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>> Commissioner Zito: Good evening. My name is Jim Zito, and I am the chair of the Planning Commission. On behalf of the entire Planning Commission, I would like to welcome you to the Planning Commission public hearing of Wednesday, May 13, 2009. Please remember to turn off your cell phones. Parking ticket validation machine for the garage under City Hall is located at the rear of the chambers. If you want to address the Commission, please fill out a speaker card located on the table by the door on the parking validation table at the back, and at the bottom of the stairs near the audiovisual technician. Deposit the completed cards in the basket near the planning technician. Please include the agenda item number, not the file number, for reference. The procedure for this hearing is as follows: After the staff report, applicants and appellants may make a five-minute presentation. The chair will call out names on the submitted speaker cards in the order which received. As your name is called, line up in front of the microphone at the front of the chamber. Please state your name for the record. 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 item. 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, rezonings, general plan amendments and code amendments is only advisory to the City Council. The City Council will hold public hearings on these items. First item is roll call. And please let the record show that all commissioners are present. Next item of business is election of chair and vice chair, to be effective July 1, 2009. If there is any reason why a commissioner feels we should move this to another part of the agenda, please let me know. Otherwise we'll proceed at this opinion. Commissioner Kamkar.

>> Commissioner Kamkar: Thank you, Mr. Chair. With your permission I'd like to make a motion. For vice chair, unless there is a motion to delay.

>> Commissioner Zito: I don't see anyone who has a concern about it being here so we'll continue as agenda. Continue please.

>> Commissioner Kamkar: I would like to nominate Commissioner Jensen as vice chair of the commission.

>> Commissioner Cahan: Second.

>> Commissioner Zito: Do you accept that nomination Commissioner Jensen?

>> Commissioner Jensen: Yes, thank you.

>> Commissioner Zito: What I'd like to do is get all the nominations and then vote individually for each. We have one nomination for chair and vice chair. Commissioner Campos.

>> Commissioner Campos: I have a nomination for chair and vice chair. I would like to nominate Commissioner Do as chair.

>> Commissioner Zito: We have a nomination for chair and vice chair. Commissioner Do do you accept that?

>> Commissioner Do: Thank you, I will accept that, yes.

>> Commissioner Zito: We have one nomination for chair and vice chair. Would you have a nomination, Commissioner Jensen?

>> Commissioner Jensen: I would like to nominate Commissioner Kamkar for chair.

>> Commissioner Zito: Commissioner Kamkar do you accept that?

>> Commissioner Kamkar: Yes, thank you.

>> Commissioner Zito: Are there any further nominations? Seeing none, we have two candidates for chair and one candidate for vice chair. Let me ask the commission, can we do names, I think we've done this before.

>> It will take me a few seconds to set it up.

>> Commissioner Zito: So two names, Commissioner Do and Commissioner Kamkar for chair. Seeing as there's only one nomination for vice chair, let's move that ahead if that's okay with the commission. And then we'll give the technician some time for setting up the chair. So there's a nomination for vice chair, for Commissioner Jensen, all those in favor. Any opposed? Seeing none, congratulations, Commissioner Jensen, on vice chair. Let me give the opportunity to the chair nominees to make a statement if they choose. Commissioner Do would you like to make any kind of a statement?

>> Commissioner Do: Thank you, Mr. Chair. I'm not sure I -- there is anything for me to add. I look forward to, if I were to be chosen as chair, I will do my best. I know that there will be a learning curve for me, just like there is for all new positions. But that's all. Thank you.

>> Commissioner Zito: Okay, thank you Commissioner Do. Commissioner Kamkar.

>> Commissioner Kamkar: Thank you, Mr. Chair. I would like to say that I've been a commissioner with the city for 12 -- a little over 12 years now, believe it or not. I started back in December of 1996, and you know, I've been honored you know as being an advisor and a commission to the city. Three of them with Planning Commission, and I've had the opportunity to act as chair, you know, the two times that chair Zito you could not be here. Also, I also would appreciate the opportunity, and I believe the role of a chair would be a facilitator, not someone who would take sides, or pushes an agenda but facilitates communication and provide fair time to all sides to make their points. And move the meeting along. So I appreciate your support. Thank you.

>> Commissioner Zito: Thank you, Commissioner Kamkar. Okay. Whenever the technician's ready we'll have an opportunity to vote. Looks like we have a ballot in front of us and if we would all take this opportunity to vote. Okay, looks like Commissioner Do, you are the chair. For starting July 1st.

>> Commissioner Do: Thank you for the confidence have you in me. Thank you, I will do my best to serve as chair.

>> Commissioner Zito: Okay, I'm sure you will, and you've been very responsible and asked some very poignant questions over the past year or so and I think the commission will do well having you as chair. Thank you. Okay. On to the matter of deferrals. Any item scheduled for hearing this evening for which deferral is being requested will be taken out of order to be heard first on the matter of deferral. A list of staff-recommended deferrals is available on the press table. Staff will provide an update on the items for which deferral is being requested. If you want to change any of the deferral dates recommended, or speak to the question of deferring these or any other items, you should say so at this time. To effectively manage the Planning Commission agenda, and to be sensitive to concerns regarding the length of public hearing, the Planning Commission may determine either to proceed with remaining agenda items Past 11:00 p.m, to continue this hearing to a later date certain, or 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. staff, on deferrals.

>> Thank you, Mr. Chair. The single deferral tonight is file number PDC 08035. This is a planned development rezoning from light industrial to RM multiple family resident districts to APD planned development zoning. The project is located at the southwest corner of Edwards avenue and south first street and staff -- actually per the applicant's request staff is recommending deferral of the item to May 27th. Mr. Chair, that concludes staff-recommended deferrals.

>> Commissioner Zito: Thank you, staff. Any cards or deferrals? Seeing none, is there a motion?

>> Commissioner Campos: Move staff recommendation.

>> Commissioner Zito: So there's a motion by Commissioner Campos to move staff recommendation on deferrals. Any second? Any further comments? Seeing none, all in favor? That motion carries unanimously. Consent calendar. 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 on one of these items individually, please come to the podium at this time. Staff, anything on --

>> Thank you, Mr. Chair, no additional staff comments.

>> Commissioner Zito: No cards on consent. Commissioners, any questions, concerns about consent items? Commissioner Campos.

>> Commissioner Campos: Thank you, Mr. Chair. Move the staff recommendation on consent.

>> Commissioner Zito: There is a motion and second on staff recommendation for consent. Any further comments? Seeing none, all in favor? Any opposed? Seeing none, that motion passes unanimously. Public hearing. Generally, the public hearing items are considered by the Planning Commission in the order which they appear on the agenda. However, please be advised that the commission may take items out of order to facilitate the agenda such as to accommodate significant public testimony or may defer discussion of items to a later agenda for public hearing time management purposes. Item 4A, CA09-001. Conservation area designation request to designate as a conservation area the area generally bounded on the north by Interstate 280, on the East by the rear property lines of the commercial properties on the West Side of South first Street, So let me read that again. On the east by the rear property lines of the commercial properties on the west side of south first street, On the West side of the Guadalupe river, and on the south by portions of willow street and the rear property lines of properties on the north side of willow street. Staff.

>> Good evening Mr. Chair and commissioners. The project before you tonight is a proposed Guadalupe-Washington conservation area. The proposed approximately 84 acre conservation area includes 308 contributing parcels and 212 noncontributing parcels and is generally bounded by the north on Interstate 280, on the West by the Guadalupe river and on the South by the portions of willow street and the rear property lines of the properties on the north side of willow street. After reassessment of three parcels originally included in the survey, located at the eastern boundary of the proposed conservation area, it has been determined in collaboration with the historic consultant that these three commercial properties were inadvertently left within the boundaries and do not qualify to be included in the Guadalupe-Washington conservation area. If established, the Guadalupe Washington conservation area will only be the third conservation areas to receive this designation since the formal conservation area process was adopted by ordinance in 2004. Guadalupe-Washington neighborhood meets the criteria for listing as a conservation area, having the integrity, and visual sense of historic place. Although there are many properties within the proposed conservation area that do not contribute to the historic fabric of the neighborhood, the conservation area as a whole possesses integrity of location, design, setting, materials, workmanship, and association. Guadalupe Washington historic residential neighborhood derives its importance from being an intact representation of urban area, identifiable attributes, pattern of development and continued residential setting. Staff recommends approval of the subject area, as the Guadalupe-Washington conservation area, excluding assessor parcels 264-36-122 which is 32 Union street, 26436104, which is 21 Sutter streets and 264-36-069 which is 24 Sutter street, to the city council as recommended by staff. This concludes staff's report.

>> Commissioner Zito: Thank you, staff. Commissioner Do.

>> Commissioner Do: Thank you, Mr. Chair. A quick question. So this designation would mean that the projects within this area would go -- would have to go through a more intense or more restrictive review process?

>> Yes, that is correct, commissioner. It would establish a type of overlay over the area, and the residential properties in this area would need to come in and get a single family house permit, if they need to get a -- a building permit would trigger that requirement for the single family house permit.

>> Commissioner Do: The reason I ask that is this area is primarily a low-income area I believe. So I guess I'm just sensitive to the hardship that it places on the residents who live there. I agree with the goals of the conservation effort. Thank you.

>> Thank you.

>> Commissioner Zito: Thank you, Commissioner Do. There is one speaker card. I'll let the speaker speak on this and then we'll have additional questions of staff if necessary. Linda Cortez.

>> Hi, good evening, everyone.

>> Commissioner Zito: Good evening, thank you.

