madam Chair, is it possible to have that item on the 21st, it was a last minute meeting and we're not all potentially going to be there.

COMMISSIONER JENSEN: I think one of the reasons to put it on the 21st is it's a much lighter agenda, we have a single item on the 21st while the 23rd is a very packed agenda.

ORATOR: Laurel Prevetti: If I may Madam Chair, we are recommending that we however put the bylaw item on the agenda for the 23rd in the event that the commission wishes to continue its discussion from the 21st. Since both agendas need to be out and posted almost in the same time frames, we want to make sure that the commission is covered in the event the conversation needs to continue. But you do have a lot of items on the 23rd, and we're getting to that point of the calendar where our applicants are really looking for action on their items so they can be moving forward. So that's just some other information for your consideration.

COMMISSIONER JENSEN: Thank you. Commissioner Campos.

COMMISSIONER CAMPOS: Thank you, Madam Chair. I agree with Commissioner Cahan. I think that since -- I mean last time I checked it seemed like we were barely going to have a quorum on the 21st.

It could in all possibility get moved to the 23rd anyway. And I think it would be more healthier to have all the commissioners here to have that public discussion on the item.

COMMISSIONER JENSEN: Thank you, Commissioner Campos. We have a motion and a second. And another speaker. Commissioner Kamkar.

COMMISSIONER KAMKAR: Thank you. I was under the impression that pretty much everybody was going to be there on the 21st, I'm not sure why Commissioner Campos feels we will barely have a quorum on the 21st.

COMMISSIONER JENSEN: One moment, please. Thank you. Counsel would you like to provide some input?

ORATOR: Thank you, Madam Chair. I don't have your bylaws. In order to amend your bylaws it takes a supermajority of two-thirds vote. If there's not a supermajority present on the 21st the commission would not be able to pass on an amendment to its bylaws. Supermajority is two-thirds of 7 so that would be five.

COMMISSIONER JENSEN: Okay. We have another comment, Commissioner Cahan.

COMMISSIONER CAHAN: Thank you, Madam Chair. Just to clarification. The motion on the floor, the vote for that is for this to be deferred to the 21st?

COMMISSIONER JENSEN: The 23rd so that it can be -- it will be noticed on both agendas so that in the event that we're unable to include on the 21st, that it will be addressed on the 23rd.

COMMISSIONER CAHAN: Thank you.

COMMISSIONER JENSEN: And now, may we vote? Thank you. Please note that that passed unanimously with all commissioners in favor moving it to the 21st. And I believe we also had a motion to accept the remaining deferral items and a second on that. All those in favor say aye. Opposed? Thank you. Moving on to section 2, 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 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 to one of these items individually, please come to the podium at this time. Item A. PD 09-023. Preparation of resolution. An appeal of the director's decision to approve a planned development permit to demolish an existing commercial building and construct a 17,000 square foot pad building retail commercial purposes reconfiguration of a 13,090 square foot previously approved in line retail space, allow the offsale of alcohol on an 8.96 gross acre site in the A(PD) planned development zoning district located on the Northwest corner of Meridian avenue and Hillsdale avenue. This project also allows the relocation of a retail use that includes the offsale of alcohol into an existing pad building which is a temporary location while the proposed building is under construction. I see a speaker light, I believe it is for this item. Commissioner Kline.

COMMISSIONER KLINE: Yes, I'd like to pull 2A off of the consent calendar.

COMMISSIONER JENSEN: Okay, staff would you like to address item 2A?

ORATOR: Again this is a resolution prepared to reflect the Commission's action on their motion to uphold the director's decision and approve the permit as recommended by staff, but to design the project for cross access easement. So you'll see conditions number 9 and 10 which include a reference to modification of the driveway, to reflect the part of motion that says to design with a cross-access easement, number 10, a requirement that the developer offer -- have -- put forth an irrevokable offer of dedication. And then we just kind of let the private parties work that out. That's it.

COMMISSIONER JENSEN: Thank you, I see counsel would like to provide some input into this item before we get into it.

ORATOR: Thank you, Madam Chair. Yes, I just wanted to note for the commission pursuant to the request of some of your fellow commissioners that for clarification purposes the item that is on your agenda this evening is simply was the paperwork memorialized accurately, so I didn't want the commission confused that we were somehow going to reopen the hearing. The commission acted at its hearing, a motion was made, the motion was passed, the commission took their vote, 4-3. If you take action this evening, if the vote is 7-0, that means there was unanimous consent that the item was memorialized accurately. It does not change your vote, which was a 4-3 vote.

COMMISSIONER JENSEN: Thank you. Commissioner Kline.

COMMISSIONER KLINE: Thank you, that was great clarification. I appreciate that. But if we were to vote against this -- for this, wouldn't that in effect be on record to support this particular resolution, because this resolution wasn't before us last meeting?

ORATOR: Again, there was a resolution before you but it reflected a different staff recommendation. So the vote was taken, but the practice in our jurisdiction is that if the commission significantly modifies the staff recommendation, such that the changes to the resolution can't be made on that same evening, that the commission defers the are memorialization of it to give staff time to write up the changes in the manner that reflects. So the intent obviously is not to change the vote of the commission. An maybe in the future the way to make that clear is to actually insert the vote on the last page. So the thing you are approving is a resolution that reflects a four-three vote of the commission.

COMMISSIONER KLINE: To follow up if I may with the chair's position.

COMMISSIONER JENSEN: Please.

COMMISSIONER KLINE: To clarify this a yes vote for this in no way construes a support for the resolution itself?

ORATOR: Simply that the resolution is a correct memorialization of the vote the commission took on May 26th.

COMMISSIONER KLINE: I will voting no on this, the findings are the property as a whole should be considered regardless of the impact of the project on the cross-access area since that finding is not in this resolution I do not believe it accurately reflects what we said that time.

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

COMMISSIONER ZITO: I was going to ask staff to point out where the resolution has changed to insist us where it shows cross access. I see G.

ORATOR: As far as the findings, in fact, again, if you can recall, you read several -- probably starting at around page 2, number 6. And it talks about an excuse, and it goes on to item 9 which details out the various section in the design guidelines that you put into the record.

COMMISSIONER ZITO: Right.

ORATOR: So those are the ones that we picked up from your motion to put in there.

COMMISSIONER ZITO: Right. So where specifically does it say that the -- is that 11G as in girl? Easements vacate -- where does it say existing easements have to be --

ORATOR: There are the facts and findings, and you go subject to the following conditions on page 5, if you look at condition number 9 as I indicated earlier, that the requirement to modify the driveway.

COMMISSIONER ZITO: There it is driveway use for the subject --

ORATOR: And item 10 which requires that the developer of the project shall make an irrevokable offer for an easement that allows cross access to the adjoining commercial site, on terms negotiated by the affected property owners.

COMMISSIONER JENSEN: Does this address your questions Commissioner Zito?

COMMISSIONER ZITO: Still trying to -- I don't know why mine says something --

ORATOR: We e-mailed out the resolution on Monday.

COMMISSIONER ZITO: Is this 09-023.

COMMISSIONER JENSEN: With track changes turned on, thank you very much for that.

ORATOR: The older version of word doesn't do that. In the future we'll -- not do that. So don't expect it in the future.

COMMISSIONER JENSEN: I found it very helpful.

COMMISSIONER ZITO: Okay. It was my mistake. I was looking at an older version and that's why my questions came up. And to the extent that Commissioner Kline had identified that there was no statement in here that it was to consider the whole project, as a whole? That was a question that was asked of me if I remember correctly by counsel. And I answered back that that was in fact what my intent was. So just wondering --

ORATOR: So you wanted to include in a statement --

COMMISSIONER ZITO: Right, and that the project was considered as a whole. Is that an adequate wording?

ORATOR: That the properties under separate ownership really should be considered as a whole --

COMMISSIONER ZITO: Right, I think that was the question from -- counsel could you clarify?

ORATOR: Thank you. I think the question that I had asked you really was going towards the statements of facts listed on page 2 of 9. Fact number 3 notes that the subject pad building is the largest in the single new construction element of a shopping center, and then fact number 4 says that the subject site is part of a planned development zoning that includes, encompasses a larger shopping center with over 100,000 square feet. So it notes that the activities that are specifically requested under this permit are part of a larger shopping center, and the operation of a larger shopping center.

ORATOR: And if I recall, when Commissioner Cahan was talking about it, she was talking about it in the context of the larger shopping center and not inclusive of the corner parcel being part of the larger site. Is that correct?

ORATOR: So for clarification purposes when I asked you the question my question was are you look at holistically as a whole site although the activities proposed were occurring on a portion of it. So my question to you wasn't a request that you consider the adjacent parcel necessarily but rather, the impacts of the activities occurring under this permit were part of the operation of a larger center.

COMMISSIONER ZITO: As a whole, right. And I had answered yes to that. So in your -- in your opinion, from a counsel's perspective does item 3 and 4 income that?

ORATOR: That was the question I was getting at again. That the activities occurring under the subject site really were not to be examined in isolation but rather includes and encompasses a larger shopping center.

COMMISSIONER ZITO: My read of that is that that is in fact in here already. So to address Commissioner Kline's concern and rightfully so, the way I read this, and interpreted this, this does meet that goal, and does reflect my answer to your question from that evening. So that's -- that's why it was okay with me. I don't know if it meets Commissioner Kline's concern or not. So I just want to clarify that.

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

COMMISSIONER PLATTEN: Thank you, Madam Chairperson. I would like to request pursuant to counsel's comment which I think is accurate that we amend the resolution to at least indicate the ayes and noes on the resolution in the meeting in May by name. And number 2 and I don't want to impose on staff, I'm making this request understanding all of the burdens that are currently placed on staff due to budget issues but it's my anticipation based upon what happened on this issue, and the direction we received from counsel, there's a probability that the city will be sued for inverse condemnation as results from this action. And so if that occurs, I want staff to please reinform us if that in fact takes place, as an educational effort for future issues of this kind.

ORATOR: Yes, so I'll include the ayes of four, and as reflected on this synopsis that we haven't got to yet, but the noes would be Campos, Kline and Platten. And the ayes would be Kamkar Jensen, Zito, Cahan, and Campos -- Campos wasn't here. Oh, I already said you were no. Campos, Kline and Platten. And then Cahan, Zito, Jensen and Kamkar are the ayes, so that's what will go on the resolution. And in the future, yeah. I'm kind of new at this, so I'll include that in the resolution as we go.

