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City of San José Planning Commission hearing  
May 27th, 2009.

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 27, 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. Example, 4A, not PD 06-023. The procedure for this hearing is as follows: After the staff report, applicants and appellants may make a five-minute presentation. The chair will call out names on the submitted speaker cards in the order in which received. As your name is called, please line up in front of the microphone at the front of the chamber. Each speaker will have two minutes. After public testimony, the applicant and appellant may make closing remarks for an additional five minutes. Planning Commissioners may ask questions of the speakers. Response to commissioner questions will not reduce the speaker's time allowance. The public hearing will then be closed and the Planning Commission will take action on the 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, or prior to, the public hearing. The Planning Commission's action on rezoning, prezonings, general plan amendments and code amendments is only advisory to the City Council. The City Council will hold public hearings on these items. First order of business tonight is roll call. And please let the record reflect that all commissioner are present. Item number 1, deferrals. Any item scheduled for hearing this evening for which deferral is being requested will be taken out of order to be heard first on the matter of deferral. A list of staff-recommended deferrals is available on the press table. Staff will provide an update on the items for which deferral is being requested. If you want to change any of the deferral dates recommended, or speak to the question of deferring these or any other items, you should say so at this time. To effectively manage the Planning Commission agenda, and to be sensitive to concerns regarding the length of public hearing, the Planning Commission may determine either, A, to proceed with remaining agenda items past 11:00 p.m, 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, deferrals.

SPEAKER: Thank you, Mr. Chair. We have two deferrals, GP 08-04, a general plan amendment request to change the land use-transportation diagram designation from rural residential to low density residential. Staff recommendation is to defer to fall 2009

general plan amendment because this is not ready to be heard. Item B, CP07-081, conditional use permit to allow 4500 square foot addition, and that matter is being dropped per applicant's request. That is it, Mr. Chair.

COMMISSIONER ZITO: Thank you. Mr. Campos.

COMMISSIONER CAMPOS: Thank you, Mr. Chair. Move staff recommendation on deferrals.

COMMISSIONER ZITO: All in favor, opposed, seeing none, that passes unanimously. Item number 2, 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.

SPEAKER: Thank you, Mr. Chair. Yes, staff would like to briefly pull item 2A for a few of brief update comments, Mr. Chair.

COMMISSIONER ZITO: Okay. And I see that there is a speaker card on item 2B as well. I assume then we will essentially remove both items from consent and consider them as part of the public hearing. So to the public hearing, generally, the public hearing items are considered by the Planning Commission in the order which they appear on the agenda. However, please be advised that the commission may take items out of order to facilitate the agenda such as to accommodate significant public testimony or may defer discussion of items to a later agenda for public hearing time management purposes. A logistical item before we go forward on items 2A and B which were pulled. Item 3A, preliminary Alum Rock form based zoning design standards and guidelines. If there is no objection, we would like to move that to follow item 6 C for the purpose of consolidation and having one conversation on what is essentially a similar topic. So we have a motion. Is there a second? A motion and a second. Any comments, concerns? All in favor? Any opposed? Seeing none, okay. So changing the orders, we are moving three A past item 6C, to follow directly 6C. So now, back to the consent item, the consent calendar items, item 2A, PDC 08-042, a planned development rezoning from A(PD) planned development zoning district to A(PD) planned development zoning district to allow continued use of resource materials recovery after the closure of the existing landfill on a 70.3 gross acre site located approximately 1200 feet north Northwesterly, from Los Esteros road and Zanker road. Staff.

SPEAKER: The staff proposes a new 200,000 square foot building. This is not the case. They are not proposing a 200,000 square foot building. The rest of the project description is correct in terms of the continued resource, materials, recovery after the closure of the landfill.

COMMISSIONER ZITO: Are they proposing any new buildings?

SPEAKER: They're proposing minor buildings as part of this planned development zoning.

COMMISSIONER ZITO: Okay.

SPEAKER: And secondly, I provided a handout that includes two attachments, one is for the revised development standards for the planned development zoning. And with regards to that, I provided track changes in terms of what has been modified to the development standards and primarily, it's the first part of the development standards under service area. This planned development zoning is not proposing a service area and so this part of the development standards is irrelevant and that's why we struck it out. And thirdly, with regard to the circulating mitigated negative declaration, that has been circulating, we received a comment letter from the California integrated waste management board. And primarily, their comment was with regard to the proposed grading as part of this planned development zoning. And whether that will expose the presence of methane gas that is present at that time landfill. In response to that staff indicated that per the California integrated waste management board's recommendation, the condition of approval as part of the City's local enforcement agency will provide a conditional approval to the project in which the contractors working at the site will be trained with regards to the rules and also, I suppose as part of this project, and as indicated in the environmental document, there will be gas detection alarms in each of the three structures on the site as well to address this. And with regard to this comment, overall, all of these comments, the concerns have been adequately addressed in the mitigated negative declaration and none of this will cause any additional significant impacts to the environment that has not already been addressed in that this environmental document. That concludes staff report.

COMMISSIONER ZITO: Thank you, staff. Any questions, first off by the commission? Commissioner Cahan.