>> I live in the Washington Guadalupe area and I have a home there. And I know some of the residents there. Mostly are renters, but most of us are homeowners, like I am. And if I were to get a new neighbor, because my home is a historical home, but if I were to get a new neighbor and say, he wanted to change the whole house, then it wouldn't blend in with our older homes. And I believe that they should get a permit to see what they're going to do to their home. Because I've seen changes and I also called enforcement, because an owner bought a duplex two houses down from my home. And he did something that I didn't like. So I called code enforcement and they came out right away and told him he couldn't do that. And I'm a homeowner that will do that. I want to preserve, you know, our area to the way it is. If they want to do, you know, like renovations, but to have it blend in to our area, like the homes are, to keep our, you know, our roots, because I was born and raised in San José and I was -- I lived in an old neighborhood when I grew up and the homes still look nice, you know, and they have been changed but now I'm in this area, and I've been there almost 20 years at my home but I love my home but I want the other homes to also keep their shape or their design. But if they want to change the color, maybe. But you know, to blend into our neighborhood and to conserve what our old homes were like. Okay, thank you.

>> Commissioner Zito: Thank you very much. There may be a question for you, ma'am.

>> Oh, I'm sorry.

>> Commissioner Zito: Commissioner Campos.

>> Commissioner Campos: Just very quick, ma'am, you are in favor of the program?

>> Yes, I am.

>> Commissioner Campos: Okay, thank you.

>> Commissioner Zito: Thank you. Okay staff, any further comments?

>> No.

>> Commissioner Zito: Commission, any questions? Okay, there's a motion to close public hearing and second, all in favor? Any opposed? Seeing none, okay. Commissioner Jensen.

>> Commissioner Jensen: Thank you, Mr. Chair. I've had the pleasure of attending a number of the Washington area community coalition meetings. And it's a -- it is a vibrant and active neighborhood advisory committee. And Ms. Cortez, I want to thank you for the work that you do on the WAC and the work that you do in your neighborhood, as well. And I want to really congratulate you guys. It's not an easy thing taking on a conservation area, and making it happen. And as was pointed out, this is only the third one in a number of years. It's a lot of work you guys have done. You've put incredible work into your neighborhood closing off the alleyways getting them reconverted and really pushing hard to make your neighborhood what you want it to be. And I just really wanted to congratulate you.

>> Commissioner Zito: Thank you. Staff, for the record if you could reiterate why the three properties that have been mentioned here are being excluded?

>> Through the process of determining the boundaries, there were three commercial properties on the eastern edge that, as I say, were inadvertently left in. When I realized they were left in I talked to the historic consultant and it was determined they shouldn't have been in there so that's why we're requesting them to be removed.

>> Commissioner Zito: Primarily because they're commercial properties and they wouldn't be affected or couldn't be well managed through the process?

>> Right, right.

>> Commissioner Zito: Okay. Any further comments, questions, concerns? Is there a motion? Commissioner Do.

>> Commissioner Do: Thank you, Mr. Chair. I move to recommend approval of the subject area as the Guadalupe/Washington conservation area, excluding assessor parcel numbers 264-36-122, 32 union street, 264-36-104, 21 Sutter street, and 264-36-069, 24 Sutter street, to the city council as recommended by staff.

>> Commissioner Zito: There is a motion and second. Any further comments or questions? Seeing none, let's vote by light. And that motion passes unanimously. I want to congratulate staff on the fine work that they've done on this, and I know it's a lot of outreach, and a lot of work to get all that set up. And thanks for CD.

>> Oh, thank you.

>> Commissioner Zito: Okay. We are now entering our general plan stage. And we would like to open Planning Commission spring 2009 hearings on general plan amendments. If there's a motion. Commissioner Campos.

>> Commissioner Campos: So moved.

>> Commissioner Zito: All in favor? Any opposed? Now we are now discussing general plan amendments. There are consent calendars for general plan. We go on to item A. GP 08-06-01. General plan amendment request to change the land use/transportation diagram designation from the medium high density residential, 12-25 DU/AC to general commercial on a 2.37 acre site located on the north side of Parkmoor avenue approximately 1070 feet West of meridian avenue in the rear lot, 1555 Parkmoor avenue. Staff.

>> Thank you, Mr. Chair. This item was deferred from the fall 2008 general plan hearing, at the request of the other than Mr. Chiechi. What one option staff considered was the transit corridor commercial that council adopted in December of 2008. This land use designation allows commercial uses and on a discretionary basis may allow vertical mixed residential and commercial uses within 2000 feet of light rail. After considering the existing and potential vehicular access of the subject parcel, the residential width of Chiechi afternoon, staff included that the applicant apples original request for general commercial was the most appropriate at this time. Looking forward, the envision San JosÈ 2040 task force is assessing areas around transit for possible intensification as a strategy to accommodate both future jobs and housing growth. The larger shopping center he site may be a candidate for review through this update process. And yesterday, that is May 12th, staffed received a letter from Mr. Chiechi stating his opposition to the general plan Emmys amendment, that letter is available to staff this evening and staff is available to answer questions.

>> Commissioner Zito: Thank you, staff. There is a speaker card. Mr. Shanehauer. Seeing as you're representing a party of interest in this matter, I will allow you five minutes.

>> Good evening Cher Zito, members of the commission. My name is Eric Shanehauer, the applicant is the City of San JosÈ. The property owner is the Chiechi family. In addition hope rehabilitation services occupies the site and has a long term leasehold interest in the property. To be very clear, both the Chiechi family and hope rehabilitation services have always opposed this fundamental declining their property. The question before you is this: Is it the right for a city to take away a private property's land use designation and give it to themselves to

benefit city owned property and another developer? Because that is exactly what is happening with this proposal. Over our oaks, the City of San José, with the housing department as the applicant, is proposing to take away the existing residential designation on our property, in order to justify converting city owned employment land to a residential use in another location of the city. This amendment is considered an offset for the loss of jobs caused by the City's conversion of employment land. The city initiated the general plan without the consent of the property owners. The question here is really about the fairness of the process, rather than the merits of the land use decision. The city is taking away the residential designation in order to give it to itself. In essence, they are transferring the residential designation from our property to the city's own property, and this doesn't seem quite right. In addition, there appears to be a double standard in the process. Because in the past, when a private applicant proposed to convert employment land, the private applicant was required to get the consent of the property owner of the offsetting site. This was the case with the Monroe project that came before you last year, I'm sure you recall. Also, the city seems to treat people unequally. We have been informed that the city approached the Sobrato companies about using their property at bird and willow as the offset property. We've been told that Sobrato was opposed to this change, and therefore, the city moved forward with converting our property instead. Even though we also opposed changing our designation. So it appears that there is a double standard depending upon who the property owner is. So why does the change in land use matter to the Chiechi family? Well, generally a residential designation has a significantly higher land value so taking away the designation means you're lowering the value of the property. But more importantly than that the proposed commercial designation would actually limit the flexibility and the feasibility of redeveloping this site either alone or in conjunction with the neighboring properties. The reason is that commercial designation would trigger the need to conform to the employment land preservation policy of no net loss of jobs, if we were to propose a residential mixed use development. This policy sets an extremely high requirement of .40 F.A.R. of employment space for any project, future project on the site. .40 F.A.R. for residential commercial mixed use is likely to render any project financially infeasible. A .40 F.A.R. of employment space within a residential commercial mixed use project has rarely if ever been done in the City of San José. And even worse, if the proposed project on this site didn't achieve the .40 F.A.R, under the policy, the project would have to go find an offsetting site somewhere else to do a reverse converse. To go from residential to mixed use project. Hope services is especially interested in preserving this flexibility because they have a 45-year remaining term on their lease and they want to make sure that they can use this property in the best way possible to serve their clients, who are developmentally disabled. So to sum up, just because the city has the authority to change any land use designation doesn't make it right. The only fair decision tonight is to deny the CP amendment, send the staff back to the drawing board, and I am confidence in a city of 170 square miles, if the staff tries hard enough, they can find a property owner who's willing to give consent for a land use change. If not, maybe this isn't how the city should be doing business. So we very much appreciate your consideration, and hope that you will not support this general plan amendment tonight. Thank you.

>> Commissioner Zito: Thank you, Mr. Shanehauer. There are some questions from the commissioners. Commissioner Jensen.

>> Commissioner Jensen: Thank you, Mr. Chair. Mr. Shanehauer, how is the land currently being used?

>> The land is currently being used as office space for hope rehabilitation services.

>> Commissioner Jensen: Thank you.

>> Commissioner Zito: Thank you, Commissioner Jensen. Commissioner Kamkar.

>> Commissioner Kamkar: Thank you, Mr. Chair. Do I understand correctly that what the city or the applicant is proposing is the zoning for the general plan amendment change, with no compensation to the property owner? Is that the -- do I understand right or is that -- is that --

>> That's correct.

>> Commissioner Kamkar: Okay, so --

>> The city has not made any offer of compensation of any kind, in exchange for our consent to change the designation on our property. And however, last year, in the private application, to do a conversion, the city staff mandated that that project get the consent of the property owner, before pursuing a reverse conversion. Which that developer did at great expense. They had to pay the property owner a significant amount of money in order to get their consent.

>> Commissioner Kamkar: I understand. Okay, thank you.

>> Commissioner Zito: Thank you, Commissioner Kamkar. Commissioner Cahan.

>> Commissioner Cahan: Thank you, Mr. Chair. It is my understanding the staff approached the other than to discuss the long term plans for the site and through that discussion found that the long range plans were in compliance with this change. Do you have different knowledge? The long range plans were, let's see, 19 acre area, to integrate mixed use development, including ground floor retail, residential above ground floor, and public open uses.