COMMISSIONER ZITO: Madam Chair.

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

COMMISSIONER ZITO: One other thing, the adoption date would have to change, if I'm not mistaken. It would reflect the other daylight.

ORATOR: You deferred adoption.

COMMISSIONER ZITO: The date is tonight but the vote is back then, okay, all right.

ORATOR: Right.

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

COMMISSIONER KLINE: And I just wanted to second that date issue. That is one of the reasons I was a little confused about this. I thought we had actually postponed the decision until tonight so my original objection here tonight is oh, this is the resolution so now that is clarified and I think with our names on it, the ayes, nays, I'm perfectly happy with that.

COMMISSIONER JENSEN: Thank you. Do we have a motion? Would we like to have a motion?

COMMISSIONER ZITO: The motion if I understood it Madam Chair was that we were going to send this back to staff to have it amended so that it can be properly considered at the next meeting.

COMMISSIONER JENSEN: Thank you.

COMMISSIONER ZITO: If it hasn't been that will be my motion.

COMMISSIONER JENSEN: Let me ask, that sounds like Commissioner Platten, was that a motion on your behalf Commissioner Platten?

COMMISSIONER PLATTEN: You may assume it as such.

COMMISSIONER JENSEN: Okay, great, thank you. And Commissioner Zito may I assume then you're seconding it.

COMMISSIONER ZITO: That's fine.

COMMISSIONER JENSEN: We have a motion and second. May we vote by light please.

COMMISSIONER KLINE: I was going to make a comment on the motion.

COMMISSIONER JENSEN: I'm sorry, Commissioner Kline.

COMMISSIONER KLINE: Usually at this level of technicality we're adding a line that's really specified. My experience is we could leave the staff to fill that in. Is that never done here, it doesn't have to come back in two weeks to do that small insertion.

COMMISSIONER JENSEN: Counsel.

ORATOR: If I may Madam Chair. You are correct. If it is something that is ministerial and a fill in the blank type of change yes, we do leave it to the staff to make that change and then have the chairman, chairperson –

COMMISSIONER KLINE: Does this qualify as that or is this --

ORATOR: So this -- well, originally this did not qualify obviously but what additional change are you noting that you just want made?

COMMISSIONER KLINE: The ayes and the nays at the bottom.

ORATOR: Yes, absolutely.

COMMISSIONER KLINE: Is there nothing else we need to add? I believe that would be ministerial and we could just approve this.

COMMISSIONER JENSEN: Are you asking Commissioner Platten to amend his motion? Okay, we have a motion to approve the resolution with the amendment proposed. And now we can vote by light. Thank you. Thank you. Let the record reflect that that passes unanimously. Thank you. Yes, counsel would you please clarify away that means?

ORATOR: Again the 7-0 vote means the commission unanimously feels this is a correct action they took on May 26th with respect to this item.

COMMISSIONER JENSEN: Thank you, counsel. We have deferred item 3A on the public hearing agenda and that was the only item on the public hearing. So we are moving on to item 5 A on the general plan public hearing calendar. GP 08-08-03, a general plan amendment request to change the San José 2020 general plan land use/transportation diagram land use designation from nonurban hillside Silver Creek planned residential community to public/quasipublic Silver Creek planned residential community on a three-acre portion of a 21.1 acre site located on the east side of dove hill road approximately 500 feet north of Hassler parkway. Staff.

ORATOR: Laurel Prevetti: Thank you, Madam Chair. As noted on the staff report, this item came before the Planning Commission in early April and to council in April and May of this year. We then learned of a noticing error and the city council deferred action on this amendment to its meeting next week of June 15th. This was to afford the opportunity of the ranch community specifically the opportunity to participate in community meetings and to address this body, the Planning Commission, with their concerns. So while the Planning Commission did vote on this and make a recommendation previously we do ask for your respectful consideration of the comments that you'll likely hear this evening

from the community. Our staff report documents the comments that we heard last week and the previous week from the community, many of those issues are things that we would deal with, should the project be approved at later stages of zoning and planned development permit. So again, we did provide the full body of the staff report, again, for your consideration. And this evening you have numerous speakers who wish to provide their testimony directly to you. Thank you.

COMMISSIONER JENSEN: Thank you, director. And Commissioner Zito.

COMMISSIONER ZITO: Yeah, just real quick, technicality, item 4, I move that we open the June general plan amendment hearing.

COMMISSIONER JENSEN: Okay, motion and second. All those in favor of opening the June 2010 general plan hearing please say aye.

[ Ayes ]

COMMISSIONER JENSEN: Thank you. Commissioner Kline, I see your light is on. But did you want to –

COMMISSIONER KLINE: Just a question for legal, since I have not reconstituted myself with all the previous meetings, should I recuse myself from this particular one, or as I understood when this came through city council that this was kind of a reset and we start from scratch?

ORATOR: My understanding is that this is a quote-unquote reset. It was deferred, renoticed so this is now a new hearing on this item.

COMMISSIONER JENSEN: Thank you, Commissioner Kline. All right, we have a number of speaker cards so I'm going to call people up three at a time and if you could come to the bottom of the stairs and line up. And we will do that as soon as we have heard from the applicant. And Mr. Caruso, please introduce yourself, and you have up to five minutes.

ORATOR: Good evening honorable chair and commissioners, my name is Sal Caruso, 980 El Camino Real, Santa Clara, California. The project has been before you and we are 100% in support of staff's recommendations on the project. This project is consistent with the G.P, general plan guidelines of the City of San Jose, the vision 2020. Actually its principles date back decades, and it's consistent with those principles. Specifically it is within the urban growth boundary, it is below the 15% slope line and that's a very important factor because you may hear that it's up on the hill or on the side of the hill. It is on flat land, relatively flat land at the base adjacent to highway 101. So specifically location is key to this dialogue. Secondly as you'll see on the monitor the existing site which is approximately three acres out of 21 acres, we're on the image it shows existing site, the pictures the three pictures below and image number 1 are the existing facility as it stands today. If we could have the next slide, please. As you see, the site is specified to have 18.1 acres to remain nonurban hillside and three acres at the base, adjacent to highway 101, and dove hill road would be -- is proposed to be changed to public quasipublic to allow for assisted senior living facility. Next slide please, next again. The type of architecture we're proposing although that is a PD phase is consistent we believe of the environment, made of organic materials so it fits in with the organic nature of this site. The important thing to consider is in the initial study it clearly indicates that the traffic, that there is no impact on traffic. We have heard a lot from neighbors, worries about traffic and they're warranted meaning any time anything goes into any neighborhood generally the

first concern is traffic how does it impact me. And I understand there is a learning curve and there is a desire to further that but we comment, I'm sure planning staff commits as well to review those items as we go into a PD phase project specific to make sure it's consistent in all ways as it proceeds further. The other issue is noise level, noise levels consistent with City of San José noise levels per the initial study that has been circulated. There's been issues of fire life safety. Being an assisted senior living facility it operates similar to a hospital meaning that an emergency evacuation plan is mandatory for the facility. You don't presume nor expect that seniors that are nonambulatory are going to be walking out of the building on their own. So emergency evacuation plans are part and parcel of this project. Again these are items that are evaluated at the PD phase not the J.P. phase. We share those concerns and they will be addressed at the PD level. Air quality and endangered species that are raised. Air quality is again consistent with the GP guidelines. For the GP phase. At the PD level we will then again with your permission go forward and make sure that it is consistent. We commit to bringing a project forward that is consistent with all the guidelines of the City of San José without exception including on the endangered species. The initial study covered, did an extensive evaluation of the site to look for checkered butterflies which were up on the ranch project, not found on this site nor was suitable habitat found within the three acre project area. We want to make sure as we go forward those things will be checked and reviewed again. There is no desire on anyone's part to do anything but a premium project that everyone can be proud of. I have worked in this city for 25 years and I can truly say I am proud of every effort I have made in this city to make hurry our projects stand up to what we want to bring to the City of San José. Also bring wonderful jobs to our city so I hope you will raise questions that you may have in your mind and I'm here to answer anything that you would like evaluated.

COMMISSIONER JENSEN: Thank you, commissioner -- Mr. Caruso. I see no speaker lights but you will have time at the end. Oops, I'm sorry, I spoke too soon. Commissioner Campos.

COMMISSIONER CAMPOS: Thank you, Madam Chair. Just as a general estimate, how close is this, assuming approvals, is it close to just getting shovels in the dirt?

ORATOR: It would be as quickly as we can go through process. Meaning PD phase would be next and PD permit subsequent to that and building permit subsequent to that. So if, God willing, we were to be allowed to move forward, as quickly as we can go streamlined through this process, which is conditioned, of course, upon the City of San, José we will move forward and be shovel-ready as quickly as possible.

COMMISSIONER CAMPOS: Thank you.

COMMISSIONER JENSEN: Thank you, Commissioner Campos. There are no other speaker lights. I will call you forward in groups of three and if you could stand at the bottom of the stairs that will be great. I'm apologizing in advance for the very nasty things I'm about to do to your names, please forgive me. Sonia Saini. Sanjai Saini. Dr. Rajeev Yoshi. If you would provide us with your name when you come to the microphone thank you.

ORATOR: Honorable members of the Planning Commission good evening. The ranch residence thanks the Planning Commission for this opportunity. My name is Sonia Saini, and I have a masters in mass communication and journalism from San José State. This evening we have a group of speakers from the Ranch community voicing their concerns about the proposed GPA. In fact based on the information outlined in the initial study currently 241 ranch residents have signed a petition opposing this GPA and the proposed project. The community has taken the time to listen to the applicants and understand the project and is pleased to learn about the vision Mr. Caruso has about the proposed project for a senior

assisted living facility. The ranch community understands the landowner's rights to benefit from their property and is happy to work with them and the applicant in getting something complimentary in the neighborhood. Having said that, after reviewing the initial document and relevant documents there are certain concerns that the community would like to see addressed. Next slide and supporting document, please. The prominent concerns are traffic safety hazard, fire safety hazard, noise health hazards, air quality health hazards, special status species habitat impact, and land use and hillside development goals. Please note that one screen is to save the presentation slide and one has the supporting materials. Next slide and supporting materials, please. I would like to draw your attention to the traffic safety hazards near the proposed project site. According to fire department records no calls were made from the residents of the ranch six month period from July 2009 to December 2009. We know that this is a very good situation for the neighborhood and want to do everything possible to keep the emergencies to the minimum. As stated in the initial study a senior assisted living facility may typically have up to 100 additional calls per year to emergency services. This translates to about two emergency calls per week. Fire department records for the emergency calls originating from nearby similar facilities validate that two calls per week may originate from the proposed project. Our concern: Dove road is the only point of entry/exit to the proposed site and it's the fastest way to get to U.S. 101. Dove road is a two-lane road and two blind turns that hinder the vision ahead and there is absolutely no shoulder on this road. On one side there is U.S. 101 and the other side there is a hill. Thank you.