COMMISSIONER CAHAN: Thank you, Mr. Chair. I had -- I was could the staff give a little explanation on -- the proposal is supposed to shorten the onsite refuse disposal operations by approximately six to ten years, but it is also supposed to help -- it is supposed to enable the city to meet its more aggressive goal of 75% waste diversion by 2013, and a goal of zero waste by 2022. And I'm just -- those two things seem conflicting to me. So I just wanted clarification on that.

SPEAKER: Mr. Chair, the applicant may be better prepared to respond to that than staff.

COMMISSIONER ZITO: Okay. Can we defer that to the applicant and if not, we can re-ask the question. Okay. Any other questions of staff? None. Okay, applicant.

SPEAKER: Good evening, chair Zito, members of the commission. My name is Eric Shanehauer. The Shanehauer corporation represents Zanker Road Resource Management on this application. Since some commissioners are not familiar with our facilities, I'll share with you this information. So the broader perspectives, the city, as I'm sure you all

know, has adopted a green vision, and there are ten goals in that vision. Goal number 5 is to divert 100% of our city's waste to landfills. In addition to that broader goal the city has set a specific goal here in orange of zero waste which is defined as diverting 75% of our waste from landfills by 2013, and 100% by 2022. In addition, the city has signed on to the urban environmental accords to become a global, sustainable city. And those accords also call for 100% waste diversion by 2040. So that's the environmental context that we're working under. And this facility, which has been a landfill facility since the '30s, so it's been operating a long time, but has been both a resource recovery recycling facility and a landfill under our currently permitting since the early '80s. And what we're doing really is updating and modernizing our permits. Because when this was permitted back in the early '80s the primary function of sites like this was to landfill. Dump garbage and junk and bury it. And as you know, since the early '80s, in the last 30 years, we've evolved how we think about our waste, and now the primary goal is to recover and recycle materials and not bury it. So the primary purpose of the landfill is dumping and burying as the primary purpose of our property and recycling as a second ancillary function. And what we'd like to do with your support today is to make recycling resource recovery the primary function of this site. And landfilling will be a secondary function and will be a minor function for the site. So in terms of your specific question, the reducing the lifetime of the landfill is consistent, if you will, with the zero waste goal, because the zero waste goal is to divert everything from ever going into the landfill. So it doesn't conflict. The reason for the adjustment in the life span of the landfilling is this is our site plan, which is in your packet. This is the overall site. And right now, the remaining landfill capacity, most of it, is in this zone back here. And what we intend to do is actually not fill that. Not use it for dumping. And instead, we are going to move some of our major equipment for concrete and demolition debris processing into this lower elevation area, and the benefit to the community in doing that is that we're taking big machinery from being elevated 80 feet high up on this landfill mound and we're putting it down at a lower elevation where we can shield it aesthetically from the surrounding community and protect, contain noise and other issues in the operation of that equipment. So that's why the landfill capacity is being reduced, because there is a certain area where we are able to put garbage now but we are not going to do it now. So what's before you today is simply a minor adjustment to adjust our zoning to make resource recovery and recycling the primary function of this property going forward. If there are any questions, I'd be happy to answer those.

COMMISSIONER ZITO: That's great. I do see a couple of questions. Commissioner Jensen.

COMMISSIONER JENSEN: Thank you, Mr. Chair. Mr. Shanehauer, what happens with the methane that's generated as a byproduct of the waste?

SPEAKER: This particular facility doesn't accept a lot of organic materials and doesn't landfill a lot of organic materials. For example food waste doesn't come through this facility. So there isn't a significant amount of methane produced at this facility. But I could ask our staff if you want a more specific answer than that. It's not a primary issue at this site.

COMMISSIONER JENSEN: Well, I assume it's burned off, not recovered and reused?

SPEAKER: Paul will come down to answer that technical question.

COMMISSIONER JENSEN: And then while he's on his way maybe you could talk about for the areas that are no longer in use, you're right near Don Edwards. Are you going to engage in any habitat restoration or habitat preservation?

SPEAKER: Let's let Paul answer the methane question.

SPEAKER: Good evening, my name is Paul Angery. I'm the engineer for Zanker Road Resource Management, Ltd. The facility, like Eric said, began in the '30s as a typical landfill. It stopped as a typical landfill in the late '70s. When our company took over the operation we focused and were required to only deal with construction and demolition debris. So the fill that's out there for the last 30 -- almost 30 years is primarily just concrete, dirt, rocks, plastic, drywall, the type stuff that doesn't rot, and become very gassy. We do have to monitor for site for landfill gas, you know, generation. We do that. It's never been detected. We're required to monitor the perimeter and do monitoring on a three-year schedule and the local law enforcement agency which is the City of San José is involved in that. And if a gas issue becomes a problem we would have to collect the gas and manage the gas and probably since it would be a very small amount of gas we'd probably flare it off and burn it. But right now, there is not enough to have to even worry about it at this point. But if it does come up we would probably gather it and manage it probably through a flare. It's possible through energy and if we're doing it we might add it in plexi glass and use it in more beneficial ways.

COMMISSIONER JENSEN: Thank you.

COMMISSIONER ZITO: So as a construction byproduct would not be a significant part of your --

SPEAKER: I'm sorry?

COMMISSIONER ZITO: Wood, like studding.

SPEAKER: No, wood is very slow decomposing. You dig up a -- in your yard, a root will last for, you know, tens of 20s of years. Plus, wood is one of our primary products that we remove from the waste stream. So it's mostly like I say it's plastic it's carpet it's stuff like that where there has really not been a recycling market for, although those things are change changing and we're going after more and more all the time.