>> The long term life use of this property will be for a vertical mixed use development. That development will most certainly include housing above some sort of commercial use. That is why this staff proposal is so detrimental. Because if a property begins as commercial designation and you try to do mixed use development with residential, you trigger the employment land preservation policy. And what that policy says is, you have to have a minimum of .40 F.A.R. employment space within the mixed use development. And if you can't achieve that on site which is physically virtually impossible and hasn't been done on this city to date, then you have to go to another site to convert from residential back to commercial. So by taking this step, it actually makes transitioning this property to a residential mixed use development less feasible and more costly. Because it's much easier to get to a mixed use development if you start from a residential designation, which is what we have today.

>> Commissioner Cahan: Mr. Chair, is this time to get clarification from staff on that issue?

>> Commissioner Zito: If it can wait to additional questions, that's fine. You can wait?

>> Commissioner Cahan: I can do that.

>> Commissioner Zito: Thank you, Commissioner Cahan. Commissioner Do.

>> Commissioner Do: Thank you, Mr. Chair. Currently the other than has a 45 year lease with Hope. How much is remaining?

>> 45 years.

>> Commissioner Do: Is that one that can be cancelled?

>> No. For the purposes of the city there are two owners. The other than of the real estate is the Chiechi family, they own the property. The hope rehabilitation has a long term land lease. Either or both of them can apply for land use changes to the City of San JosÈ. Or planning permits from the City of San JosÈ. If you have a long term interest. And that is why there were two letters submitted to you, one by hope rehabilitation, the land leaseholder who opposes this change because it will restrict their flexibility in how to use this property and the landowner submitted a letter, they both do because it limits flexibility. And more importantly, you have to get back to the transfer of the residential benefit. We know, the city has the authority to change land use. And they do it on occasion to bring zoning and general plan consistency. But I don't ever recall a time where they've changed a general plan designation on a private person's property in order for the city to go and do an employment land conversion and build housing. And this is what they're doing. The staff report spelled it out clearly. So it's not some indirect connection. They, the housing department, is the applicant here, specifically to justify the conversion of office land on Ford road to residential.

>> Commissioner Zito: Understood. The question was the specific use of the land, I appreciate you sticking to the question. Anything further, Commissioner Do? Thank you Commissioner Do. Anything further from the

commission? I have a couple of questions, Mr. Shanehauer. You had mentioned that hope has a 45 year leasehold. They are using that in a commercial capacity, is that right? I know you talked about flexibility on the land, right? You're saying that there's a feasibility that hope may want to turn this into residential and therefore they need the flexibility to do that, is that what I'm hearing you say?

>> Yes. Of course, neither hope nor the Chiechis have a current plan. Right now they plan to use the property as-is, why it's important to hope, as a nonprofit, they don't have lots of land resources or financial resources. So if there's an opportunity here for example to do a joint development, they serve developmentally disabled people. Maybe they would like to build a nonprofit, affordable housing development mixed use keep their office there and allow people with developmental disabilities live in these apartments or help manage these apartments in a mixed use development. So as you can see, it's not an illogical place for housing. Here is the general plan map. This is all residential, apartments on all sides. We have 100 feet of frontage on the residential street here. We have no frontage, no frontage on the commercial shopping center part. We have to enter the parcel via an easement in the shopping center. So it could very well become a mixed use development that integrates with the residential neighborhood, and provides another source of employment opportunities, and residential opportunities, for developmentally disabled people.

>> Commissioner Zito: Okay. Let me ask you a second question. There's no secret that you and I and a couple of members of the commission sit on the 2040 task force for general plan update. It's entirely possible through that general plan update that the city will change all kinds of general plan designations for property. Is that not correct?

>> I think the distinction, chair Zito, is in this case, one individual property owner was targeted, to change their designation in order to take it specifically to benefit city property.

>> Commissioner Zito: And I'll askto staff to comment on that. That's a fair point.

>> But to your question, if the city was going to systematically look citywide, for opportunities to meet housing needs, job needs, and they went through a systematic thoughtful property and looked at all similarly situated properties and treated them in a similar manner, that would be more palatable. Frankly, there are three properties that I mentioned, right, our property adjacent to a commercial site. Here is the city owned property. This is where the city wants to build housing. So here's -- their three acres are immediately adjacent to commercial retail center. This is Walmart here and there's a strip center here. So -- and then there's neighborhood back here. So their site is very similar to ours. It's -- it's adjacent to a shopping center on one side and adjacent to residential on the other. Somehow their property is okay for residential and ours isn't.

>> Commissioner Zito: Mr. Shanehauer, my question is clearly on the process and I understand where you're going on nap you're saying it is unique and following a specific guideline you feel is being applied I guess for a better word unfairly.

>> You're just picking on one person.

>> Commissioner Zito: In general, if this does not succeed, let's say, if we go along with your request or the city council goes along with your request, it's entirely possible that through the general plan process it gets flipped 98.

>> But it hasn't been concluded.

>> Commissioner Zito: But my point, it's not like the city's doing anything that they couldn't do through other means.

>> Well, as we've stated, we understand the city has the authority to change land use any time, whenever they want. It doesn't seem quite right, though, that the city would target one individual property, take away their residential designation, and give it to themselves. So that eden housing, another developer, can build their housing development. It's that principle that is in question here.

>> Commissioner Zito: Okay. I appreciate that perspective. Thank you. Any further question from the commission? Seeing nine, is there a motion to close public hearing? All in favor? Any opposed, seeing none, thank you. Staff, I think the speaker makes a couple of very good points. And we'd be very interested to hear the City's perspective on this or the staff's perspective on this.

>> Thank you, Mr. Chair. The city does not target individual properties, but rather, looks at properties that are already either zoned and/or used for employment purposes, or revenue-generating commercial purposes, that appear to be viable, and then looks at the process for having the land use designation be consistent with the viable use. In this particular case, the Chiechi property was partially offset, the affordable housing project that the city is proposing on the Ford and Monterey site through discretionary alternate use policies, there is no general plan amendment for the Ford site. But as the staff report acknowledges, there is, in addition, another property that the director initiated a general plan amendment for on Stevens Creek, that converted residential to commercial use, and that would add to the remaining acreage for the offset. So even within the staff report, I think staff tried to make clear that there's more than one property being used to add up the acreage for the conversion. This particular parcel has been zoned and used for commercial purposes for well over a decade, according to our records. It is part of the larger approximately 19 acre shopping center that Mr. Chiechi through discussions with staff has indicated long term he envisions for possibly intensification or redevelopment with a Santana Row sort of exciting mixed use development which I think the city would be very interested in seeing. Given that the larger property is approximately a thousand feet from the race street light rail transit station, so it really is in sort of a candidate area for the city to look at intensifying long term. The city has never requested any applicant to get signatures from property owners for general plan amendments. We do request signatures for planned development zonings and for permits. And so it's possible that the other project that Mr. Shanehauer is referring to, the general plan amendments can be initiated by anyone, Mr. Shanehauer or any other applicant. Additionally, the city has never requested applicants to negotiate monetarily with property owners of sites that are candidates for general plan amendments, and how property owners and developers negotiate support for an application on the site is not really under the control of the city. And if there are additional points made that Planning Commission has questions about, I'm available to answer those points.

>> Commissioner Zito: Just a clarification. You just made a statement, and please clarify, anyone can initiate a general plan change. So are you essentially saying that a developer or a private individual can say, oh, that piece of property looks like it would be great place for residences, and without any discussions or negotiations with the landowner, initiate a general plan amendment?

>> Yes, Mr. Chair, that is correct. Now, the city staff would notify the property owner, that their property ask being considered for a general plan amendment. And you know, be available to apprise the property owner and -- of the meaning of the land use change and have discussions and be available for answering questions, et cetera. And you know, stay neutral, hearing both sides of the discussion.

>> Commissioner Zito: Right. And the likelihood has many determining factors, of course but the fact still remains that anybody can initiate a general plan change on anybody else's property and its viability, its feasibility would be determined on some other objective criteria.

>> Thrashing.

>> Commissioner Zito: Whether or not the person has an interest in developing that property has no bearing. Commissioner Jensen please.

>> Commissioner Jensen: Thank you, Mr. Chair. Mr. Shanehauer raised a concern that if it were converted to commercial and they went with a mixed use project, that would trigger the employment lands conversion and they would have to go off and find other lands. Can you help clarify that?

>> Thank you, Mr. Chair. Under the existing framework that council adopted for maintaining no net loss of employment lands within the City of San José, the property owner who is interested in developing commercially on a residentially designated site would need to intensify the site in such a manner that if the site is within 2,000 feet of light rail, .4 F.A.R. for job related square footage would be retained and in other parts of the center would be .35. Now that policy I think is perhaps one that may be revisited after the comprehensive update is adopted. It

is a result of, as the commission has heard before, the incremental but ultimately substantial loss of employment lands throughout the city, and also, the consideration that the city is underretailed and somewhat lacking in commercial uses.

>> Commissioner Zito: Staff, it's also true, if I understand correctly, that regardless of what the GP change is, the current use could be kept no perpetuity, as a legal nonconforming, is that correct? Or maybe not even legal nonconforming, just --

>> Mr. Chair, the current use is consistent with the zoning district.

>> Commissioner Zito: Right.

>> That means that if the tenant space were subject of a minor modifications, minor expansions, that use could continue with some redevelopment, or addition. If the building prod owner, the long term land lease owner, wanted to demolish the building and redevelop it commercially, they would need a land use change.

>> Commissioner Zito: Okay, thank you, Commissioner Kamkar.