COMMISSIONER JENSEN: Thank you.

[applause]

COMMISSIONER JENSEN: Thank you. Please come forward, and if you would introduce yourself.

ORATOR: Good evening, my name is Sanjai Sahni. I work for a company that provides systems for public safety in 38 states in the U.S. Public Safety is dear to me however I'm here as a resident of the ranch community. Next slide and supporting material, please. The community is already facing traffic congestion issues in the peak hours during which the traffic backs up on the Dove Road around the hill. Photograph A depicts a typical morning hour, traffic backup on Dove Road. The yellow diamonds point the two blind turns around the hill. Given any emergency call during the peak hours, the emergency response vehicle will be forced to use the road with oncoming traffic as illustrated with the red bat with the arrows. This creates a crash situation for the oncoming traffic. Photograph B and C illustrates the same traffic safety hazards at the blind turn position. We would like to highlight that the proposed project adds a substantial number of emergency calls on a regular basis and directly increases the current near-zero risk of such crash with emergency vehicles to a very high risk of traffic crashes. Our concern is traffic safety and the community believes that the personal safety of current residents and any future residents will be in jeopardy. Next slide and supporting material please. Furthermore there was misrepresentation of information found in the initial study reports. The report incorrectly classifies two of the four intersections to signalized intersections. The city has no near term or short term plans to signalize these intersections. The disincorrect classification, the level of service for these intersections is reflected as D, which is the minimum acceptable level by city and EEHTP. Once these two intersections are correctly classified to unsignalized intersections, which they are, and the same traffic data up for the project condition is analyzed as for the highway capacity manuals, the element drops to F, far below acceptable levels. Our concern is that this impacts the quality of life, we have significant commute time for the residents in the neighborhood. Thank you, and I invite the next speaker.

COMMISSIONER JENSEN: Thank you. [applause] And before you begin speaking I'm going to call the next three speakers. Dr. Satish Menan, Jim park, and Samar Sharma. If you could please step to the bottom of the stairs.

ORATOR: Hello, members of the Planning Commission. My name is Rajiv Joshi. I work for a company that provides solutions for national defense, security and transportation. I have a Ph.D. in computing systems engineering. However, today I'm here to share my concerns about this proposed GPA and the proposed project. Next slide and supporting material please. As illustrated on the slide, the site is surrounded by hills and highway 101. The red arrows show the only point of entry and exit to the site which is the two-lane Dove Road. Next slide and supporting material, please. While the initial reports in the proposed project do state some very good mitigation measures to reduce the risk of fire hazards there are no specific evacuation plans. Like the last burning news topic, BP had multiple levels of safety precautions in place for their offshore drilling platform, but no backup plan for the disaster. Results are obvious in the gulf of Mexico today. The question therefore is what happens if fire or disaster were to occur that requires evacuation at this site? How do you propose to evacuate a site that is topographically challenged in the event of a calamity? This site has limited access and it can turn into a death trap for the residents and for the entire community, that neighborhood. And given an emergency situation, the Dove Road would block a crucial exit pathway for the residents of the ranch at the Silver Creek. The lives of the residents of the ranch and the residents of the proposed assisted living will be in high jeopardy and we are concerned that it impacts the public safety and risks human life. Thank you for your time. I'd like to invite the next speaker.

COMMISSIONER JENSEN: Thank you.

COMMISSIONER PLATTEN: Point of order madam chairman.

COMMISSIONER JENSEN: Yes, Commissioner Platten.

COMMISSIONER PLATTEN: Thank you. It's been our policy and custom to instruct the audience not to have any outburst of the.

COMMISSIONER JENSEN: Yes, please hold your applause until the end. We have a number of speaker cards and it would enable us to get through them more efficiently. Please go ahead and introduce yourself.

ORATOR: I'm Satish Lenen. I have a Ph.D. in electrical engineering, and I work for a fast-growing company in Sunnyvale. I'm here from the ranch community. I would like to -- next slide and supporting material, please. I would like to highlight community concerns about the noise levels. The proposed site currently has noise levels measured at 88 decibel average, and I expect a two decibel increase due to 101 highway traffic. At 90 decibel average, this noise level is like a truck, motorcycle, or a power mower, and that is about a thousand times louder than City of San José acceptable levels. And it's about 25 times louder than maximum levels to avoid significant adverse health effects. San José 2020 plan requires that new development, above 70 decibels be an entirely indoors-only development. Any outside activity is permitted only if the noise levels are below 60 decibels. Next supporting material please. So this material here shows the highlight areas that have exterior noise levels higher than 60 decibels. Thank you. May I now invite the next speaker.

[applause]

COMMISSIONER JENSEN: Thank you.

ORATOR: Good evening, my name is Jim park and I work for a software company. Next slide and supporting material, please. As a community, when asked about the noise levels, one applicant informed us that there will be sound barriers and building effects will lower the sound level. The noise report at highlighted in the blue color text in the supporting material discusses a barrier in the range of 14 to 18 feet but at the end does not recommend it. Reports say that an eight foot wall would be more appropriate but not required to further reduce the noise impact. While initial study does provide mitigations for exterior to interior noise levels there is none for exterior noise levels. In various meetings, applicant currently pointed out that current technology can reduce sound levels and that there are many residences built all along U.S. 101. However the question is how many assisted living facilities and not hospitals are within 100 feet of a major freeway such as 101. We looked for assisted living facilities information in Santa Clara and San Mateo counties and were unable to find any senior assisted living facilities located this close to a freeway. Our concern is that such high exterior noise levels will impact health of elderly residents of proposed assisted living. Thank you. Now invite the next speaker.

COMMISSIONER JENSEN: Thank you. And before you begin speaking, Mr. Sharma, I'd like to call the next three speakers. I'm really sorry. Ashir Bacuandi and I look forward to having you say your name so I can get it right the next time. Anut Pressad and Steven Sullins.

ORATOR: Hi, my name is Samar Sharma, I have a master's in computer science, and I work for one of the largest engineering and technology companies in the world. Next slide and supporting materials please. Air quality, slide 10. While we do see many buildings being constructed along the freeway you will observe none hosts senior citizens, and for good reason. Exposure to diesel exhaust has immediate health effects, irritation of eyes, nose, throat lungs, can cause cough, headaches, lightheadedness and nausea. The exposure could also lead to infamiliaration in the lungs, irritate chronic respiratory symptoms and increase frequency of asthma attacks. The elderly and those with heart, lung, or asthma problems are most at risk. According to the California air resources board, certain institutions such as schools, hospitals, and medical facilities should be at least 500 feet away from urban roads, with 100,000 vehicles per day. The proposed site is 100 feet away, from U.S. highway 101. Which has about 190,000 vehicles per day. For those who suffer from aerial gist, you'll agree that even a brief exposure to an irritant can trigger often discomfort. Our concern is that the elderly residents could be more susceptible to this exposure when using any exterior use area. Thank you, and I would like to invite the next speaker.

COMMISSIONER JENSEN: Thank you.

ORATOR: Good evening. My name is Ashwad Bocundi and I have a master's in electrical engineering. I work for a company right here in San José, which provides solutions for security, transportation, medical entertainment and daily consumer use. I live at the ranch at Silver Creek. Next slide and supporting material please, special status species habitat impacts, slide 11. According to the U.S. fish and wildlife service critical habitat for Bay Check spotted butterfly includes strands of native plantings, serpentine soils, early season nectar on plants, south and west-facing slopes, and topographic diversity. And from the initial study report all these factors seem to be present on and around the proposed site. Special status plants, Santa Clara Valley have been observed at the proposed site. Other special status birds such as white tailed kite, state fully protected species, loggerhead stripe may live within the area proposed. So while we are considering opening up a new community, it may help us to also consider the impact it could

have on potential habitat of special status species. Thank you very much, and I invite the next speaker, please.

ORATOR: Good evening, my name is Dr. Anu Pressad, and I'm vice president of the homeowners association of the ranch on Silver Creek. I'd like to request the next slide and supporting documents. The proposed site is located on the hillside slope of the westerly edge of the Silver Creek planned residential community and is designated a nonurban hillside to preserve its open space and scenic value of the Santa Clara valley and the South San José area. Restrictions on development of western slopes and density use were planned throughout the Silver Creek planned residential community and deemed necessary in order to preserve and protect the valuable view shed and watershed characteristics of the hillsides. Also, the proposed project has plans to build three, three- to four-story buildings. Assuming the buildings are 45 to 50 feet high, most of the hillside will get obscured by these buildings. So even though the proposed project has been reduced from its original size, it continues to conflict with the general plan and hillside development goals. The next slide and supporting documents, please. Having stated the prime concern to the ranch community regarding the proposed GPA, the community does have some suggestions for the Planning Commission and the applicant to consider. The current land designation keeps the safety hazard risks to a minimum and is aligned with the land use and hillside development goals. The community acknowledges that in the coming years the need for senior assisted living communities is going to increase and there are sites already existing in the City of San José today, that can immediately host such facilities. There is one such available site just south -- just about a mile south of the proposed site which is at the corner of Silver Creek valley place and Silver Creek valley road. The eight plus acres would allow the facility to be expanded if required and can potentially lead to an increase in jobs within the facility and the city. Thank you. And I invite the final speaker.

COMMISSIONER JENSEN: Thank you and before you begin I'd like to call the last three speakers. Amanda champion, Rick Struthers, Rick Mongon.