COMMISSIONER ZITO: I see no other questions.

SPEAKER: She had a second question about habitat. If you could repeat that question.

COMMISSIONER JENSEN: Sorry. You're right neck door to Don Edwards, the pretty stuff on my left here. Do you engage in any habitat restoration or preservation for those areas of the landfill that are no longer in use?

SPEAKER: The way our property is designed, and I expanded the plan here, our property includes -- includes 24 acres of wet land habitat on our own private property. So there is -- our property is in and of itself a major commitment to habitat permanently in this portion of the property. The active landfill side, I mean it's an active landfill, so there isn't any additional habitat activity on the active landfill.

COMMISSIONER JENSEN: Great, thank you.

COMMISSIONER ZITO: Commissioner Cahan.

SPEAKER: Commissioner Cahan: Thank you, Mr. Chair. So the large equipment you would like to move to the lower level, how are you going to get it there and move it in and out? Will it affect the neighboring wetlands in any way?

SPEAKER: No. Looking back at the site plan, once again, this is an existing land recycle facility, resource recovery facility. So it's all operating today. And we already have some of the activities I've talked about in this lower area. But some of this bigger equipment is located up on the higher portion here. So any movement of that equipment would be between this point and this point. And so it would all be internal on the property, on our internal roads. So it would have no impact on the adjacent habitat area whatsoever.

COMMISSIONER CAHAN: Thank you.

COMMISSIONER ZITO: Seeing no further questions, thank you very much.

SPEAKER: Thank you.

COMMISSIONER ZITO: Okay, is there a motion to close public hearing?

SPEAKER: So moved.

COMMISSIONER ZITO: All in favor, any opposed? Seeing none, staff, any further comments?

SPEAKER: No, thank you, Mr. Chair.

COMMISSIONER ZITO: Okay. Any questions of staff? Seeing none, looks like we have technical difficulties. Commissioner Campos. There we go. Commissioner Campos.

COMMISSIONER CAMPOS: Thank you, Mr. Chair. I'm ready to make a motion.

COMMISSIONER ZITO: Please.

COMMISSIONER CAMPOS: That we consider the mitigated negative declaration in accordance with CEQA, that we recommend approval of a planned development rezoning from A(PD) planned development zoning district to an A(PD) planned development zoning district to allow continued use of resource materials recovery after the closure of the existing landfill on a 70.3 gross acre site. As recommended by staff.

COMMISSIONER ZITO: Any comments? I see no hands or lights. Let's vote by light, please. Assuming that's not functional. Okay. Excuse me. Let's vote by hands. All in favor? Any opposed? Seeing none that motion passes unanimously. Thank you. All right, we can do it the old-fashioned way if we have to. We never let technology get in our way. Consent item number 2,B, CP 08-091, conditional use permit for the operation of social services agency in an existing office building on a 1.93 gross acre site, in the LI PD planned development zoning district located on the east side of Oakland road between Corie court and Bern court, 1530 Oakland road. Staff.

SPEAKER: Thank you, staff has no additional comments to make at this time. Thank you.

COMMISSIONER ZITO: Okay, thank you. We have a speaker card. A Daniel Romero. You have two minutes.

SPEAKER: My name is Daniel Romero. We have 360 apprentices that train to be a professional electrician. In the past we've had issues of vandalism, theft, we've had vagrancy issues in that area. And there's just a little concern over the conditional use permit from the social services agency. And just a question regarding what type of services will be offered from that location. There was just no information regarding that.

COMMISSIONER ZITO: Okay. And I made a minor mistake. Is the applicant present for this project? Yes, could I ask you to come down and, if you would like to, and make a statement about the project. Seems that there is a question about it, anyway. I apologize, I should have given you your first shot at discussing the project. So you'll have up to five minutes to make a prepared statement if you would like.

SPEAKER: Actually, we do not have a prepared statement. We were told that the application was submitted for approval. And we were just here to kind of like observe the proceedings but we're more than happy to let the people know about the project that's going to be there.

COMMISSIONER ZITO: Okay. Could you maybe just briefly describe the type of services that your project will be offering?

SPEAKER: My name is Ben Benito Castaneda, I am one of the directors for the program. What we have is basically a day program, a community-based day program for the developmentally disabled. I understand that we have a training facility behind that.

Our program operates Monday through Friday from 8:00 to 4:00 p.m. Basically what we do is, that we have some transportation vans. We would go around and pick up the consumers that are in the program and, from there, we would proceed to the different locations that are scheduled for the day. For example, if it's about going -- learning about the resources in the community, maybe we go to the library. If it's about skills training, we probably go to the bowling alley. Every now and then we have activities at that time site. Basic like a staging area before we actually go out. So during the day we may have maybe a couple hours that some of the people will be there. And we would be doing a custom activities like, for example, if the activity for the day would be selling stuff at the flea market, we would need a place where we can arrange these materials before we actually go to the flea market. And that's basically the program. The -- we would have staff that would be coming in during the day. Basically as they'll be the ones to operate the vans to pick up the consumers.