>> Commissioner Kamkar: Thank you, Mr. Chair. The question I have is, I understand your explanation of, you know, the way things can be done. But there's another test that I look at, and that's the smell test. This doesn't pass the smell test to me. I mean, we're taking away from a private property owner, a future benefit, and we're transferring it onto the city. That, you know, I can't understand that. You know, I -- now if there were some compensation, absolutely, I can understand there was negotiation, and happens, great. So be it. But when it's obvious he's vehemently opposed to this proposal, and the city says, well, I could do it, so I'm doing it, to me, I understand what Mr. Shanehauer said, just because the city could do it, doesn't mean it makes it right or they should do it. So this is the part I don't understand. How could we -- you know, I think we all agree that the property value is coming down, by this, you know, general plan amendment. How can we not somehow compensate, either, I don't know, swap lands or something, you know, how could we just say that's the way it is, and you know, good luck?

>> And I'd like to request that our counsel refer -- I mean respond a bit to the questions about the valuation of land and how the city views a taking or not a taking, or when compensation is a needed element.

>> Thank you, Mr. Chair. A taking would not be raised here, insofar as we would not be depriving this particular property owner with all economically viability use of the property. As a matter of fact, the change would allow the existing use to continue as well as other general commercial uses. So if the question is are we concerned about a taking of the property that requires just compensation, the answer would be no, in that the -- as Mr. Shanehauer alluded to, the city from a general plan perspective, and planning the overall use of this property, we have not taken several of those are general planned at a much lower density than general commercial. And again, so long as the property owner is allowed some economically viable use of their property, there would not be a taking concern.

>> Commissioner Kamkar: Well, as far as the existing use, they can continue the existing use, you know, as-is. There doesn't have to be a general plan amendment for them to continue the existing use. So that argument, to be honest with you, you in, I can't understand that argument. It may, you know, hold legal value, but just, you know, from your common sense perspective, you know, I don't understand what value we're offering when we tell him, or, you can keep doing what you're doing, which you could do anyway. The other point is, as I look at the map is the access. This, you know, this property is on residential street. If the owner were to sell his I guess neighboring lands then they are pretty much, I guess, land-locking themselves to that residential street, with the general commercial, general plan amendment, and I just, you know, it just doesn't pass the smell test, if you will, you know, by having someone, a business operator, as well as a property owner, that's a, you know, this is not right and I have to agree with that. Thank you.

>> Commissioner Zito: Thank you, Commissioner Kamkar. Commissioner Do.

>> Commissioner Do: Thank you, Mr. Chair. There is a point I missed earlier and I think some of us are missing as well. Which is the site is currently zoned general commercial, right now, right? What we're doing is changing the zoning, but it is consistent. It is not as if the city is taking something away. I mean yes, in the future potential perhaps, there are certain things that are compromised but it is not -- but is consistent with the zoning, zoning, the current zoning regulation.

>> Commissioner Zito: That's true, Commissioner Do. Commissioner Kamkar.

>> Commissioner Kamkar: Mr. Chair, that is a good point but I think we're talking about future value. Current value you're absolutely right. They're operating as a general commercial but that's not point. The future value is being affected I believe.

>> If I could make one more clarifying comments about the options in the future, the general commercial land use designation permits mixed use development that allows for housing. I mean the nature of a Santana Row like development is commercial on the ground floor, residential above. Whatever development happens here on this parcel, staff will be looking at how does the access relate to the existing shopping center of which the parcel is currently a part. So in termination of future analysis of any proposal it's not going to be drawing a line around this particular parcel, and only reviewing access to the north off of Chiechi. So I think the concern that staff has, partly there's the issue of offset in the current time frame, and the city council has a lot of different issues to balance, including where you provide appropriate affordable housing, and where do we try to make sure we save spaces for our future job growth. And this is an area where now it's in job employment uses, it's attached to a -- it makes up part of a 19-acre shopping center and it's near transit. So the city has an interest here in not letting this get developed, purely residential, 12 to 25, and I think as we sort of took a little drive around and looked at the site, you know, if it's going to in the meantime access to the north because you might speculatively have an all residential project in the 12 to 25 range, it might tend towards the lower range, once dialogue with the community out here commenced. So I think the city council has a bunch of things to weigh. But here this is possibly a good site for mixed use development and more density and mixed with other commercial uses, but only as we look at the whole 19 acres together. And I think some of you that are sitting on the task force were looking for areas just like this one across the city as part of the strategy, and how we might handle job growth and residential growth into the future.

>> Commissioner Zito: Staff, in that regard, though, one point the speaker made was, that the criteria is that it has to meet a .40 F.A.R. of commercial use and that was a difficulty benchmark to meet.

>> And I think firstly the provision that we could get any housing project here is all a speculative, what if, what might we propose, a mixed unit development might happen outside this parcel, and the ability to get .4 in some configuration, maybe after we get our update direction sorted you know and preferred alternatives laid out, so I think .4 is a reasonable opportunity on the site, and whatever staff was looking at in the entire context.

>> Commissioner Zito: You're looking at the site in question not the surrounding site?

>> The side in question but also a circulation that leads to the remainder of the property. Where is the access, how are we going to relate the phasing of redevelopment to existing uses. So it wouldn't ever be a caves just as I say carving this off and only looking at this in isolation, just whether it was a housing project or a mixed use project that was proposed.

>> Commissioner Zito: The speaker alleged that the city approached a Sobrato property, and due to objection by the owners of that property, the city backed off. That raises an eyebrow if nothing else. Can the staff briefly go through what process they went through in researching different properties and what possessed them to essentially move forward on this property and not on another property?

>> Thank you, Mr. Chair. Staff looked for this particular proposal only at this property to provide acreage to make up the total of I believe three points, slightly over three acres to do the offset for the Ford to Monterey side to look at what was needed to add to the amount of acreage to the land use change that the director initiated and that got approved about a year ago. So I'm not sure what the applicant -- excuse me what the property owner's representative is referencing but staff's point of view is this is a candidate site.

>> Commissioner Zito: So what you're saying is the speaker was mistaken that you were considering a Sobrato property per se?

>> In considering a conversion, that considered only this site for a previous site on Stevens Creek.

>> Commissioner Zito: Commissioner Kamkar.

>> Commissioner Kamkar: Thank you, Mr. Chair. I wanted to respond to the comments of Ms. Walton regarding that you know, we don't want to lose, you know I guess the existing, you know, jobs that are on that site. I haven't heard anything to say they want to go away. If anything, I've heard things that they want to stay there for the next 45 years. So that's not a -- that's not a viable issue or a viable threat that you could say oh, in order to keep those jobs, let's do a preemptive strike. If there was an indication that something was coming up, I could understand that. But I don't see doing anything would take those jobs away.

>> Well, and Commissioner Kamkar, it is the bringing forward the question to city council about demonstrating that these are jobs we want to hold onto, is to change the general plan to reflect that. So you're right. Right now, the uses, this office-type use, it's got a general commercial zoning district, and right now the message for the future is, 12 to 25 dwelling units per acre, a residential future. So what this would be doing is sort of locking in, make sure the council so choose, that it would have a commercial future or at least a commercial base of some jobs if some mixed use project could be proposed. So as long as whatever future project maintains the job base. And so that's what the council would be doing by making that general plan change would be making that part of the future statement on this property.

>> Commissioner Zito: Thank you, Commissioner Kamkar. Commissioner Cahan.

>> Commissioner Cahan: Thank you, Mr. Chair. I'd like to get point of clarification on, as a commission, how we are supposed to be evaluating this and whether we are supposed to be taking the property value, either now or in the future, into our consideration at all.

>> Commissioner Zito: I'll take a stab at that and I'll ask counsel to back me up or slap me down, either way. Typically we do not take into consideration valuation at all. However, the statement of whether or not we are doing could meet a legal challenge, that can be weighed into our deliberation. So the question of a taking, to the extent that could it put us in some kind of a legal question, it certainly something we should clarify with counsel, find out with staff, find out if the due diligence was done. But the actual dollars, that would be what my understanding was. Counsel.

>> Thank you, and just to amplify what the chair has been saying, the charge of the commission is to make the land use decision and to make the recommendation to council on the appropriate land use decision. For the future of the city taking into account the properties surrounding it, although as I think both the speaker and the chair have alluded to, this could be revisited in the overall general plan update, the charge of the commission is to take a look at what is the appropriate land use designation for this site. As Ms. Walton was alluding to is should the future uses at this site, should they be residential or should they be commercial, for example?

>> Commissioner Zito: Good question, Commissioner Cahan. Commissioner Do.

>> Commissioner Do: Thank you, Mr. Chair. I'd like to make a motion, please.

>> Commissioner Zito: I'm waiting for one of those. North Dakota I'd like to Consider the negative declaration in accordance with CEQA. Recommend to the city council approval of the general plan amendment request to change the land use transportation diagram designation from medium high Density residential, 12-25 density units per acre, to general commercial on a 2.37 acre site to partially offset a future rezoning involving the conversion of employment lands to residential use on a 3.05-acre site as recommended by staff. Thank you.

>> Commissioner Zito: There is a motion. Is there a second? There is a second, okay. Commissioner Do, any further comments on your motion?

>> Commissioner Do: Thank you, Mr. Chair. I think -- I think that I -- I don't view the -- this proposal as necessarily taking anything away from the property owner's right. I think like staff said, I think any future development is going to receive scrutiny and will have to go through the same set of conditions more or less anyway. So I think development rights are still there. And it has -- and they have to fit within the city's general plans and that's why I made the motion. Thank you.

>> Commissioner Zito: Thank you, Commissioner Do. Commissioner Jensen.