ORATOR: Thank you, commissioners. My name is Steve Sullins, I'm an audit partner with the big four audit firm here in San José and a resident of ranch on Silver Creek. Please allow me to summarize here that the ranch community requests the planning commission to consider the safety of the existing and future residents as priority while reaching a decision. The liability issues could be of great magnitude should a calamity ever occur on the proposed site. As the previous slides have displayed, there are other available sites to host just such projects with the appropriate zoning already in place. Should the Planning Commission decide to move forward with the GPA the community suggests the following. Alternative emergency exit pads be built North of the proposed site to the 101, that Dove Road be expanded to avoid the significant traffic safety hazards that exist today. Concrete mitigation plans be considered for mitigating exterior noise levels to acceptable levels averaging below 60 decibels that concrete plans be made to maintain and foster habitat for special status species. And that the heights of all buildings on the proposed project be limited to two stories only, so as to appreciate some view of the hillside. Lastly, the community proposes the applicant participate in the economic burden of the current community for its fair share. Last slide, please. What the council has just heard are a few of the prominent concerns the ranch community has regarding the proposed GPA. Traffic safety hazards, noise health hazards, fire safety hazards, and air quality health hazards, special status species habitat impact, and land use and hillside development goals. If the GPA were to move forward we would ask that these concerns be addressed in detail. Available alternative sites that can host just such projects and provide safer environments should also be considered. We trust the Planning Commission to make a decision that is safe for current and future residents at our community. Thank you very much.

COMMISSIONER JENSEN: Thank you, Mr. Sullens, we do have a question for you from Commissioner Kamkar.

COMMISSIONER KAMKAR: Thank you, Madam Chair. I want to understand your comments about noise abatement. When you say take the noise down, if I understood one of your colleagues, he said the existing noise level is at 88 decibel.

ORATOR: May I please refer to him?

COMMISSIONER KAMKAR: No, the question is for you.

ORATOR: Just for me.

COMMISSIONER KAMKAR: If the existing level is at 88 and you're asking for the applicant to take it back down to 60?

ORATOR: Obviously it can't be taken down to 60 Nos. there are exterior structural deviations that are made. But for residents of the community such as this to be walking around outside in the proposed outdoor garden and recreational areas we find it unacceptable for the city to move forward with the project that would permit humans, people, to be walking around in such conditions that are clearly unsuitable today.

COMMISSIONER KAMKAR: Okay, thank you.

ORATOR: Uh-huh.

COMMISSIONER JENSEN: Thank you. And is Amanda champion here? Okay. Thank you very much. Mr. Struthers.

ORATOR: Good evening, honorable commission. My name is Neil Struthers. I have an associates degree in construction technology and a certificate of apprenticeship. But tonight I'm speaking for 30,000 construction workers. 10,000 of those workers and their families are out of work and have been for some time. We don't see much change in that. A project like this, a \$100 million project can put people back to work and stimulate the economy. We understand the concerns of the community. Every project you see have opposition by people in the community. I give them credit for being organized and finding creative ways to have you turn this project down but the reality is and quite frankly the irony is that all these communities that come before you would die to have a project like this for them, assisted living facility. They don't stay up late at night they don't play music they don't drive they don't do any of the things that we normally find people have opposition to. S this the perfect project. I urge you to support this project as you did once before, 7-0, and put people back to work. Thank you.

COMMISSIONER JENSEN: Thank you, Mr. Struthers. We have a question for you Commissioner Zito.

COMMISSIONER ZITO: Thank you, Madam Chair. Mr. Struthers, do you frankly care where the project is built? I understand your concern for the workers, but depending on where it's built does it matter to you as long as it's built?

ORATOR: I trust the staff who are professionals on this issue and they are recommending approval so my expertise is not in land use. Your job as commissioners is to weigh the facts and I'm sure you'll do that fine, thank you.

COMMISSIONER ZITO: You didn't answer my question but thank you anyway.

COMMISSIONER JENSEN: Thank you, Mr. Struthers. And before you begin I'm going to call up the next three speakers. Ernesto Gonzales, Bob Traini, and Marshall Vasquez.

ORATOR: Good evening, my name is Rick Mangen. I'm a business agent for sprinkler fitters local 483 representing a couple hundred members that live in the San José communities that does have high unemployment. I urge you to adopt staff recommendation for this project. In addition, I want you to know that this project will have fully automated fire sprinkler system to protect the building and the occupants of the building. Thank you.

COMMISSIONER JENSEN: Thank you.

ORATOR: Good evening. Planning Commission members, my name is Ernesto Gonzales, and I'm a field rep for the cement masons local union here in San José and we represent, you know, as well members. And let me tell you what is there is the reality. 23% of our members, they are out of work right now, they plead for work. This is a perfect project for them. We talking about hazards, we're talking about air condition. We're talking about health situation and stuff like that which is good. I live close by 101 in Blossom Hill and that noise to me is nothing compared to what is over there. So really you know I'm here tonight, to please forward this project, you know, do it, because really, our members are hungry. Our members, they have a lot of questions. We don't have that many answers, so please go forward. Thank you.

COMMISSIONER JENSEN: Thank you.

ORATOR: Good evening, Madam Chair and honorable board. My name is Robert Tragni. I'm the business manager of the electrical union local 232 in San José. Of course we're talking and I think you've heard that we need jobs. And I think you understand that. But I've been a resident here all my life. Assisted living is very scarce in San José. When you do find one, there's usually a huge waiting list to get in. It's a necessity that these go forward, and I put it on kind of you, as the Planning Commission, to do the right thing and move this job forward. And also, I think with the -- the way the city codes are, and documents, and inspections, that they've reviewed all this, and again, what we've stated before, this is assisted living care. This is not a hotel, a motel, or an apartment complex. So I wish you'd move this project forward. Thank you.

COMMISSIONER JENSEN: Thank you, Mr. Tragni. We have a question for you. Mr. Tragni we have a question for you. Commissioner Zito.

COMMISSIONER ZITO: Thank you, Madam Chair. I'm going to ask you Mr. Tragni the same question. I appreciate the concern, I appreciate the needs for the jobs, I'm absolutely in support of that and having projects that would bring more economic stimulus to the city. But given the testimony that we have heard and I'm waiting to hear staff's response to that as well, the question is, is this the appropriate place to locate such a facility? Given that, if another site could be found, would you -- does it matter to your constituency where it's being built?

ORATOR: I could say probably yes, I agree with you on another site but I think I've viewed the site where it is. If you have traveled down 101, I think right north of that there's a school right on the other side of the hill right there that sits right on top of it. If I had it my way because I've been there all my life, there would be no houses up on those hills, none. But that was before you and there's other homes in the back. It's not like I have mine now and forget everybody else, but I think the planning could have been better, and when you're coming down highway 85 to see all those homes sitting up on the top of the hills, I think it's wrong. The stand that was here made a long time ago, you would not see any homes up on the hill. And what's happened?

COMMISSIONER ZITO: I agree with you. To be honest with you, my concern as it stands now, and I'm waiting to hear the rest of the testimony from whoever is left to speak and the staff's response, my concern isn't aesthetics, it's health and safety. So again, my question is, we understand your testimony is, we need this project because we need the jobs. And I don't disagree with you, we need the jobs, no question about it. The question is, is this the appropriate place to put this type of a project? And I'm not asking you that question. My question was more a matter of if it could be located in another location would that matter to you, and I'm –

ORATOR: That's hard to say.

COMMISSIONER ZITO: Okay.

ORATOR: There's a lot of variability there, Mr. Zito, so I just -- you know, they showed another spot, you know, that's a little farther away maybe but it backs up to the 101, again. But is that any better than the other one? I can't really say. It's still close to 101. The idea is, I think, as these people, they don't want it there. They want it somewhere else. What's the cost of that 8.75 acres compared to what the cost is now.

COMMISSIONER ZITO: Absolutely right.

ORATOR: You know? A lot to take in here.

COMMISSIONER ZITO: The vote on the project earlier was 7-0 so I was there originally.

ORATOR: The architect's plans it looks like it could fit into that area. You could say wherever it goes it would probably be a good fit but tonight it's where it's being asked to be built.

COMMISSIONER ZITO: Thank you very much.

COMMISSIONER JENSEN: Thank you. Mr. Vasquez before you speak I'd like to call the next three speakers but please come forward to the podium. Bonnie Mace, Richard Rothdale and Chris wolfgram. Thank you.

ORATOR: Hello, honorable commission, I'm Marshall Vasquez, business agent for the plasterer's union in Santa Clara County. I represent about 250 members. I currently have about 30% of my membership unemployed and have been unemployed for probably in excess of eight or nine months. I really hope the commission will get this project going because I'm in dire need of getting my workers to work. I have members who have no health care coverage, they have families, I'm hearing these calls and it's heartening

to hear this. And the type of project when you look at the exterior it pertains a lot to my trade and I'm really hoping the commission will approve this so we can get this going as soon as possible. Thank you. In response to your question there, we probably wouldn't have a problem if it's anywhere else, as long as it starts in Santa Clara County. As long as we could get the project going. To answer your question, if the other ones didn't answer your question.

COMMISSIONER JENSEN: Thank you.

ORATOR: Bonnie Mace, representing the District 8 community round table steering committee. The issue here tonight is not whether we need assisted living. The issue tonight is whether there should be assisted living on this location. The other issue is whether there are safety hazards in this location. So really that is really what you need to address because this is not a rezoning, this is whether we should have public quasipublic in this location so always keep that in mind. The community and the county parks actually of Santa Clara have raised important issues in their testimony that you've received. And these are basically safety hazards and things that we really are concerned about and the District 8 community round stable steering committee is deeply concerned about these issues and we hope that if you can't mitigate these issues adequately that this project will not move forward. The question is whether or not there is a safety problem for an assisted living facility on this site. So there are several issues and these are all safety issues. One is fire safety. This is an isolated location wedged between a hillside and a freeway. In case of evacuation, it would be very difficult to get anyone out of there. Whether it's a community center or a library or an assisted living facility or any of the other things that would be there for a public quasipublic land designation. Second is traffic safety. I'm not so much concerned about traffic as I'm about traffic safety. As you've heard from the community there are a lot of blind corners. It is a two lane road. A lot of that road is currently gravel. There are concerns about emergency vehicles having to pass through that road, at two vehicles per week, if there is an assisted living facility there. So this really is a concern about the safety. How many accidents are we going to have on that roadway if an assisted living facility or some other facility that is public quasipublic will be built there. Third is noise hazards. As we've heard, being next to a freeway is not good, especially for elderly residents. 90 decibels is very high for elderly residents, and we are concerned about the quality of life not only for the ranch but for the residents of assisted living. The fourth thing is air quality. And one point about traffic. There is a difference between an assisted living facility and a skilled nursing facility. For those of you who have ever had parents in assisted living facilities, many of these people have cars. They are not disabled. So there will be many more cars and traffic vehicles on that road potentially than if it were a skilled nursing facility where a lot of the patients were bedridden. This is not a place where you're going to have bedridden patients. The other issue about county parks, I think I have about ten seconds left. One is the municipal sewage service. Currently there is a leech field. There is no municipal sewage service there. How about the address, county parks are wondering about that. The last is the proposed trail route that the county parks have through that site. How about the address. There are a plethora of issues. Once again, it's not whether we want an assisted living facility, we want an assisted living facility. It is where it should go. Thank you very much.