SPEAKER: My name is Leon Castaneda, I'm also one of the directors for the agency. And just to clarify, because some of the community members may not be aware of what developmental disabilities are. Developmental disabilities cover mental retardation. They cover people with seizure disorder, also otherwise known as epilepsy and cerebral palsy and I understand our neighbors' concerns about vandalism and whatnot but the type of social services agency we are, we do not serve the homeless population. Just to clarify. These are all adults and this is what developmental disabilities mean.

SPEAKER: My name is Marie rivera, one of the co-directors of the program. The only thing I'd like to add is the staffing ratio we have is basically one staff member to three consumers. So the ratio is very rich in terms of supervising the activities of the consumers that we serve. And we collectively as a family have been in the business for 20 years and so far very good track record with the regulating agencies that are in charge of this population. Thank you.

COMMISSIONER ZITO: Thank you. There are any questions of the commission? Seeing none, I do have one question. What do you anticipate that your traffic trips will be, you talked about vans going out and picking up your clients, and bringing them back to the facility, right? So how many trips per day do you anticipate, on average?

SPEAKER: On the average, usually in the morning, they all go out. We would have a fleet of about 14 -- 13 vans. We have a spare, just in case one needs maintenance which will be parked there overnight. Basically, around 8:00, all of them would be going out of the premises, about 12 or 13 of them. And during the day they'll be out in the community. Maybe about five or six during the day will be kind of like staggeredly coming back and forth. Basically if one of the consumers will be meeting with their social worker and their family, so that will be the place, that will be the time that they will be coming back to meet with the family. Or if would be like one van would need to stage their items for the flea market, they would come back about 9:00 or 10:00, and then leave again for the flea market. 12, 13 vans, two, three times a day, maximum three times a day.

COMMISSIONER ZITO: Round trips, essentially?

SPEAKER: Yes.

COMMISSIONER ZITO: And the vans stay onsite overnight?

SPEAKER: Yes, they would stay overnight.

COMMISSIONER ZITO: Your employees would park there during the day, and use the vans, and park them there overnight?

SPEAKER: Yes.

COMMISSIONER ZITO: Let me invite the speaker, Daniel Romero, do you have any further comments you'd like to make?

SPEAKER: No, just welcome to the neighborhood.

COMMISSIONER ZITO: Thank you very much and thank you for your impromptu ability to come down and help us. A note to a public. Just because an item is on consent doesn't necessarily mean it's going to be approved or not be discussed. So if you do have an item on consent and for those in TV land who are watching us and may have the same thing, it very well may be that an item gets discussed. So you should come prepared to discuss your item. Staff, any further -- first of all is there a motion? There's a motion and second. All in favor? Any opposed? Seeing none, staff any further comments?

SPEAKER: I guess the only comment is regarding the traffic when it was analyzed it was basically assumed based on the way they were running it, it would be kind of only peak hour traffic would be the staff coming and leaving which was roughly the equivalent of what kind of a standard industrial type use would be. So there was kind of no net increase in traffic counts as a result of this project. Thanks.

COMMISSIONER ZITO: So what you heard today is still consistent with what you thought? Okay, very good. We have some questions of the commission. Commissioner Campos.

COMMISSIONER CAMPOS: Thank you, Mr. Chair. I'm going to go ahead and put a motion out there and then questions can be asked as we're deliberating.

COMMISSIONER ZITO: Absolutely.

COMMISSIONER CAMPOS: That we approve a conditional use permit for the operation of a social services agency in an existing office building on a 1.93 gross acre site in the LI PD planned development zoning district as recommended by staff.

COMMISSIONER ZITO: I hear a motion and second. Do you want to speak further on your motion? Okay, I see no other lights. So are we functional? All right. So let's vote by light.

COMMISSIONER PLATTEN: Mr. Chairman, my screen is not functional, but please note I vote aye.

COMMISSIONER ZITO: Okay, can we put the rest of the results up? Okay, so that motion passes unanimously. Thank you. Maybe the technician can come assist. Okay. So we talked about the public hearing notice, and for the record, we moved item 3A to follow item 6C so that moves us to item 3B, north San José area development policy. Update to the north San José area development policy. Public hearing on the following items related to the north San José area development policy update. The north San José area development policy area consists of 4987 acres located south of state route 237, East of the Guadalupe river and generally north and west of Interstate 880, but also including land along both sides of Murphy avenue as far East as Lundy avenue. 1, public hearing on the proposed update to the north San José area development policy including the consideration of a resolution updating the North San José area development policy To, A, add capacity within the policy to allow for up to one mill square feet of regional commercial uses and up to 2000 hotel rooms outside of the core area, and to decrease the capacity for new industrial uses by 2 million square feet. B, amend the policy to facilitate the delivery of affordable residential units within North San José consistent with city goals for affordable housing. C, numerous other clarifying changes to facilitate implementation of the policy. D, allow the director of planning discretion to grant permit time extensions. Item 2, the approval of an ordinance Amending the north San José area traffic impact fee. 3, accept the north San José neighborhoods plan. Staff.