>> Commissioner Jensen: Thank you, Mr. Chair. I would just like to say, I've been struggling with this one all night, throughout our discussion. I hear very distinctly the property other than's concerns but I'm very, very familiar with this shopping center. The access to hope comes right off Parkmoor and is adjacent to the facility. I honestly didn't even know there was a neighborhood behind there. I've never traveled back behind there. It appears to be aesthetically isolated from the housing, again, I've been there a lot. And I don't see those two properties, the 19 acres and the hope property, as being separated. I am concerned about the indication from Mr. Shanehauer that they would be forced to meet a metric that so far has been unachievable in San JosÉ with respect to the .4 F.A.R. And if staff has anything that they could demonstrate that we've already achieved that somewhere that would be very helpful to have a picture of what that might look like. But I just want to say, this has been really tough and I'm still struggling with it. I hope someone will say something that clarifies the whole thing for me. Thank you.

>> Commissioner Zito: Thank you, Commissioner Jensen. Commissioner Cahan.

>> Commissioner Cahan: Thank you, Mr. Chair. I agree with Commissioner Jensen that this is a challenging project we are reviewing. I concur that the representative made some good points. However, I believe my role on the commission is more judicial, and to -- I'm trying to specifically focus on what we are charged to do, and not view additional matters into my consideration. Therefore, I think that this meets the general plan, which is what we are supposed to look at, and that it could potentially provide mixed use, and close to the transit. And that it also increases our employment opportunities, and that it is currently being used in that manner, so we would not be affecting any current residential situations.

>> Commissioner Zito: Thank you, Commissioner Cahan. Just a technical clarification. We're not judicial or quasijudicial, because this is a recommendation to council. But your point is well communicated. I would say fortunately for the landowner, this is not the final resting place for this decision. It does go on to the city council. And they probably have a broader range of considerations that they could make in considering what -- or underscoring what Commissioner Cahan had said, that we really do need to look at the land use aspects of this -- of this application. And I also concur with Commissioner Jensen, that it's not a slam-dunk by any means. It's a little bit difficult. I was a little bit concerned about some of the points raised about the fairness aspect, whether it's being equally applied to all sites. I appreciate staff clarifying that there may have been a misunderstanding as far as having additional properties that were considered. And so for me, it's a little bit easier to make the decision. But Commissioner Campos.

>> Commissioner Campos: Thank you, Mr. Chair. I, too, had been struggling throughout our discussion tonight. But when you look at the map, that's when, you know, that's when it really came together. When I really paid attention to the map, and I think what this does, what this potentially does is, it ensures that that piece of -- that that parcel isn't piecemealed out. And you actually preserve the entire property for general commercial so that you can actually achieve the big-picture goals of the city. And with that, you know, I am supporting the motion. I mean, I am a complete supporter of an extension of property owner rights. But I -- you know, when I have to weigh this, I think that what we get there 20 years down -- what we get in that particular area, 20 years down the road, is very important to the, you know, to the living conditions of -- and potential vibrancy of that area given that it is on a light rail lining line. Thank you.

>> Commissioner Zito: Thank you, Commissioner Campos. I'll just wrap up by saying that I'm very sensitive to the charter of hope and of the affordable housing network who also wrote in to give their opinion on this. I think that this city is absolutely in need of affordable housing and to keep that option open is very, very important. I agree with the comments of the Commission in that when we look at the big picture, that piece of property, and

the surrounding pieces of property, very well may be that we have another Santana Row-like plan for that area. And for that purpose, I think that it makes sense, what staff is recommending. I would, as we pass on our recommendation, whatever that is, to city council, I would ask the city council take into consideration our affordable housing needs and the current charter of hope, and to assist both of those goals moving forward and to hopefully be very considerate and helpful to those needs. But I think there's a lot of flexibility still left in the property given the general plan changes, and as I said before this is not the final resting place of this decision. So fortunately there are 11 people that will make the final decision. Commissioner Do.

>> Commissioner Do: Thank you, Mr. Chair. If I may tack onto what you just said in terms of extending the recommendations to the council, which is my -- my addition would be to -- for the council to consider exercising some flexibility in terms of that employment F.A.R. requirement. If that's possible at all. Thank you.

>> Commissioner Zito: Thank you, Commissioner Do. Okay, I see no further comments. Let's vote by light. That motion passes 6-1, with Commissioner Kamkar opposed. Moving on to item 7B, GP 08-T-06. City initiated general plan text amendment request to revise the San José 2020 general plan text appendix C housing to update demographic and housing data, goals, policies, selected land use designations' minimum densities, and implementation actions for the 2007-2014 planning period and other minor technical, clarifying and clerical revisions as necessary To comply with the state housing element law, government code section 65580-65589.8. staff.

>> Thank you, Mr. Chair. My name is Allen Thai from the Department of Planning, Building, and Code Enforcement.

>> And I'm Wayne Chen from the housing department.

>> Last month we provided the Planning Commission with a status report on an update for the 2007-14 planning period. We discussed the background, the requirements of state law, the City's methodology in achieving the city's fair share housing needs allocation and we're back today in the middle of affordable housing week with the comments received during the public comment period. And the housing element update for your consideration.

>> Since our status report here back in April, staff has received additional public comments regarding our draft housing element. The public comments include the need for city to emphasize housing for lower-income households, parking ratios for SROs or single family be development projects, in areas where existing neighborhood services and infrastructure already exist to take advantage of that existing infrastructure. Summaries of that discussion and of staff response are included in the staff report. Staff has also received comments from the state Department of Housing and community development. HCD just completed a 60 day review of our draft housing element and has given us very positive feedback, basically the draft is significantly in compliance with state law, but for some minor clarification of revisions that are technical in nature and not housing issues. Staff is working with HCD and HCD did comment that given these revisions and pending council approval that they are anticipating certifying the housing element very soon.

>> So staff is recommending adoption of the housing element with the clarifying changes requested by HCD. And just so you understand, the results of adopting the housing element, we want to review with you the essence of the changes that we're making to the general plan text. And primarily, we are revising the language in the general plan major strategies in the goals and policies, to address housing needs for extremely low income households, persons with disabilities, and special needs, and update language to reflect a new terminology and resources under new flood regulations and also consistent with the housing element law, we are updating our housing policies to encourage an energy conservation policy in line with the city's Green Vision goals. And in terms of changes that we're making that would affect future residential development, the housing element update would include increasing the minimum densities of selected land use designation to 30 dwelling units per acre, the 30 dwelling unit per acre standard is established by state law as a minimum density to necessitate affordable housing. And we're proposing this not only to comply with state law but to increase the amount of state land recognized for affordable housing development. With this housing element, specifically we'll be applying the 30 dwelling unit per acre standard, for the transit corridor residential and the core area as well as two discretionary alternate use policies shown on the slide. Next slide. And finally state law requires us to update our implementation programs for the housing element. Many of the existing housing programs that we have been

implementing over the years will carry over. These include home buyer homeowner and housing development programs. The two outstanding items to comply with state law include establishing a conventional zoning district that would allow 30 dwelling units per acre as well as adding definitions for traditional and supportive housing in our zoning ordinance. So as Wayne mentioned earlier, we are working very closely with HCD staff on minor technical revisions to the housing element and we anticipate providing the final certification ready housing element to the council in June. And that concludes staff presentation.

>> Commissioner Zito: Thank you staff. I do have one question, if you can go to the prior slide. It talks about discretionary alternate use policy changes or recommendations for changes. Are it's always been one of my interested elements of the planning codes. Please explain a little bit more about the residential density increases along major arterials. What was the thought there, was it in conjunction with anything to do with transit oriented development, or just kind of give me your thoughts there, please.

>> Thank you, Mr. Chair. The intent of this discretionary policy is to discourage the use of housing near transit facilities. Currently the policy requires residential property at a minimum of 17 units per acre and ranging to the maximum of 65 dwelling units per acre. It's intended to support mixed use and commercial and residential development actually specifically within 2,000 feet of passenger rail station and other areas in the general plan. So with this we are increasing the minimum density of 30 dwelling units per acre consistent with other state and city policies.

>> Commissioner Zito: Just the way that bullet point is written, it says residential density increased near arterials, not necessarily transit oriented arterials like light rail. My concern is if there is any way that can be interpreted or misinterpreted, if you are next to an express weigh or an four or six lane, for instance aborn road, if we're going to increase densities on arterials that are already highly congested that do not have a transit element, you understand where I'm going with that?

>> Yes uh-huh.

>> Commissioner Zito: That would be my only concern that that interpretation would mean nontransit arterials as opposed to transit arterials.

>> So perhaps revising the title of that discretionary policy to better reflect --

>> Commissioner Zito: If that is what you're trying to do. I didn't read every line.

>> This is the general title in the general plan.

>> Commissioner Zito: Then I would suggestion it would be transit arterials, instead of just arterials. It could be an aborn or capital expressway where there is not a transit element at least not within the 2,000 feet. Thank you. Commissioner Cahan. We have a few commissioners to talk about this.

>> Commissioner Cahan: Thank you, Mr. Chair and thank you for your hard work on this.

>> Commissioner Zito: Absolutely.

>> Commissioner Cahan: It is clearly a thorough job. I had two questions upon comments that we received in here. One was for Linda fencer who had questions about water supply, making sure that that was met. And I do see that under the water resources policies, that you have them there not to deplete the supply of surface groundwater or cause overdrafting of underground water basin. The fact that we are going to be losing water, as we are increasing density we are going to most likely be logs access to water. That is going to be serious consideration when we think of additional housing projects. And then my second was -- let's see, it was superintendent Liebman who discussed the school issue, and the schools being brought into the conversation, at the beginning, so that they can input their needs and concerns about projects. I didn't see that in the housing element update and perhaps I just missed it. So if you could let me know if that's covered in there.

>> Thank you, Mr. Chair. The general plan does include a policy that encourages the city to work with school districts at the earliest possible, because that policy is not specifically a housing policy, that's why it's not included in the housing element update package that you have. But it is part of our general plan.