COMMISSIONER JENSEN: Thank you.

ORATOR: Hello, I'm Richard Rothdale. I -- our family owns one of the adjoining pieces of property and we've spoke about this before. We've had that piece of property for 62 years in our system. I did bring my 88-year-old mother-in-law with me who has been testing that hill for 62 years, her one acre garden that she gardens every day. When we speak of noise issues, health issues, all of those issues, you know I kind of smile, because we have you know, she didn't want to come down here and speak herself but let me

say for her that she's in very nice condition. She has survived all of that noise, all of that horrible pollution. All of that noise. You know, we look down on this piece of property, and we're not talking about hillside. We're talking about a flat piece of property. A property that's been an eyesore to us for over 30 years. It's a junkyard, okay? Now I'm not in the business of junkyard preservation, okay? I think that it would be very nice after 30 years that we could have something that would be attractive joining our property, okay? This is why I'm here, okay? I know that there's a lot of people from the ranch here, and I appreciate that. The ranch is on the other side of the hill, okay? This is the side of the hill that we live on, okay? There's only seven pieces of property on our side of the hill. Two of them are actually lived in, okay? Ours and the Mendozas, okay? So we're faced you know with a junkyard, two old barns, a burnt-down house from a fire, another house that's, you know, has graffiti on it most of the time, okay? We'd like something nice, too, okay? And that's why I'm here so I'd like to thank you very much, like you to consider this and this is quality on the hillside, this is not abandoning or ruining it. You know, you've seen the pictures of what the junkyard looks like and I after 30 years would like the junkyard to go. Thank you.

COMMISSIONER JENSEN: Thank you, Mr. Rothdale and we do have a question for you. Thank you.

[applause]

COMMISSIONER JENSEN: Commissioner Kamkar.

COMMISSIONER KAMKAR: Thank you, Madam Chair. Okay. Question for you, so you live in the neighborhood, and you would not be concerned with the increase in the let's say fire truck or ambulance response, according to testimony, two per week.

ORATOR: My -- my parents were in assisted living for 12 years. I know what this type of assisted living looks like. No ambulance with a siren arrives, no ambulance with a siren leaves. This is not something that is done at nursing-type facilities. That -- you know. There's nothing there.

COMMISSIONER KAMKAR: All right, second question. What about fire issues if there's a fire and you know access routes, exit routes?

ORATOR: I'd certainly like to address the fire issue. While we've had the property there's been three fires there, okay? And one of them caused the foamers home which is an adjoining piece of property to burn down. One of the very high fire hazards that we have is the adjoining property to 101. People throw cigarettes out. Another thing they throw out is glass bottles and glass bottles actually start as many fires as cigarette butts, okay? I would love to have a wonderful fire break of vegetation and, you know, gardening areas adjoining that freeway so that the potential for burning from the freeway up that hill towards their homes would be greatly minimized.

COMMISSIONER KAMKAR: Thank you.

ORATOR: That's how I look at the fire situation.

COMMISSIONER KAMKAR: I appreciate it, thank you.

COMMISSIONER JENSEN: Thank you. And Mr. wolfram before you begin I'd like to call our last two speakers. Jerry Zamora and Bob seaberg. Thank you.

ORATOR: Hello, my name is Chris wolfgram and I'm also representing the adjoining property of Richard Rothdale. Listening to the ranch residents I could speak for hours and I think you should if you are considering changing your mind from approving this, speak to people rather than potential studies but people who have experience of 60-plus years in the neighborhood and you know that the fires start at a certain point and move up. My dad lives in assisted living in Nevada, even though his only family lives here because there isn't satisfactory enough choices for assisted living. And as Richard Rothdale said, ambulances all the time I go to visit him once a month, once every two months, no noises, the traffic is almost until, the traffic pattern would be almost opposite of what they're traveling. There is virtually no cars, it depends on what assisted living you're talking about. The checkered butterfly that might be living in the junkyard I think would be better suited living in the open space that's going to remain as there is now. The residents, you know, before they moved there, before, they weren't concerned about the developer lopping a third of their mountain for them to move. It seems like now that they're there they don't want anything, any more development. And they don't remember since the '50s when I moved here how much development has gone on and you know it's progress and we're going to keep growing and assisted living is definitely needed. And especially in that location, would be greatly appreciated, development, nice look, driving into the city, on 101, and the increase in traffic I think is going to be virtually nondetectable, no more than a few more homes down in Morgan hill or Kiely valley. Like I say, I would respect if you would consult people that actually have true experience rather than potential studies. Thank you very much.

COMMISSIONER JENSEN: Thank you.

ORATOR: Good evening, my name is Jerry Zamora, I'm the business agent for the stone masons here in Santa Clara county. I don't want to be redundant. Like the other constituents have said, we have a lot of people out of work. The reason why this project is good for us right now, this particular project, is because it's before you and this is something that is possibly shovel ready as has been mentioned before. This project has been delayed I think for some time now for long enough and I urge you to approve this project, this plan before you so that we can get our people back to work. Thank you.

COMMISSIONER JENSEN: Thank you.

ORATOR: Good evening, ladies and gentlemen of the commission. My name is Bob seaberg, I'm a business agent for the international brotherhood of electrical workers here in San José, representing roughly 3,000 electrical workers. And I'll agree, I won't be redundant. We've got a lot of unemployment. We've got people losing their homes, losing their health insurance, all the things to go with the bad economy. I just wanted to point one thing out. I happen to -- I live in San José, I live in District 9. I live next door to a board and care home. Myself and most of my neighbors were quite concerned when the house was sold, and it was converted to a board and care home. It's only six bedrooms, it's nothing like the size of this but it's been about three years now and they're great neighbors. There's older folks, they're out walking in the neighborhood every day. General blue collar neighborhood, lot of young families, lot of sort of old folks like me and now we've got a group of I'd say about eight or nine very senior citizens. It's not a nursing home. It's not an assisted living home. It's what they call a board and care home. I think it's somewhere in between. And I see an ambulance or a fire truck once or twice a month because my driveway and that home's driveway are parallel. It's absolutely no increase in traffic. Most of the retired folks that live there don't go out at rush hour. You know, I've talked to several of them that say our lives generate around 10:00 in the morning until 2:00 in the afternoon when they leave the facility. I'll go along with I encourage, or hopefully, request that the commission move this project forward. Thank you.

COMMISSIONER JENSEN: Thank you. Mr. Caruso, would -- or would the applicant like to come down? You may have up to five minutes.

ORATOR: Thank you, Madam Chair and commission. First of all to dispel some of the falsehoods stated. In the initial study, figure 13 clearly indicates that the outdoor decibel rating on the back side, not side facing the freeway but the opposite side where the areas for the seniors are planned is actually 58 to 64 decibels. Even though I've repeatedly pointed this out, we're not at the project level and not supposed to be talking project, we are blind deaf and dumb to what is actually in the reports, and we pretend not to see them. These reports are solid, they are factual, and they are by Ph.D.s, not in electronics, not in software engineering, but Ph.D.s in the technical studies that are warranted for this local project. We do not take this as a joke. We do not take this lightly. We went out to get the best reports that are available. Staff has been diligent in working with us for a long long time and we need to actually look analytically at facts, not at hysteria, not at not in my backyard philosophy. Apparently it is fine to be down the road on 101 but not along 101 at this particular site. Please understand that as a fact of what the philosophy is here. Regarding the air quality, again in the report, to dispel the falsehoods, and I read directly, and quote this: Air quality meets adopted state and or federal standards, in parentheses, the more stringent standards apply. This project complies with the more stringent standards because it is a senior assisted living facility and it complies with the state and federal regulations. Please hear that. And let's not go into the baloney factor of what is happening tonight. It's important to remember that as we look at facilities and what has been stated tonight about where hospitals are, where senior assisted facilities are, et cetera, I think of pretty much every hospital I know of is near a freeway, good Sam is adjacent to 85, near the intersection of 17. O'Connor Hospital is right near 17. And Kaiser Santa Clara is right off of 85. The reason that hospitals and senior assisted living facilities need to be near freeways is so that in case of emergency you can quickly jump onto a freeway and get to where you need to get to, meaning to and from a hospital wherever an emergency occurs. When you have the two assisted facilities that are on Evergreen and San Felipe road, they have to drive through their neighborhoods including their own neighborhood if they need to. Where would you want a senior assisted facility? Directly adjacent to a freeway where you can quickly jump onto a freeway and get to where you need to be? That is pragmatic thinking as opposed to hysterical thinking. So what I ask you to do is consider facts. As far as the concept that was raised by another representative, this is not the villages. This is not where you're 55 and you go in there and you live in your apartment and you live there indefinitely and you have a car and you're driving around. If you have had loved ones in a senior care facility you would know by experience that when you go to these facilities maybe a handful identity of a hundred persons, maybe a handful actually have a car. That's a statistical fact. That's why by City of San José standards and standards that are used actually throughout California senior assisted facilities have parking for staff parking for visitors and a handful for residents because in reality they do not drive and cannot. Plus if you have read the initial study you will find that 50 beds in this facility will be for the dementia unit or the memory unit as it is called. People that need care around the clock to be cared for in every way shape and fashion. Certainly understand they're not going to be driving. So let's separate conjecture from reality. Reality is what you had previously voted on and understood clarity with good clarity. That is before you tonight. This is a good project for senior living facility. For the seniors. It is a good project for our city and for the future of our city. Holistically it is consistent with the general plan. This project is 100% what the general plan represents. Good location, good planning, below the 15% slope line, within the urban service areas, no exceptions are being taken, and we intend to keep it that way. This is by the book, it is a good location here. We're not considering, with all due respect, other locations. It is this location that is before us tonight. Thank you.