SPEAKER: Thank you, Mr. Chair. As indicated on the first page of the staff report, essentially there identified in the project description that you just read there is really two pieces that the staff is asking the commission to consider tonight and forward a recommendation to the city council. It's to amend the North San José area development policy, approve the ordinance, recommend approval of the ordinance to amend the traffic impact fee, and then lastly, to accept the North San José neighborhoods plan. As indicated in the background section on page 2 of the staff report, the commission, some of the commissioners may remember that there was an update provided to you earlier this spring in terms of these particular efforts. I think the main thing that changed recently or last fall was the fact that we had a project that was on file in North San José that needed some additional units. And so then, in the end of last year, in November-December, the city council, based on staff recommendation, wanted us to go forward, and essentially we needed to amend the north San José development policy to adopt an economic emergency amendment that would essentially allow an additional 500 units to be available during phase 1 for this particular project. And so that was really the key impetus for the amendment. Then, in addition, additionally, there was already the effort underway to essentially provide for the opportunity to have large-scale regional commercial uses in North San José. The original policy allowed for neighborhood-serving retail uses, but it didn't really make provisions for impact fees and how you would address large scale

regional commercial uses. So there was an analysis undertaken for that, and then also, to allow up to 2,000 hotel rooms. And so essentially what the amendment does with regard to traffic is, it creates an equivalency, so it provides for the conversion if you will of an amount of industrial square footage for trips and for the retail as well as the hotel rooms, and then, in addition to that, obviously the traffic impact fee ordinance needs to be updated and amended to reflect that. So the regional commercial square footage would be up to a million square feet, and then the 2,000 hotel rooms. Lastly, with regard to the North San José neighborhoods plan, this is essentially the implementation strategy. It was referred to as the implementation strategy previously in the updated report that came to the commission earlier this year. And essentially the neighborhood plan incorporates the guiding principles as established by the task force, as well as, I guess you'd refer to it as a performance strategy for how to attain the vision for parks and schools and so forth. And so it really provides supporting documentation to better articulate the vision for North San José and other components necessary up there to deal with the residential uses in the future. So those are really the three pieces that staff's recommending. We did include in your packet the underlying strike-out version of the policy, and again, the major change has to deal with the incorporation of the ability creating the equivalency for the large scale commercial and the other changes that had been identified by staff as we were implementing the policy. So with that Mr. Chair, we will include staff report and we are available for any questions. Thank you.

COMMISSIONER ZITO: Thank you, staff. Right now I don't see any lights but what I would like to understand is item number 1 here talks about allowing up to a million square feet of regional commercial uses. So for the sake of the record and for those who may not have read the policy, is that -- how much of an increase is that?

SPEAKER: Essentially, thank you, Mr. Chair. Essentially what we're saying with item number 1A is that in order to, for North San José under the area development policy, in order to conform with the mitigation measures and the traffic levels that have been projected previously, there would need to be a decrease in the industrial square footage that would be allowed to offset the large scale regional commercial. So in this case, as noted, the industrial uses would be decreased by 2 million square feet, and that amount of traffic is essentially equivalent to a million square feet of large-scale regional commercial and then 2,000 hotel rooms.

COMMISSIONER ZITO: So the million square foot of regional commercial was already essentially proposed, and this is --

SPEAKER: My understanding, Mr. Chair is that there have been inquiries if you will, we don't have actual applications on file -- we do, I'm sorry, we do have I think one.

SPEAKER: Just to clarify.

COMMISSIONER ZITO: Please.

SPEAKER: Previously, the policy actually did not allow regional retail period. It allowed the small neighborhood serving, I believe it was 1.7 million square foot of the neighborhood serving which was intended to be on the part of larger industrial or residential developments to serve them. We did get inquiries about larger kind of big-box retail, regional retail stores, and I believe we have at least one on file and, you know, some that we know are pending. So that was the reason that we went to add this into the policy. Essentially it is 100% increase in regional retail where it was not allowed in the policy before, where now it would be allowed.

SPEAKER: One more comment, Mr. Chair. This has been vetted quite extensively internally and the million square feet was a number that was really arrived at in conjunction with our office of economic development staff, in terms of how much was appropriate and might be necessary and could be accommodated in north San José. So it is a number that has some assumptions built into it. It wasn't a number that we just pulled out of the air.

COMMISSIONER ZITO: Thank you. I just noticed we do have a speaker card. So Commissioner Do, if you could defer, okay? And I apologize. Eric Shanehauer.

SPEAKER: Chair Zito, members of the commission. My name is Eric Shanehauer. Shanehauer Company represents Equity Residential, Weiss Corporation, and Thompson Dorfman in North San Jose. I just wanted to speak to the need for time extensions for already approved projects in North San José. What's before you tonight sort of addresses that but doesn't actually solve the problem. As I'm sure you're all aware we've gone through a period and are within a significant economic decline and more specifically we've seen a chance in the capital markets that finance Real Estate development. And unfortunately we in the industry don't foresee any significant improvement in those areas probably over the next 12 months or beyond. And therefore the wave of North San José projects that were approved by you all in 2007 and beyond are now coming to their expiration date this year. And because of the economic climate, it's going to be essential that the city, to keep these projects viable, grant extensions. And they need to be significant extensions of a period of, I believe, two years. Because we need to get beyond the current downturn in the capital markets and the economy, and get to a point where someone can responsibly pull a building permit. And people have made major commitments. I'll give you an example of Vista Montana, my client, have spent \$70 million to purchase the land. They've spent 15 million additional dollars to get through the city's building process. We are under building department review for building permits. So here is a public company, the largest Real Estate REIT in the world. They own 144,000 units, they're willing to make a \$400 million investment in our city. They've already spent \$85 million, and they cannot responsibly pull a building permit this year. It would be unfortunate for the city to create a business climate where you tell someone who wants to invest in the city that you either pull a building permit irresponsibly, or we revoke your permit. So we appreciate any support on extensions.