>> Laurel Prevetti: If I may Mr. Chair, also as part of the general plan update process we are working directly with the superintendents of the 19 school districts, so that way as future land use changes are being contemplated, that affect housing and school use, we are coordinating in that capacity.

>> Commissioner Cahan: Oh, great so you are already in those conversations.

>> Laurel Prevetti: Yes.

>> Commissioner Cahan: Thank you.

>> Commissioner Zito: Let me ask this, this is the housing element, obviously, to what extent could you, would you, is it appropriate to mention some reachout to schools and parks and open space? Obviously you wouldn't have major sections in there because of that because it's the housing element but to the extent that you would want to at least acknowledge a reach out to see that these items would be considered as part of general plan updates, et cetera, et cetera, is that appropriate, is therewith a place for that?

>> Given our general plan is an integrated document I certainly see that there will be flexibility. And actually, I believe the introduction to the housing element update package that you have does mention that the general plan is an integrated document and that the package that you have in front of you is not intended as a stand-alone document. So we do reference other policies in the general plan and certainly, the housing element would include discussion or would relate back to the policies that we have addressing the adequacy of public parks and open space and school adequacy.

>> Commissioner Zito: Not to take any wind out of other commissioners tails, but certainly those sitting on the 2040 task force and my experience on this commission in the past ten years, we would like to see more integrated consideration of these interdependencies, if you understand what I'm saying, not that this document stands as a monolithic document, whether there be schools water open space parks so on. And I think that overall this commission has been very sensitive to that. With the full understanding of what the purpose of the charter of this document is.

>> And Mr. Chair, let me clarify. During the housing element update outreach we did present the housing element update to the parks commission.

>> Commissioner Zito: To integrate, to some reach out, we are considering these and they will be addressed, blah blah blah, and if people say what about parks and what about schools and what about water and so on, I appreciate that very much. Commissioner Campos.

>> Commissioner Campos: Thank you, Mr. Chair. I, too, wanted to comment on one of the responses, and it was from Jeff Oberdorfer from first community housing. His responses or concerns were the parking ratios for SROs, that his recommendation that the city be more clear, that a reduction in the ratios, a reduction in the ratios be allowed for SROs within 400 feet of transit nodes or mass transit, the staff response was that the zoning ordinance allows a reduction in the number of required parking spaces for SROs upon finding that the reduced parking ratio is adequate and the parking facility will remain accessible. So me that's a little bit vague so I would recommend tightening that up. I think it gives better direction to a developer, knowing that if they are building 2,000 feet within a transit, mass transit, that you know, you're going to get that. I just think that the more -- the more it's painted out there, you know, it's better off in the long run. Those would be my recommendations to council, or as you've prepared this for council. Thank you.

>> Commissioner Zito: Thank you, Commissioner Campos. Commissioner Kamkar.

>> Commissioner Kamkar: Thank you, Mr. Chair. I actually wanted to address the same item, probably the other side of it, though. And the question is, we can't build affordable housing in a vacuum, we have to consider all the

support elements that go to it. When it comes to transit-oriented type of service, the way our budget looks, every dollar we get, if we're going to be spending it on BART, that means we're taking it away from other means of transportation. And so to have a housing developer count on a mass transit, not BART, but other means of mass transit, that there may not be budget for, then based on that, lower the parking requirements, now we've given a product that, you know, there is no mass transit for them to use yet they don't have parking spaces either. So I think, because this is not as long-range as our general plan, I think we should be sensitive to that, and put some kind of triggers in there. For example, if the developer says, you know, I will supply X A dollars to the VTA to provide mass transit for this corridor, so my project is served, to me that makes perfect sense. But if they're counting on dollars that are not there and yet don't build parking spaces either, I think that's a double whammy. I just wanted to bring that point up.

>> Laurel Prevetti: Player, if I may, I know parking is always a concern for our commission and our public. And as you probably recall our zoning code actually allows for I believe it's a 10% parking reduction if a project is within certain distance of mass transit. I'm not sure how it's defined, if it's transit or bus or whatever. That is on a case-by-case basis and you do those when you make your zoning proposals and make your comments to city council. Your comments are certainly appreciated and you're right. Our staff response to the Jeff Oberdorfer comment could be a little tighter. But I want to let you know that you will have an opportunity to make your individual proposals to the council. The purpose of this element is really to identify how the city is facilitating housing development for all segments of our community.

>> Commissioner Zito: Thank you, Commissioner Kamkar. Commissioner Jensen.

>> Commissioner Jensen: Thank you, Mr. Chair. I would also like to thank staff. This is a big task and other cities as they struggle for doing their housing element at the same time. I want to thank you for especially focusing on placing housing near job centers, transit and naked services specific with an intention to support sustainable growth and sustainable continuity in the housing. I read in the document that the city had met previous Rena goals from 1999 to 2006 and that there's a projection in difficulty of meeting the goals set out from 2007 to 2014. Prior to the economic disaster that hit us starting in 2007 were we on track had we continued on that rate to meeting the 2014 goals?

>> Thank you, Mr. Chair. The rate of affordable housing development at that time, if you break it down, we were doing very well in the low-income category. We came close in the extremely low and very low income category. Still at that rate we would still fall short of the expected rate going forward from this point to 2014.

>> Commissioner Jensen: Thank you. And then in looking at the memo from HCD that came out on the 8th, I believe, and they still expressed some concerns, so I want to make sure that I understand that you're working with HCD to ensure that we do things like addressing the inventory and summary in the table, to provide the number of units by income group, so that they are happy with that. Now, is that -- is that the modified -- is that what we received in our package here on page 4 of 8 of table 2, does that meet their need?

>> Actually we do have a stable in appendix C housing that lists the affordable housing projects that count toward the planning period. And that table does break down the number of units, by income category. So our response to the state would be to point to that table, and we can copy that information into the inventory.

>> Commissioner Jensen: And did they have this prior to May 8th or was this new information after May 8th?

>> That is not new information. That is already in the draft that was presented to this date.

>> Commissioner Jensen: Okay, so I assume you're working with them to make sure they're okay with that because apparently they didn't see it before.

>> Yes, we are.

>> Commissioner Jensen: Okay. And then as this moves forward is this going to be for mandatory inclusion in the general plan task force or how does that work?

>> Commissioner Zito: Director.

>> Laurel Prevetti: Let me jump in here. This housing element has a very distinct time period. And so by state law we have to address how we are planning for this particular housing need allocation that's been given to us. The general plan update is looking at a much longer Planning horizon, up to 2040. As you recall we have already been identifying several growth scenarios for our future and one of them is the existing general plan. By default the existing general plan is one of the options that we will be evaluating, and the council and the commission will choose a preferred plan, and one of the plans could be staying with the existing. Through the update process you will have an opportunity through your work to make additional modifications, and I think already the guidelines, for example, that the task force has set forth already indicate more of a sustainability theme, and some newer ideas that would certainly update and refine the vision, and go beyond what's in the housing element that's before you tonight.

>> Commissioner Jensen: And so once we do that, once the housing element has been approved and the general plan task force continues on its merry way and presumably doesn't select the existing options, if it's not in conformance with the general plan and the housing element, is there an impact? Does somebody end up going back and doing more work?

>> Laurel Prevetti: I think the likelihood of its not being consistent with our RENA targets, is very, very small. Anticipate at least the amount of housing that's currently in our general plan that already exceeds our RENA numbers so I think we're going to be just fine.

>> Commissioner Jensen: Great, thank you. And then when you talk about modifying the DU per acre from the core area from 25 to 30, what is the core area that you're talking about?

>> The core area designation applies to the downtown core. It's not a residential stand alone designation. It is intended to facilitate development of number of downtown related uses off this commercial residential. But within that core area designation there is language currently that suggest development should occur at a minimum of 25 dwelling units per acre. So we're merely increasing that to 30 in order to qualify that land capacity for affordable housing as recognized by the state and state law.

>> Commissioner Jensen: Okay, great. So I apologize for the confusion then. In looking at the three bullet points here listed under chapter 5, item number 5 says, residential 25 or more to the acre. And bullet fives is core A. Are those different areas that are being referenced?

>> Yes, those are different areas.

>> Commissioner Jensen: Okay what are the areas, what is the core area as opposed to the core?

>> I believe the core area is consistent with the downtown core zoning designation. So it would be for what we know of as our downtown. And the residential support for the core pretty much applies for designated sites that surround the downtown core, which we also are known as the downtown frame area.

>> Commissioner Jensen: Okay, thank you.

>> Commissioner Zito: Thank you, Commissioner Jensen. Commissioner Campos.

>> Commissioner Campos: Thank you, Mr. Chair. I'm ready to make a motion.

>> Commissioner Zito: Please.

>> Commissioner Campos: That we recommend that the city council approve general plan text amendment request to revise the San JosÉ 2020 general plan text appendix C, housing to update demographic and housing data, goals, policies, selected land use designations' minimum densities and implementation actions for the 2007-2014 planning period and other minor technical, clarifying and clerical revisions, as necessary, to comply with state housing element law, government code section 65580-65589.8.

>> Commissioner Zito: There is a motion and second.

>> Commissioner Campos: And I did want to add that, for staff, if you can record and share the feedback that we've been giving tonight to the council, because it's -- I mean, this is a lot of information came from the commission tonight, it's all very relevant. I also wanted to add that you know, there's been some -- as long as I've been on the commission there's always been some back and fort, you know, that San JosÉ has tended to do the region's share of affordable housing. And that's good. Sometimes that's good, sometimes that's bad. I look at it as we're doing our part and we have to because our city is going to continue to grow. And as long as we make sure that all different types of housing stock is adequately done, even moderate housing to market rate housing, that you know, that will contribute to a better urban environment, I mean, we just, made a million -- you know, struck the million mark a couple of weeks ago. So we do need to prepare and plan for it. Thank you.