COMMISSIONER JENSEN: Thank you, Mr. Caruso, and we do have questions for you. Commissioner Zito.

COMMISSIONER ZITO: Thank you, Madam Chair. Mr. Caruso, first of all let me disclose for the commission that I did attend the community meeting, it was a couple of weeks ago, and there was about 100 people in attendance, and I was there for informational purposes and heard what Mr. Caruso had to say and what the community had to say. And I also met with the Sahnis and heard what they had to say. But nothing that has been said in either case hasn't been said here tonight already. My questions are, you've heard a lot of the concerns of the community. One of the questions I've got is, have you considered any other locations?

ORATOR: We did look at other locations and we found this one to be perfectly executed for the needs of the project.

COMMISSIONER ZITO: Okay. What would be more or less the average number of staff members that would need to be onsite at any one time?

ORATOR: In the initial study it outlines there would be a total of 126 health care professionals and staff persons total in a 24-hour cycle and that is divided up. The day shift has more maybe 40 to 50 and the other shifts maybe have 20 to 30 during the nighttime. Those shifts are staggered deliberately as is in all such facilities where there are nonpeak hours and that is one thing to consider again when you read the traffic record in here the study you'll understand that the times that people are changing shifts is actually opposite of when peak a.m. and peak p.m. hours occur. They do not go out at 7:00 or 8:00, their shift changes are around 5:00 a.m. and shift change at 1:00 and early evening around 8:00 p.m. something like that but it does not coincide with a.m. or p.m. peak rush hours in any case.

COMMISSIONER ZITO: You had heard and I remember, at the community meeting that you also acknowledge that there were traffic issues that already are an issue. With the introduction of this project, and I realize that this is the GP stage –

ORATOR: Yes.

COMMISSIONER ZITO: And just to address some of the issues that have come up for the sake of the commission here. What will the project be bringing forth as some of the mitigation for the additional burden, if you will, that the project will put on those existing conditions?

ORATOR: Well, to clarify according to the initial study the project does not contribute any additional burden or impacts to the existing infrastructure roadways. However we did state at the meeting that they brought up that they believe there's two blind curves along dove hill road that need better visibility. We said certainly as we go to a project level we can address those and we can look at those. We want a safe environment more so prance than they do because this is the project that we are responsible for so we are willing to work towards that end when we are at project level to look at those issues, analyze them and see how they can be mitigated. No one is wishing to go forward with an unmitigated project. It can't environmentally. But this project is fully compliant for the GP stage. At the PD phase then it will be evaluated further.

COMMISSIONER ZITO: Santa Clara County parks and recreation had put in a memo. I don't know if you're completely familiar with it but they made some –

ORATOR: Completely yes.

COMMISSIONER ZITO: They had some concerns about impacts on trailways and --

ORATOR: So if you look beyond that, in the final memos that came out from Public Works, that was an older stage memo that was actually superseded by the fact that this project will have pump station and have sewer line connecting up the hill. This is not proposing exclusively to go under 101 and connect up to that parks and recs area. That was in a prior sort of analysis that was done. When we saw that we thought well, at the GP level, we're not sure that we can obtain all the necessary permissions if you will from the various entities including parks and rec, to achieve that goal, but we know for sure we can go the road and connect up to the sewer line that is existing there up Hassler. So from that standpoint, we're confident and Public Works has conceded and agreed in the report and that's why this initial study went forward is because there is a secondary plan that is the current plan that's that we're using which is not to connect to the park across the street, 101 but to go up Hassler and connect to the existing sewer line that is there. The overall picture is not the bottom line and the conclusion it is sort of the step along the way. So address the concern from the District 8 round table that has already been addressed. That is not an open-ended issue. It has been addressed at PD level, and it will be further addressed for the project level analysis.

COMMISSIONER ZITO: That is the sewer line. What about the trails?

ORATOR: The trails, we are open for dialogue on the trails themselves. We did not get input from the parks and recs. All they do is make a statement so you kind of embrace it, you address it at the project level so that's what we intend to do. We will understand what their concern is and we will follow through on that.

COMMISSIONER ZITO: The final question I have is on the noise level. The point was made you can do a lot to mitigate interior noise. But if in fact the condition exists that are 90 decibels in the outdoors, I have to assume that for those that are capable you're going to encourage people to go out and get fresh air.

ORATOR: Once again that is not a factual statement, that is 90 dbs on the outside. What they're looking at is a plan, figure 13, that was done on a prior project and he picks a building that is no longer in the plan. It is outside of the project area, the building that they selected. It was up higher on the hill. When we worked with planning staff if you recall at one point this project was approximately five acres, has been brought back to three acres. The building they picked that had 90 DB, is no longer in the project. I tried to explain that in the community meetings.

COMMISSIONER ZITO: What is the highest DB that is recorded in the newest plans?

ORATOR: Ton initial study the back side of the building it is decibel level 58 to 64. That's the area where the outdoor space is for outdoor recreation.

COMMISSIONER ZITO: So it's your contention based on the figures that you have and part of the initial study that residents if they stay within the recreation areas as designated will probably not be exposed to anything more than let's say 65 DB?

ORATOR: Correct, that's what the study shows in the paperwork.

COMMISSIONER ZITO: All right, thank you very much. I have one more point is that I am a member of the District 8 community round table steering committee but I have not participated in any conversations or vote on the resolution that was brought before us. Thank you, Mr. Caruso.

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

COMMISSIONER KAMKAR: Thank you, Madam Chair. Commissioner Zito covered most of my concerns. The one remaining area is the fire hazard. You know, thrown from the freeway or match is thrown. What is your concern to safeguard the community?

ORATOR: Project will have we mentioned this and even as they point out in the sound study that the concrete barrier is not required at that time freeway level, I did mention to the community and I will follow through at the PD level we do intend to by all means to put that concrete barrier at the property line. Number one that will serve as a first line of defense, nonflammable materiality and fairly extensive height. Secondlily the building is setback from the freeway as well. The building is served with a fully automatic fire sprinkler system. It is actually built to seismic standards far greater than any resident in the immediate neighborhood because it is a type of facility where people will be sheltered in place as well, because as you know with hospitals, et cetera, they become safe havens. This is actually a safe haven location that God forbid, truly God forbid there would be a fire off the hill, people could come down and have a safe haven. This is actually a benefit for the community, for fire life safety. It is provided, as the other gentleman mentioned, with automatic fire sprinklers and will be built to a high fire standard higher than homes.

COMMISSIONER KAMKAR: Would that mean it would be a defensible fire break landscaping?

ORATOR: Of course. Plus the way the project, and again, we're not at project level, but even at GP we did show so that we can sort of document our intent if you will the project is designed with a full loop road that goes all the way through. Fire trucks don't have to come in and back out, they come in and loop out. There's no backing up required. What is the built into the early analysis, even though we weren't drawing a project, let's address life safety concerns for our own good and for the good of the community.

COMMISSIONER KAMKAR: Most lyingly if it was fire truck driven road it would be concrete?

ORATOR: It would have to meet 70,000 pounds weight capacity on the road so full commercial grade.

COMMISSIONER KAMKAR: Thank you.

ORATOR: You're welcome.

COMMISSIONER JENSEN: Thank you, there are no further questions. Motion to close public hearing.

ORATOR: So moved.

COMMISSIONER JENSEN: All those in favor? Thank you. Staff, would you like to address this? Because we are revisiting this item I want to road that in director Horwedel's memo to us for this meeting he states most of the issues raised by the community are the types of issues that are analyzed at the zoning stage of the project. With appropriate mitigation measures identified for the project. That issue has come

up several times in this meeting as well. Would it be possible for you to state which of those items are going to be analyzed at the zoning stage just for the clarification of the commission and the public.

ORATOR: Laurel Prevetti: Thank you, Madam Chair. The types of issues that we deal with at the zoning and subsequent development permit stage are really all of the issues the community raised plus additional ones. So that would afford us the opportunity to do detailed project-level transportation analysis so we understand all of the different trips coming and going from the site. We will be working with our colleagues in other city departments, police fire environmental services Public Works around the infrastructure issues, the emergency services et cetera. There will be additional environmental clearance. And as the Planning Commission, if this amendment, at the time council decides to approve the amendment, a rezoning application would be required, and as the Planning Commission, would you have the opportunity to review those additional environmental documents and then provide a recommendation on the zoning. There are many mitigation measures that were identified, even in the initial study for this mitigated negative declaration, acknowledging that those are considerations for future thought, should development be foreseen on this particular property. There are issues in terms of traffic safety that the community raised. I just want to again remind the commission that at the general plan amendment stage we do a different type of traffic analysis. Manuel Pineda from our Department of Transportation is here so we look at traffic from a slightly different perspective than what you may be used to seeing at a general plan amendment stage. Staff, I do want to just remind the community, we talked about this the last couple of weeks, as well, with the neighbors, that we shared a lot of concerns about this proposal when it initially was submitted, in fact staff was very much opposed to it because we felt it was not an appropriate location. It was above the 15% slope line. As a result the city council decided they wanted the applicant to be able to continue processing. Once we were in that mode the applicant refined their proposal. They shrunk the actual development site down to three acres and they also acknowledged that this would be an institutional use. And that's why we're talking about the assisted living or public-quasipublic. There was testimony today that the issue before the commission is one of land use, it's whether or not the land use designation should change from nonurban hillside to public quasipublic, which would allow not only institutional uses such as the senior assisted living, but also schools, daycare, et cetera, or churches, or place of worship. So this is a slightly different discussion. We are very appreciative to have a community that is concerned about how specific items will be mitigated. And again, let me assure you that the city shares and would insist in fact that all mitigation measures be adequately addressed, to handle all of the issues that were brought forward. As a general plan amendment, there is a mitigated negative declaration that founded for this level of decision making there are no significant impacts. And that concludes staff's response. However we are available, and I just want to offer if I may Mr. Pineda an opportunity to highlight any additional traffic comments that you feel the commission might benefit from.

COMMISSIONER JENSEN: Thank you.