COMMISSIONER ZITO: Let me just ask you one question. Part of this discussion is item D which is to allow the director of planning discretion to grant permit time

extensions. Are you saying do you have a more specific recommendation or comment on that particular item?

SPEAKER: Well, it's -- yes. We wish -- we wish that the city, the staff would have been more proactive, and explicitly grant and direct the staff to allow two-year extensions for the first permit extension, for these projects. And so tonight that's not happening. It's sort of setting up a part 2, which I believe is in the works and coming, maybe, to city council the next few weeks. But I guess our request to the commission would be to suggest or recommend to the council to, more specifically, authorize two-year extensions so that people who are -- who have made and are planning to make bigger investments in the city, that they're not sitting on pins and needles for months and months and months, waiting to know whether their entitlements are going to be ripped from beneath them.

COMMISSIONER ZITO: So I'm glad you made a suggestion, and it is the purview of this commission to ask staff to consider that, or to pass on a recommendation to consider a tangible number, so that's why I asked you.

SPEAKER: And quickly. I mean, don't wait until December or January or even October. Quickly.

COMMISSIONER ZITO: I'm not sure when this is going to get before city council but I'll ask staff that question, as well.

SPEAKER: Anything else?

COMMISSIONER ZITO: I see no -- oh, yes, Commissioner Campos.

COMMISSIONER CAMPOS: Just so that we're clear, you're asking for those that have already had their initial approvals, is that correct?

SPEAKER: Correct.

COMMISSIONER CAMPOS: They've gone through PD zoning, they've gone through permit right there when the time starts ticking, those are the ones that you're asking for additional two-year permits or approvals, extensions, excuse me.

SPEAKER: I'm requesting that for my client's projects. I assume the others are in the same boat and would want that. But yes, the North San José projects that have allocation in North San José, they all have PD permits.

COMMISSIONER CAMPOS: So what you're saying is that when these came before us in 2007, the clock is ticking and they're about to expire?

SPEAKER: Exactly. Because PD permits in the City of San José are generally good for 24 months. So the ones you approve in 2007 are expiring beginning next month. I believe the first permit is due to expire in June.

COMMISSIONER ZITO: And just for the record while you are a very familiar face to us, Mr. Shanehauer, we would treat everyone the same, so it wouldn't be just your client.

SPEAKER: Okay.

COMMISSIONER ZITO: Thank you very much for that. Staff, any further comments?

SPEAKER: Yes, Mr. Chair.

SPEAKER: Did you have a question?

COMMISSIONER ZITO: I'm sorry, you want a motion to close public hearing? There is a motion and second. All in favor, any opposed, seeing none okay, I'm sorry. Staff do you have any other?

SPEAKER: Yes, Mr. Chair, thank you. With regard to some questions and comments that were raised. Firstly, this item is slated for council consideration on June the 9th. And hence, because of our logistical process to try to get something to the council with enough lead time, and also have a staff report in the planning commission packet, we did not include anything in here that gets into the issue of time extensions, because that was still being discussed while we were writing the council memo. But we needed to get you a staff report. So I think that we -- we as staff certainly appreciate and understand the concerns expressed by Mr. Shanehauer. I think one point that's important for background purposes is that typically the PD permits in San José would automatically -- well, would allow for two, one-year extensions. Obviously at the director's discretion but usually with a fairly administrative process. Specifically in North San José because of what I like to call the beauty contest nature of those projects, there were not the automatic -- ability to do automatic extensions. So therefore, once those PD permits expired, they would have to go through the process again. We didn't -- we intentionally didn't build in the mechanism if you will be able to extend those permits. And so staff is considering some various options and ways to proceed with the extensions. There are some other issues that, from a staff perspective, we're concerned about, in addition to the ones that obviously the applicants are concerned about. There are some projects that were approved that just sort of disappeared, for various reasons, probably economic. Some of the companies may no longer exist, and so one of the things that staff really wants to do, because another important point is the fact that the recent time extension ordinance specifically exempted North San José. So that's why we're calling it out here is because the other ordinance specifically excluded North San José. And the reason why, and why staff wants to proceed in the way that we think we'll propose to the council, is that we need to be able to fully assess what is the status of the North San José projects. Are there units that would be available for redistribution. We also want to be able to have some -- develop some criteria by which we can fairly assess the progress that's being made amongst all the projects, to be able to use our discretion, in terms ever who should be granted extensions and who should not. So there is an effort underway. We appreciate Mr. Shanehauer's comments and understand those, but we -- but we're working on it. We don't have anything more specific to propose to you tonight. What we'll be asking the

council I think is to provide some additional time for staff to do an assessment and then come back later on with criteria for that. But we appreciate that that needs to happen quickly and certainly won't wait until December or January. Last time, Mr. Chair, the first three PD permits do start to expire the end of June. I believe that if the council is so inclined the director the discretion to extend, probably those initial permits would be extended. That would be staff's recommendation. So then the permits would all be on a very similar time cycle and kind of level the playing field and allow everybody a little more time. I think that concludes staff's comments, Mr. Chair. Thank you.

COMMISSIONER ZITO: I think counsel has a clarifying comment.