>> Commissioner Zito: So for clarification, Commissioner Campos, your motion does include passing on the comments?

>> Commissioner Campos: Yes, it does.

>> Commissioner Zito: Okay, any further comments, questions, concerns, feedback? Seeing none, let's vote by light. That motion passes unanimously. And I do want to underscore and echo the comments of the commission, as far as congratulations on a job well done and a hard job, difficult getting all these pieces put together. So we appreciate the work that you're doing and its integration going forward.

>> Thank you, Mr. Chair. Appreciate that.

>> Thank you.

>> Commissioner Zito: Okay, so we have reached the end of our general plan public hearing for this meeting. However, there is a need to continue this. So, if there is such a motion --

>> Commissioner Campos: Motion to continue.

>> Commissioner Zito: Motion to continue to the May 27th, 2009 hearing, and a second? Any comments, questions, concerns? Seeing none, all in favor. Any opposed? Seeing none, we will continue this at the next Planning Commission meeting. Okay. Petitions and communications. There is no other member of the public here, so I think we'll skip that item. Referrals from city council, planning director.

>> Laurel Prevetti: Thank you, Mr. Mayor. The city council is continuing their public hearings on the budget, that calendar is posted on the city's Website. Thank you.

>> Commissioner Zito: Thank you. Commerces reports from committees. Commissioner Campos on international airport noise advisory.

>> Commissioner Campos: Thank you, Mr. Chair. I do have symptom report.

>> Commissioner Zito: Woo hoo!

>> Commissioner Campos: The noise report came out and one of the things we'll see is that when the weather changes, you'll tend to get more noise complaints, because the takeoff and landing patterns change. So for the period of January to March of '09, there has been there have been spikes and complaints in the Willow Glen neighborhood because of planes taking off in that direction. And then also, and this is actually common in Santa Clara, in the rivermark apartment area, that tends to be a high complaint area. And one of the reasons for that is, when the planes take off, they are supposed to turn at, I believe it's 1.8 miles from the path of the runway. Sometimes they're told to turn a bit earlier, due to traffic coming out of Moffitt field or traffic is turning earlier than it should. So that will cause noise in areas that they shouldn't have. But relatively, you know, not a whole lot of noise complaints, given, you know, the operations at the airport and the size of the city. The second

thing I wanted to report was, the city initiated or the airport initiated the fly quiet program, and they've rated the different airlines based on their equipment. Now, because of their equipment, doesn't mean they're out of compliance, it just means -- it's really an indication of how old or modern their equipment is. So the airlines that scored the highest were American eagle, sky West and horizon who have newer regional jets that they're using. American airlines are scored the lowest because they're still using the MD 80s. As they get more modern airlines that will improve. Overall our airport rates a 1 to 7, which is pretty good. This is a sample of the data that we get from the new equipment that I had reported on about a year and a half ago. So that data is coming from this equipment. And then the last thing I wanted to report on was that by September of '09, the last houses will be done. And the airport will now be in complete compliance with CEQA. They've mitigated all noise and all applicable areas, the airport will go to the state for -- to petition for the variance to be removed. And I believe the ANAC will then descend. So -- yes, so I think we'll probably meet one more time in the fall, and that will probably be it.

>> Commissioner Zito: When you say they're done all the retrofitting of the homes to meet noise requirements.

>> Commissioner Campos: They are done. They could be in Santa Clara. I might be wrong but I think they're in Santa Clara.

>> Commissioner Zito: Thank you for that report. Envision 2040. Commissioner Kamkar.

>> Commissioner Kamkar: We haven't had a meeting since the last report. Our next meeting is the 24th, a Tuesday, our normal meeting day and I will report on that next --

>> Commissioner Zito: Which will be the 27th.

>> Commissioner Kamkar: 27th meeting.

>> Laurel Prevetti: Mr. Chair, if I may, the agenda and some of the reading materials for that meeting are already posted. If any of you are interested and you want to get a head start, you can.

>> Commissioner Zito: Is it not a continuation of the choices for the EIR study?

>> Laurel Prevetti: It is a continuation. We will be talking about the two higher growth alternatives and there are going to be specific votes asked of the task force on some key geographies of Coyote valley, South Almaden and the Evergreen areas as noted on the posted agenda.

>> Commissioner Zito: Very good, thank you. 11C, review of synopsis from our last meeting which was last week. I'm sorry, Commissioner Cahan.

>> Commissioner Cahan: Thank you, Mr. Chair. This is on item C.

>> Commissioner Zito: Okay.

>> Commissioner Cahan: In the summary in the last page under D, consider study sessions dates and/or topics, it states on a future agenda to add a good and welfare item for discussing of the creation of a subcommittee on environmental issues and consideration. That is incorrect. It was supposed to be for the next meeting, which is this current meeting that we're in. And I'm very disappointed that the summary was done wrong, and that it was not on the agenda for this evening. We have currently some challenging environmental issues. We have upcoming, even more, increasing issues, such as in the newspaper, what today or yesterday, where it discussed the EPA regulations that are coming out, that are going to change business regulations. And all sorts of water issues and such, that are continuing to happen, and will affect us as a commission. And we need the knowledge on these things, it is extremely important I believe that we have a standing committee on this so that we are abreast of all the current legislation and current issues surrounding it. So I do hope this will be on our agenda for the next meeting.

>> Commissioner Zito: Okay, thank you. Staff, we put this on our next -- I'm getting a nod --

>> Actually, Mr. Chair, it is already on the draft agenda for the 27th.

>> Commissioner Zito: Thank you for that clarification.

>> Laurel Prevetti: If you will, the commission will note that there is a study on green principles and that's another opportunity to talk about these issues and then we can continue the discussion at the public meeting to talk about the subcommittee, and what its role might be.

>> Commissioner Zito: Excellent. So come prepared with what you -- comments you may have on the chart are for that subcommittee. Commissioner Cahan.

>> Commissioner Cahan: I just wanted to say I'm very enthusiastic about that upcoming study session. Thank you.

>> Commissioner Zito: I couldn't tell. No, immigrate. I think as you state this commission has always been very sensitive of environmental issues and it's good to see it being articulated again. So in regard to the synopsis, do we have any further comments, questions, concerns? Is there a motion on the synopsis?

>> Commissioner Campos: Move approval.

>> Commissioner Zito: There is a move of approval as suggested. Any comments? Seeing none, all in favor, opposed, seeing none, that passes unanimously. Okay. Where does that leave us? Turn my page and now I get loss. D, consider study session dates and/or topics. Any further study session dates? Anything to add to what we have on our list?

>> Staff doesn't have anything further, Mr. Chair.

>> Commissioner Zito: Commissioners, any further suggestions? Seeing none, E, 11 E, subcommittee report on outstanding items. And we've got two, there is subcommittee on the alcohol, objected the consideration of public convenience and necessity. And also on the protocol for deferrals. Anything on the subcommittee for alcohol public convenience and necessity?

>> Laurel Prevetti: Let me just start this one. Because at our last meeting of course there was a lot of concern that the subcommittee had been waiting for data and had not yet met. And staff heard those concerns loud and clear. It was just last week, so it's still very fresh in our mind.

>> Commissioner Zito: It wasn't two weeks ago.

>> Laurel Prevetti: So we do want to acknowledge that we need to probably have some discussion about the -- how our subcommittees function. And what kind of -- what the expectations are. So perhaps ReneÉ could help us understand what some of our Brown Act responsibilities are, as we move forward, and really start activating these committees. Thank you.

>> Commissioner Zito: Counsel.

>> Thank you. An issue had arisen as to whether or not this commission intended to form Brown Act, formal Brown Act subcommittees that needed to have agendas and be open to the public. And so I was asked to go back and take a look so that I could provide you with some additional parameters in terms of what the will of the commission would be. So if the commission appoints less than a quorum of its members, to simply meet together to come up with recommendations, or information that they would bring back to the commission and ask the commission to please pass along to a staff -- to a staff effort that is ongoing, that would not need to be a Brown Acted commission. It's simply a quorum, it would be similar to the subcommittee that was formed for less than a quorum to go over the bylaws and bring those back to the commission to act on it. Similar to the offsale of alcohol process, if the commissioners that have been selected 50 commission, again less than a quorum, want to get together and summarize what they think the commission's input would be into that process, then the commission

as a whole could accept that information and direct staff to go forward. In the report-back it would be reflected back in the staff report to the commission when an ordinance comes back how the commission's input was incorporated or not incorporated. And that would close that loop. That would be the mechanism to use if the commission did not intend to form a Brown Act commission, a formal Brown Act subcommittee, I should say. If the commission wants to appoint a subcommittee to go and meet with representatives of the City Manager's office, those obviously would be persons outside of this commission, and so that would possibly trigger a Brown Acted committee that would need an agenda and be open to the public and would need to meet Brown Act requirements. And we could look at that further if that is the will of the commission. Historically, the Planning Commission has simply appointed less than a quorum of its members to meet with its secretary or meet with myself, to discuss particular topics and make sure that they're incorporated as the process moves forward. So I just wanted to highlight that distinction, because it came to my attention after I returned from a conversation last week, that there might be some confusion or maybe it's not so much confusion, but a lack of the distinction having been raised for the commission, so I wanted to do that. And if you have any questions I'd be happy to answer them. Also, just because we do have a subcommittee that meets with a different subcommittee of the commission, I did notice if there are less than a quorum of two commissions that come together simply to exchange information, that would not be a Brown Act committee. But if those two less than a quorum memberships come together to accomplish a particular task, that would potentially subject -- trigger a Brown Acted committee. So again, we are now being sensitized to the nuances of how you form your subcommittee. I wanted to raise it for your information so you can be sensitive how you want to form your subcommittees of less than a quorum that could perform some analysis for you and bring it back to you.