ORATOR: Thank you, Manuel Pineda with the Department of Transportation. Yes I just wanted to go ahead and verify that, at this stage of the process we are doing what's called general plan amendment process. And it's fairly different than what you are accustomed to seeing where we do a full traffic impact analysis. So we are looking at this project from a broad level standpoint. Once we get to the project level analysis we will be required to conduct a full TIA, there are certain policies that we are required to meet. We have our level of service area, we have our Evergreen development policy, our Edenvale policy that will be affected of this. We are appreciative of the community and some of the concerns they brought forward. We definitely want to go back and look at any work that's been done before and see how that fits within a project level traffic impact analysis. And if we do get to that stage, I think all the comments have been said here have been very valuable to determine if we need to do additional things. If there are

additional items that will have to be reviewed even if it's for informational purposes, if it doesn't fit within our policy it is to make sure we are answering all the questions correctly. At this time we are just focused on the general plan amendment, but the feedback that we're receiving today is very important for the next steps if the project does move forward.

COMMISSIONER JENSEN: Thank you. Commissioner Campos.

ORATOR: Councilmember Campos: Thank you, Madam Chair. To stimulate discussion I'm go ahead and put a motion on the floor that we consider the draft negative declaration in accordance with CEQA. Recommend to the city council the approval of a GP amendment request to change the San José 2020 general plan land use/transportation diagram land use designation from nonurban hillside to public/quasipublic on a three-acre portion of a 21.1 acre site as recommended by staff.

COMMISSIONER JENSEN: There is a motion and second. Would you like to speak to your motion?

COMMISSIONER CAMPOS: Yes. Basically we saw that a month ago. We unanimously approved it. Nothing has changed. I think -- and I appreciate the community to come out with your concerns. But you're early in the stage. Your issues and the things that you want staff and the applicant to consider and to take care of, comes at the zoning stage. And your issues are real. The impact or potential impacts are real, but that comes at the zoning stage. I remember the first project and it was a much more intense project. It had major or the proposal had majority impacts. They actually brought it down to something that will be a great benefit. I think one of the other -- one of the things is, it's going to clean up that eyesore, you know, one of the landowners mentioned, that his family's been living there since the '50s and they have to look down on that. And they're waiting for their scenery to improve. And this project will, at minimum, clean up that site. I also wanted to make one last comment, that to ask the applicant to consider another site is actually asking them to make -- to make a decision on property that they don't even control, they don't have it under contract. It will add, at minimum, 12 months, maybe 24 months, to what they're going through now. And I think that when you hear -- when you hear some of the negatives about doing business in San José, that's one of them. You know, we seem to not be friendly to people that want to invest in San José. So with that, that's why I made the motion.

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

COMMISSIONER ZITO: Thank you, Madam Chair. I got a couple of questions for staff. So this is a GP amendment which essentially says is this the appropriate land use public quasipublic for this particular site. There is a box drawn that basically says we're considering a three acre project regardless of what it is. My understanding is that if we approve this, not approve, if we recommend this approval going forth to city council that we're recommending that that three acre site be allowed to be developed with a number of possibilities in the public quasipublic realm but only that three acres. First let me get that clear. Just that three acres is under consideration for any kind of development, is that correct?

ORATOR: Laurel Prevetti: Not any kind of development, just what would be consistent with the public-quasipublic development. Just those three acres. Let me at the designation that it would be unusual for us to pave over some or most of the site. Some of the site would have landscape features.

COMMISSIONER ZITO: When I said anything, that is anything that fit that designation. That could include a school, a church, a hospital, assisted living, a library is another one. Is there any -- considering that again technically we're not supposed to consider what the project is per se only the land use, are

there any of those uses that wouldn't be appropriate for these three acres? Has staff made any kind of judgment on that or are all the studies specifically for this assisted living project?

ORATOR: Well, I think it's fair to say that as a specific project comes in, we'll look at it vis-a-vis the environmental impacts of that proposed use that would fit within the public quasipublic land use designation. We would also analyze it against all other applicable and relevant goals and policies of the City of San José. So there may be some that are different for certain institutional uses versus other institutional uses. So not all institutional uses are created the same and they're going to have different you know operating factors, different characteristics, different traffic generation rates, different -- you know lots of differences about them so those will all be considered at the point of application. And they may be affected by other policies of the city, also.

COMMISSIONER ZITO: Okay. So there was a couple of -- well, several very serious, what I thought serious safety and health concerns that were brought up by those concerned residents. And again trying to separate out the project itself from the land use, at the time when the zoning comes forth, and the way I understood Public Works, Mr. Pineda's statement, that they were going to reevaluate traffic and other such conditions to evaluate what the impacts are, is it within the city's purview, and I'm just throwing this out as an example, the requirement of widening a road in order to allow for proper flow of traffic or I don't know, configuring buildings in such a way to bring noise down to acceptable city levels, things like that?

ORATOR: That's all going to reflect the project-specific proposal. And whether that's got a ten story building a two story building what sort of use is in it, away sort of traffic generation that use proposes and the intensity of the use, it's all based on the actual development proposal. So there are lots of things that are in the really of possibility, whether it be required environmental mitigation or requirement per a design guideline or a, you know, other policy of the city.

ORATOR: Laurel Prevetti: Madam Chair, if I may, if I could just also elaborate that because that project level analysis is very specific to the details of the actual placement of the buildings and the site configurations, et cetera, as well as the use, the mitigations then would also be specific to those characteristics. So tonight we really can't get into that whole menu of what all of those mitigations might be. Really, the matter before you is simply should the -- should your recommendation to the city council be one of change or no change.

COMMISSIONER ZITO: I understand, I appreciate that clarification. So what I had heard before, when we had testimony from one side that said we've got all these very high impacts, we've got traffic problems, we've got noise problems we've got air quality problems. On the other hand we've had the other side of the coin saying that's really not as bad as what was state by the residents, the noise isn't really 90, it's really 65, the fiber threat is being mitigated, the traffic isn't as bad as they say it is, we're not going to have as much traffic, putting that all aside, my assumption is and what I'm hearing staff say is that you know the project isn't before us, it's just the use and therefore when the project does come before us from the zoning perspective that's when these things get essentially studied and mitigation recommendations are made. So I'm not going to say, I'm going to take the side of one or the other and say it's 90 versus 65. To me that's not the issue. The issue is that at the zoning stage when the project is therefore in front of staff and staff does those analyses at that point staff will say yeah it was I don't know pick a number 75 and therefore we got to bring it to 65 and this is what you need to do to get it there or you know traffic is an F and it really needs to be a D and this is what you need to do to get it there. Is that an accurate how can I say rendition of what would go on?

ORATOR: Yes, and again I think the project before you is the general land use change.

COMMISSIONER ZITO: Right.

ORATOR: And so dealing with it at that general land use stage, there are limited things that can be considered and identified for purposes of mitigation and stuff like that so yes, it really is at a project-specific level.

COMMISSIONER ZITO: Right. I'm asking the question because what I want to state for the record as I understand it and how my vote will be determined is that we're not going to recommend anything that would preclude us from mitigating the kinds of impacts that the residents have brought forth if, in fact, they exist. And that's what I'm trying to say. Is that I'm not going to make a judgment whether it's 90 or 65 because you're right, the project is not before us, we don't know for sure. We're not going to make a vote that says the GP allowed it, therefore if it comes in at 90 you have to let the project go, because you already approved the GP stage. That we have a stage of analysis to say that if it comes in at 90 for whatever reason, and I'm using that as an example, that we have the ability to bring it down to 65 or whatever the necessary level needs to be.

COMMISSIONER JENSEN: Counsel I believe was going to –

ORATOR: You were probably going to say the same thing director. If I heard your statement correctly, whatever decision you make tonight would not preclude you to make that judgment later. Whatever decision, public, quasipublic, would not predetermine any decision you made at the project level.

COMMISSIONER ZITO: We're not in a position to decide whether 90 is correct or 60 is correct.

ORATOR: And there is no condition at the general plan stage, so you're right. The decision you make tonight does not place any conditions at the project level. The whole range of project-level decision making will remain available to the commission, at the advisory stage, both at the zoning stage and at the permit stage as well as the city council.

COMMISSIONER ZITO: So and as a matter of fact, not that I'm suggesting this in any way, shape or form, but the arguments made by the residents essentially need to be made at another stage if they're still a concern.

ORATOR: That would be appropriate.

COMMISSIONER ZITO: Okay. Seeing that, again, this is a land use decision. This is whether or not this particular site, three acres out of 21, should be redesignated as public quasipublic, given the list of uses and hearing what I heard from staff it sounds like there are adequate and appropriate times within the process to address all those security, safety, and health issues, and I think it's appropriate if those still exist, that the residents come back and make those concerns heard. Unfortunately, the way I see it is, really we have no reason to say that conditions, as Commissioner Campos has said, that conditions had changed from what had originally stated from what came before us. I think given what's there now is an assisted living facility appropriate? I would hope that the mitigations would be put in place not to put anybody in harm's way and that the appropriate mitigations would be introduced at the zoning stages and at the PD stages. Whether or not we could -- we could deny the use of that land in this particular case, I

would say that other uses are much worse, if somebody came by and says we're going to put you know 200 residential units there or a big box the real there or something like that then I would say we have a real problem. Given the relative impact that this project would have, I think from the neighbors' perspective while it might not seem to be a good project given what we know of this project and what will come forth it could be a lot better than what could come forward if it's left to sit for two or three years and then somebody comes by with another project. And for that reason while it's not perfect I'm going to support the motion.

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

COMMISSIONER CAHAN: Thank you, Madam Chair. I understand that the city has very few public quasipublic land spaces and so I am enthusiastic to learn if this is an area that we can actually develop into something like the senior facility or church or what have you. So I will be supporting this because I think that that land designation is desperately needed by our city.

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

COMMISSIONER KAMKAR: Thank you, Madam Chair. I listened to the residents. I understand they have valid concerns. And then I listened to the project architect whom I have a lot of respect for and find it credible and find professional. And so those are compliments but that also means that I will hold you to it when the GP comes to make sure everything you said gets in, and I agree, it is not a perfect site. But it's a site that it's being made to work. And so for that reason I'm -- will be supporting the motion too. Thank you.

COMMISSIONER JENSEN: Thank you Commissioner Kamkar. Seeing no additional speaker lights, may we vote by light, please? Let the record reflect that that passes unanimously. Thank you.