SPEAKER: Thank you, Mr. Chair. There are really two different elements that are being discussed here tonight. One is that the director of planning already has the authority to extend the term of an unexpired permit. So if an applicant was granted a permit in 2007, and it was about to expire, but they came in timely and asked for an adjustment to extend the term, but for the language within the North San José area development policy that said that discouraged time extensions because each phase had a particular number of units, and the goal was to get those units built approximately the director already has that authority, and so the item on the agenda is really to allow the director to exercise that authority in North San José. And so that's what's on this particular item. I think what staff and possibly Mr. Shanehauer were also referring to is, what about permits that expire? We also have an ordinance that went to council, I think last week, to allow a reactivation of expired permits for a very limited period of time. And staff was referring to the fact that North San José was exempted from the ability to reactivate a permit after it's expired. And staff is also considering bringing forward an ordinance to amend the reactivation of permits to allow reactivation of permits in North San José. So one item is really, before the permit expires, to just allow the director to exercise his discretion, that he has in other parts of the city. And that's what's before you tonight. And then a separate item that you may see is to also allow a reactivation of permits that expired in North San José, for the same economic downturn and the ability to have those permits without having to reapply. So that one is not before you this evening.

COMMISSIONER ZITO: Thank you, counsel. And I think it's important for the Commission to understand, essentially where the typical city policy is as opposed to what the North San José development area policy is in extensions. And I think that's an important clarification that needs to be understood. And so what's before us today is to essentially allow, to grant permit time extensions consistent with what the rest of the city allows, if that's not –

SPEAKER: Yes, Mr. Chair, I think the way staff would characterize it is to amend the North San José policy to allow the director to exercise the discretion that we already have under the Municipal Code. Thank you.

COMMISSIONER ZITO: Okay. There are several questions. Commissioner Kamkar.

COMMISSIONER KAMKAR: Thank you, Mr. Chair. The numbers that our speaker quoted were some astounding numbers, you know, 70 million and then 15 million if I heard correctly for entitlement. So let's say the permits go ahead and expire, I guess one choice they have is to reapply, you know, and regain those permits. How much of that money do they have to spend again or is some of that, you know, I guess the plans or whatever that it has come up with, you know, they could reuse, right

SPEAKER: Thank you, Mr. Chair. I can't -- staff can't necessarily speak for what all of the costs would be. But certainly, if, under the current circumstances, if the permit expired and they were required to come back in, essentially they would need to re-file for a planned development permit and pay all of the application filing fees, as if it was a brand-new application. And so depending upon the number of units and so forth, you know, but it would essentially be starting over. Now, what other costs the applicant may incur, you know, there would be, you know, additional plans required and so forth. So I don't know exactly how much it would end up being but essentially it would be like starting over with the application filing fees for planning purposes.

COMMISSIONER ZITO: And as a note though, it is not the purview of this commission to talk about specific dollar amounts.

COMMISSIONER KAMKAR: But you know, not the specific dollar amounts but if they paid for let's say school fees or they paid for park fees they don't have to repay those, right? Those would remain as –

SPEAKER: Mr. Chair, that would be at the building permit stage.

COMMISSIONER ZITO: Later on.

SPEAKER: That would be further downstream from where we are at now. What would be helpful for the commission is that what staff is considering is the need again to develop some criteria that would apply equally to all projects that would assess how well our individual project's doing in terms of actually being shovel-ready if you will, are they moving towards implementation and ready to take full advantage of the allocations that they've received. And certainly one would be inclined to think, based on Mr. Shanehauer's comments tonight, that it sounds like they are trying to make good forward progress. How they stack up against the other projects, that's the relative aspect that we also need to consider.

COMMISSIONER KAMKAR: Thank you.

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

COMMISSIONER JENSEN: Thank you, Mr. Chair. You can talk a bit about the affordable housing item, 1D, I believe, and what impact that has on other areas in the North San José project?

SPEAKER: Thank you, Mr. Chair. Again, this was one of the charges that I think that the council laid out for staff, some time ago in terms of considering amendments. And so essentially, what the policy would be, would be amended to say, is that the projects in North San José would need to be consistent with whatever the other citywide goals for affordable housing are. Because of the particular way that the North San José development policy projects, because of the timing, there is an odd set of circumstances where you could end up with projects that really weren't providing affordable housing. And so this is trying to correct a gap that was created due to the timing of other changes when the area development policy was being created and then other changes were being contemplated city wide. So this is just saying that North San José projects would be subject to whatever the citywide policy is. Thank you, Mr. Chair.

COMMISSIONER ZITO: Thank you, Commissioner Jensen. Commissioner Do.

COMMISSIONER DO: Thank you, Mr. Chair. I would just like to have a better vision of what this regional -- this measure, regional commercial peace means. A million square feet I take it to be equivalent to a valley fair shopping center or something like that. Could you discuss in terms of pedestrian friendliness of such a project and relationship to transit and so on, so forth or is this going to be pretty much relying on automobile traffic for access? Thank you.