>> Commissioner Zito: Thank you, counsel. Two points on that. Number one, if you feel there's a recommendation that you could make in regard to any kind of annotation to our operating procedures, our -- what do we call those --

>> Bylaws.

>> Commissioner Zito: Bylaws. Please feel free to bring that forward. We always want to clarify and make sure we're doing the right thing and there's consistency going forward. For clarification, Commissioner Kamkar and I sat on the joint committee for parks. How would that be committed?

>> If it is a less than a quorum of go different commissions coming together to exchange information and discuss a topic and then bring the information back to their respective commissions, that did not trigger a Brown Act requirement.

>> Commissioner Zito: So those were not Brown Act meetings that we were conducting for the parks committee?

>> Two commissioners coming together, where there was an overlap or interest, the two subcommittees come together to exchange information, and bring it back to the entire community, that would be okay.

>> Commissioner Zito: So the goal of the subcommittee was to put together a research and recommendation to the specific commission for the commission's vote to pass on to city council.

>> Now, again when I was researching this issue earlier, if in the formation of those two subcommittees, they were required to come together, that would trigger a Brown Act requirement.

>> Commissioner Zito: That fact that we were forming a draft recommendation, that is a specific task.

>> I don't know when they were charged with something, as opposed to coming together and working on something, but if this joint subcommittee is specifically charged by their respective commissions with a particular work product, a task to come back with, then that could potentially trigger the Brown Act concerns.

>> Commissioner Zito: And even if it is work that would be not voted on necessarily, no judicial right in the subcommittee but just potential work for consideration.

>> So again, at this point if we did -- exactly I would be happy to go back and research it if we ever want to do something like that again.

>> Commissioner Zito: Okay, we'll be sensitive to that. Commissioner Campos.

>> Commissioner Campos: Thank you, Mr. Chair. Didn't staff tell us that you guys were going to come back and then invite us into a discussion? Okay, I just wanted to make -- I just -- so really, you're just giving us feedback on what we are -- what we can do. Although I would say that having a discussion with the attorney on some of the ideas would be good. Then you'd be able to tell us, you guys are way off base, that's illegal, or you're going down the right path. That would be helpful.

>> We had talked about this earlier, that certainly the commission directing a group less than a quorum, to meet with the director and an advisor like my self, that would be permitted.

>> Laurel Prevetti: We wanted to put that out there, so there is clarity of how we would expect to conduct this. Particularly then, the offsale of alcohol process, I know you're disappointed that we haven't yet invited you to such a meeting. I think we'll be looking at when we can probably get that done so then we can get started. Staff does have some ideas about what could be some low hanging fruit and I think we would be very interested in what your ideas are, as well. And then with this being a standing item there would be an opportunity for a report-out and consideration of the full commission. As I mentioned last week, however, I do want to just caution that in our era of shrinking resources our ability to do new things and quite honestly right now we have a list of 40 ordinances that we are kind of plugging through, I'm not sure when we're going to get to the alcohol use. But I would imagine that probably sometime early summer, if not sooner, we would be setting up the meeting. And I think most likely probably sooner rather than later. So that is coming forward.

>> Commissioner Campos: Okay, and I'm not disappointed, because I think that we were all in shock and shared a lot of the department's sadness, when a number of the staff had -- you know, were reassigned and some, you know, left the city. So for me, I mean, I sympathize, and you know, I mean, we all have to do our part to support each other. Thank you.

>> Commissioner Zito: Commissioner Jensen.

>> Commissioner Jensen: Thank you, Mr. Chair. So to take us back down the rabbit hole, counsel, the subcommittee that was put together to work on the bylaws had a specific work product. Correct?

>> Right. But that was purely within the commission's -- a commission document.

>> Commissioner Jensen: Okay. So then, that wouldn't trigger the Brown Act.

>> The way I read it and I can go back and relook at it, if it is purely a subcommittee only meeting amongst themselves and there are no other members of the public. Two members of the commission and meeting amongst themselves and I was present as a scrivener, it did not trigger the Brown Act.

>> Commissioner Jensen: And the offsale of alcohol specific to grocery stores as we've discussed because that is meeting with other planning staff and again has a specific work product, in that a recommendation is expected to be brought forward, would that trigger the Brown Act requirements?

>> I think that's why I was asked to take a look at it, is it would be helpful to have that information at the commission so you can structure how you want to proceed. So if the two commissioners wish to meet with the secretary and the advisor to the commission to give feedback, you know, as two commissioners, here's what we think are some issues that should be looked at, as the city administration meets to revise this process, and you provide that information, just within the subgroup of that committee. And maybe even report-out to this commission, and the commission can direct staff, staff, will you please forward this on to the city administration who's working on this issue. Again, we were trying to craft the process, one, for you to expeditiously meet, and then, do you want a more formal process or get together and meet. We were thinking that the goal of the

subcommission was to allow a subgroup of its commissioners, structure the group so it would meet legal regulations.

>> Commissioner Jensen: Okay, and then with the protocol subcommittee, which is also expected to come back with a specific recommendation to be provided to city council, would that then trigger the requirement for compliance with Brown Act?

>> Laurel Prevetti: Let me clarify that this is defer protocol for the Planning Commission itself, and something for the Planning Commission to consider for its own procedural benefit, that would be just simply transmitted to the city council in terms of an information memorandum. It would not require city council or any action beyond Planning Commission acceptance of its own rules.

>> Commissioner Jensen: And if I understood correctly the work product was being generated at did request of council.

>> Laurel Prevetti: That's correct.

>> May I ask if the work product on the deferral protocol criteria, is that something that the subcommittee would be making recommendations to amend the bylaws, to modify their processes or is this something different?

>> Commissioner Zito: It could be to essentially set guidelines. I mean, it could be put into the bylaws. Whether or not it is, that wasn't amended.

>> So that would be something that the commission considers later.

>> Commissioner Zito: Right.

>> Okay.

>> Commissioner Zito: It was a request by council rules committee that we come with some sort of guidelines that we hope to follow as our general process going forward. But not necessarily -- they didn't charge us with changing our bylaws at all.

>> Commissioner Jensen: And then back to alcohol. And I fully recognize and sympathize with the workload challenges that staff is facing. And in the fact that there is roughly 40 ordinances sitting on deck that need to be addressed. If we could get a date or a date for a date, that that would be helpful. And if staff could provide us with any information, because it's a lot easier to start with a sheet of paper that has content, than it is to start with a blank sheet. And that, I think, might help Commissioner Campos and I to provide useful input if we could see the direction that staff was going. So that we could provide the most effective input possible.

>> And if I can sort of add onto that, my thought is that the subcommittee of the commission would want to have input at the most appropriate and opportune time. So in one sense I can see if we have the meeting too early and then this item doesn't rise to the top of the ordinance pile very soon, that I'm concerned that memories will go stale and --

>> Commissioner Jensen: I'm not asking for the content, I'm just asking if we get a date for a date prior to the meeting, that we can have content for successful and useful meeting at that point.

>> My thought was the meeting should occur at the point where the meeting would be the most effective and recollected and absorbed in the process. I just don't want us to meet too early with the subcommittee and then the item itself languishes and when its picked up again the input of the subcommittee has been either forgotten or not as crisp because it had taken place months earlier. I just want a clearance to the process.

>> Commissioner Jensen: Thanks.

>> Commissioner Zito: Thank you, Commissioner Jensen. Did you want to report out anything that was discussed regarding the protocol?

>> Laurel Prevetti: Yes, thank you very much. Last week, the subcommittee did meet with the secretary to discuss some potential deferral criteria. One of the ideas that came forward was that we should be more explicit as to the reasons why staff and/or the applicant are recommending deferral. So that is something that you will be seeing on upcoming agendas. Incomplete clearance, insufficient addressing of the issues, things that are pretty substantive. Our lead times for public noticing are quite long so oftentimes it's hard to predict whether or not the applicant will have performed all their requirements in a timely fashion. Staff also wants to make it clear in terms of the different reasons under which staff only might recommend a deferral, so again, our whole goal here is just to be a lot more transparent around deferrals. And then we identified some additional criteria that the Planning Commission might want to consider in terms of its deferrals. And we talked at length about public outreach and some of the nuance around that. New issues that might be raised in public testimony, and the need to perhaps to do additional research before you felt you had all the information you needed to make a recommendation to the city council. So we're at the point where we will type up our notes, and send them forward to the subcommittee. There may be some refinements but we're hopeful that for the May 27th meeting, there will be actually a written report-out for the full Planning Commission to consider if the subcommittee is ready for that to occur. And that concludes staff report and I would just extend an invitation to others who might wish to augment my comments. Thank you.

>> Commissioner Zito: I would just say I think it was a very productive meeting. We sat for about an hour or so, and a lot of very objective and substantive comments I think were recorded, and I look forward to the report. Commissioner Kamkar.

>> Commissioner Kamkar: Thank you. I just remembered one thing, I guess. When we do not -- when we do not start hearing the meeting, I guess it would become a deary. When we do start hearing the meeting, then it wouldn't be called a deferral anymore, it would be called a continuance?

>> Commissioner Zito: That's right.

>> Commissioner Kamkar: That's one of the clarifications I learned, thank you.

>> Commissioner Zito: Okay, and there's nothing else on the agenda. There's a motion to adjourn. Second, all in favor? Okay, we're adjourned.