[applause]

COMMISSIONER JENSEN: Just so that it's very clear, no specific project was approved this evening. It was only a land use change. And when a project is proposed, that will be coming before the commission. Would the director like to speak to that?

ORATOR: Laurel Prevetti: Just also a reminder that the motion that just passed by our Planning Commission is a recommendation. And that will be going before the full council on June 15th, at 7:00 p.m. in this chambers and you're welcome to participate in that hearing, as well.

COMMISSIONER JENSEN: Thank you. Commissioner Zito.

COMMISSIONER ZITO: Madam Chair, if I could for the sake of the community, I strongly urge them to come back first of all to make their concerns heard at the city council level. And to continue with your diligence. I applaud you on the amount of work that was done. I think it was excellent work. I think your presentation was top-notch and that you have an important message to relay on to city council and to come back to the Planning Commission, at that once again that will be a recommendation stage and make those same concerns known and make sure that those items that you -- that you've identified and clearly articulated are mitigated to the fullest. And I really urge you to stay involved and to stay on top of this project, and to hold Mr. Caruso to his top-quality statement, as I know he could do. So I appreciate the work that did you and just because this commission voted unanimously to recommend the GP change

doesn't mean that the project itself doesn't have room for improvement. It may very well have room and I ask that you continue to stay engaged. Thank you.

COMMISSIONER JENSEN: Thank you, Commissioner Zito. Moving on may I have a motion to close the June 2010 general plan amendment hearing? And the second. All those in favor? Thank you. 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 the commission is limited to the following three Options. Responding to questions from members of the public, requesting staff to report back on a matter, or we can direct staff to place an item on a future agenda seeing no speaker cards, Referrals from City Council, boards, commissions or other agencies.

ORATOR: Laurel Prevetti: There are none.

COMMISSIONER JENSEN: Thank you, good and welfare. Report from City Council.

ORATOR: Laurel Prevetti: Thank you, Madam Chair. Yesterday the city council approved an update to the North San Jose development policy and also approved design guidelines for this key area of San José. This is really an important milestone so that way we have certainty moving forward in terms of the quality of development that will be happening in North San José. This concludes staff's report.

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

COMMISSIONER CAMPOS: Thank you, Madam Chair. Nothing to report, haven't met. However my last meeting will be in a week or two so you're going to have to appoint someone to serve on that.

COMMISSIONER JENSEN: Thank you, Commissioner Campos. Envision 2040 general plan update process, Commissioner Kamkar.

COMMISSIONER KAMKAR: Sorry about that, thank you, Madam Chair. We met two days ago. That was our meeting number 41. We have one more meeting, on June 28th, before we take a break for staff to go back and prepare the EIR. We talked about phasing, and phased implementation of how this ratio of 1.3 jobs to employed residents will be managed. And, you know, there were some recommendations, you know, and there were some, you know, continuance that's going to go and come back for recommendation. That's basically the report. If the director wants to add onto that, thank you.

ORATOR: Laurel Prevetti: I would just add that the land use diagram, the proposed land use diagram is posted on the city's Website and we encourage a lot of community input and feedback. So some of you may be interested or curious so we're actively seeking those comments. So encourage you to pull it up, as well. Thank you.

COMMISSIONER JENSEN: Thank you, Commissioner Kamkar and director. Commissioner Zito did you have something to add to this?

COMMISSIONER ZITO: Yes, to follow on Commissioner Campos' statement or not, I don't know if it's appropriate or not but to just agendaize an item on the next Planning Commission meeting is to appoint another commissioner to that position.

COMMISSIONER JENSEN: I believe the staff would be interested in the future of the airport commission, whether this is a time limited effort or what are the plans for the commission.

COMMISSIONER CAMPOS: Thank you, Madam Chair. It's not a commission, it's a committee, so it meets quarterly. And as long as the city has a variance, a noise variance on the airport, it has to have this committee. The city is -- the airport is close to satisfying all its requirements to meet the variance. However there is discussion to keep the committee going so that it can continue to monitor especially with curfew issues.

COMMISSIONER JENSEN: Thank you. So staff would agendaize that item for one of our upcoming meetings, that would be wonderful, thank you. Review and approve the synopsis from the May 26th, 2010 meeting.

ORATOR: Staff would like to note some changes that have been brought to our attention before you take a vote on the synopsis. For item 3A, on the vote, just wanted to clarify that it should read, the motion was to uphold the appeal and approve the permit as recommended by staff. And here's where I'd make the change. With the requirement to design, with a cross-access easement, between the site and the corner development. And then the vote as it is there. So really, to put back in, and as is reflected in the resolution, that condition put in there that the motion concluded the statement to design with a cross-access easement so that is one proposed change staff is putting out there and item 3B, again going back and listening to the vote it was to recommend approval, with a density of 12 dwelling units per acre. There was no reference to maximum or minimum. It was to build at the density of 12 dwelling units per acre and then everything else is the same, 35 foot height limit, adhere to the setbacks and open space requirements contained in the EEHP guidelines. So again those are two modifications that staff is proposing to go in having gone back and listened to the record on both those items.

COMMISSIONER JENSEN: Thank you staff. Commissioner Zito.

COMMISSIONER ZITO: Thank you, Madam Chair. I thought that one of the other adherents that was specifically stated was the adherence to the parking, was that not what you heard?

ORATOR: It was actually not stated in verbiage of your motion. It did get in the transmittal, because you did talk about them a lot, it got in there, although the words themselves were not in the motion. So it's in the transmittal. And I know you thought you said it, so I didn't know. So rather than go to the council and saying, Ehhh, we're pulling out parking, I mean, I think your discussion -- and again, I know we're told not to put in what your intend was but --

COMMISSIONER ZITO: I remember the original vote was on 20 units specifically but when the director came back there was the 12 to 25, we said then okay we'll build up at the minimum and then of course I do remember stating on a number of occasions, during that discussion on the motion itself, that it did include the parking, that it had to be at -- I even read the statement saying 1.3 as stated in the EEHDP.

ORATOR: A lot of that was in the discussion but a it was not in the actually motion, the wording of the motion. I try reflect the motion on the action.

COMMISSIONER JENSEN: Okay. Subcommittee reports and outstanding business.

ORATOR: You need to vote on it.

COMMISSIONER JENSEN: I'm sorry, we need to vote on it. Can we get a motion to approve the synopsis as amended? All in favor? Thank you.

COMMISSIONER ZITO: Madam Chair, I'll abstain.

COMMISSIONER JENSEN: Okay with one abstention. Subcommittee reports and outstanding business. Hearing none. Election of the chair and vice chair for fiscal year 2010-2011. Commissioner Zito.

COMMISSIONER ZITO: Madam Chair, I'd like to open this segment with nomination for chair to continue your seat as chair. So my nomination is for Ms. Lisa Jensen for chair.

ORATOR: Second.

COMMISSIONER JENSEN: Thank you. Commissioner Campos.

COMMISSIONER CAMPOS: No, I was just -- I was going to ask we're going to do these one by one so I'll push my light for the next one.

COMMISSIONER JENSEN: Okay, thank you. Are there any other nominations? Seeing none, how do we do this?

COMMISSIONER ZITO: Vote.

COMMISSIONER JENSEN: Okay. All those in favor of electing me as chair -- please say yes. Thank you. All those opposed? Thank you. I'm honored to continue in this position. Thank you. Commissioner Campos.

COMMISSIONER CAMPOS: Thank you, Madam Chair. I nominate Commissioner Cahan for vice chair.

COMMISSIONER JENSEN: We have a motion and second. Commissioner Zito.

COMMISSIONER ZITO: I nominate Commissioner Kamkar as vice chair.

COMMISSIONER JENSEN: We have another. Thank you. And is there a second?

COMMISSIONER ZITO: I don't believe there needs to be one, ma'am.

COMMISSIONER JENSEN: Okay. We have two. Is it possible to get those both names up -- that would be great.

ORATOR: It is but it will take me a couple of minutes to get it up.

COMMISSIONER JENSEN: Okay, do you want to do a hand -- count? Commissioner Kamkar.

COMMISSIONER KAMKAR: Do we get an opportunity to give a little spiel?

COMMISSIONER JENSEN: Certainly. While we're waiting, certainly. Commissioner Kamkar would you like to go first?

COMMISSIONER KAMKAR: I just say I've been a member ever this commission for four years now, almost to the day but you know maybe a couple weeks short. And currently serve in the vice chair capacity, and would appreciate your support in continuing in that capacity. Thank you.

COMMISSIONER JENSEN: Thank you, Commissioner Kamkar. Commissioner Cahan, would you like to speak for a moment?

COMMISSIONER CAHAN: Yes, thank you, Madam Chair. I appreciate the nomination, and I take the Planning Commission very seriously, and if I am elected as vice chair, I will certainly do my very best to uphold that to the highest standards and believe that I am fully capable of filling in when necessary for your honorable position. Thank you.

COMMISSIONER JENSEN: Thank you. And may I ask, are we -- okay. How about we just do a hand-count. Is everybody good with that? Any opposition to that? Okay. Since Commissioner Cahan was nominated first -- oh, Commissioner Kline.

COMMISSIONER KLINE: I just got a question, since I'm new here. What is the seniority of the two candidates?

COMMISSIONER JENSEN: Would you each like to --

COMMISSIONER KLINE: Four years, two years?

COMMISSIONER KAMKAR: Four years.

COMMISSIONER KLINE: Okay, thank you.

COMMISSIONER JENSEN: Thank you, Commissioner Kline. All those in favor of electing Commissioner Cahan as vice chair, please raise your hands. Please let the record reflect that there are five votes, commissioners Campos, Cahan, Jensen, Kline and Platten in support of Commissioner Cahan. And all those in favor of Commissioner Kamkar, please raise your hands. Let the record reflect that that is Commissioner Kamkar and Zito. Congratulations, Commissioner Cahan. Set Planning Commission public hearing for June 21st. As you know, we had a request to add a meeting for Monday, June 21st to address an urgent item. I believe we need a motion on that. 6:00 p.m. on the 21st, thank you, Commissioner Platten, for clarifying. So we have a motion and second. All those in favor, please say aye. Opposed? Great, thank you very much. And with that, this meeting is adjourned. Thank you.