SPEAKER: Thank you, Mr. Chair. Again, the million square feet is in aggregate. It is not necessarily expected to be for one particular project. But I think it is safe to say it would be for big-box uses, think Lowe's if you will, something like that. Something larger regional drawing regional market commercial uses. And then certainly with respect to pedestrian friendliness and so forth, if you look at the guiding principles that are included in the neighborhood's plan as established by the task force, it's actually quite well done and very eloquently stated. In many respects it could be a testament to the current general plan 2040 update, I mean, in terms of the vision that's articulated. So certainly all of the usual urban design considerations would be included in our review of any particular project in North San José. We wouldn't make any particular exceptions for regional commercial uses there from anyplace else. Thank you, Mr. Chair.

COMMISSIONER DO: Thank you.

COMMISSIONER ZITO: Thank you, Commissioner Do. I see no further questions. I'd like to go back to the statement of a million square feet of regional, essentially replace and up to 2,000 hotel rooms, essentially replacing 2 million square feet of industrial. It sounds to me from this discussion that all this was contemplated earlier, back in '05, '06, '07. There were no numbers, no specifics put to it but now it's starting to solidify, is that it?

SPEAKER: Mr. Chair, I don't have all of that older history since I wasn't involved but my understanding is, I think it's really trying to correct an oversight. I don't think at the time that there was -- the thought that there might be this -- that this need or this potential for allowing, constructing the traffic impact fee to basically allow for this kind of a use,

and so really, that's what this is trying to, again, do is correct, you know, correct that gap and allow for that possibility. There's nothing prescriptive about this certainly. But it would just be to allow that opportunity, if it were to come forward. So again I think it's really just trying to correct an oversight, when the original policy was created. I don't think anybody -- I think the focus was more on, you know, the neighborhood-serving commercial retail uses and it hadn't really been contemplated for that large-scale big box.

SPEAKER: Laurel Prevetti: Thank you, Mr. Chair. Let me also just remind the commission that we have done studies that indicate that San José is severely underretailed and people especially in this area tend to go to neighboring cities to do their shopping. So by creating the opportunity for regional commercial within North San José, we can actually internalize trips and hopefully keep the residents shopping and the businesses shopping within the local area. So this is an enabling opportunity, and to the commission's long standing interest to pedestrian friendliness, to the extent that we are seeing more urban forms of stores such as what Target has done down at Oak Ridge, et cetera, if those opportunities present themselves, then staff will certainly work with our applicants to make sure that good design is followed through. Thank you.

COMMISSIONER ZITO: And I appreciate that. My, I guess you could say where I'm coming from with this questioning is of course more focused of the removal of 2 million square foot of industrial. And my question to put it more succinctly, was that initially contemplated? Because as we know, the city council has taken a stand on industrial conversion in general. And I realize that North San José had always been somewhat exempt from that, that moratorium if you will. And I was just wondering is this 2 million square foot of exchange something that was already contemplated? I fully understand and I know we've got economic development represented here tonight. We definitely want to get the tax dollars in here. So that's not the question I've got but more on the matter of, if that 2 million square foot had been contemplated and if not, where will it be made up, if at all? On cue.

SPEAKER: Mr. Chair, members of the commission, thank you very much. One item that was detailed technically that we need to include here is that we really won't lose any square footage. The pool or the credits that come back when residential units are converted will be more than what is the 2 million if you just do the math about what is in the pipeline. So in terms -- and that's a very important element we didn't include and needed to in explanation of the memo. But the -- that you wouldn't lose job capacity as a result of this. You'll be, as Laurel and Darryl had said, adding an opportunity as projects come up. And one project which is very much in the works is At 1st with Brocade, the 850,000 square feet, and the potential inclusion of Target with the rest of about 70,000 square feet of pretty well-designed neighborhood-serving retail. And that Target store will make it tremendously easier to lease and get good-quality retail at the remainder.

COMMISSIONER ZITO: Okay. I appreciate that. And so, overall, you've allayed my concerns about losing the job creation lands. That's really the industrial conversion elements and issues that have come up before. So appreciate that explanation. Commissioner Campos.

COMMISSIONER CAMPOS: Thank you, Mr. Chair. I'm going to put a motion out.

COMMISSIONER ZITO: Sure.

COMMISSIONER CAMPOS: That we consider the addendum to the environmental impact report and find it in compliance with CEQA. Recommend to the city council, 1, adoption of the proposed amendment to the North San José area development policy, 2, approval of an ordinance amending the North San José area traffic impact fee. 3, adoption of the North San José area development policy neighborhoods plan, as recommended by staff.

COMMISSIONER ZITO: There's a motion and second. Do you want to speak on your motion?

COMMISSIONER CAMPOS: Well, just to add, I think that, you know, given these dire economic times that we are facing now, that you know, we could forward on as a FYI to council, you know, sooner the better to be able to allow the ability in North San José to extend or to revise expired permits, and thank you for counsel explaining that. If you go in before your permit expires, I guess on a case-by-case basis, it will be considered. I certainly think that we need to be or we need to lose the impression that San José is not business-friendly and maybe to some extent maybe it is true. But we need to get to where we are business-friendly and you know and really try to attract businesses to our city, now that this could be the best time to do that. Thank you.

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

COMMISSIONER PLATTEN: Thank you, Mr. Chairman. I will be opposing the motion, not because I don't think it's necessarily a wise decision, but base I want the staff to carefully convey my concerns to the council on this issue. I expect the motion to pass. I think the chair was correct in pointing out the issue of industrial land conversion, and although I understand the response of the office of economic policy, I want the council to carefully consider a number of things. Number one, while it has been told to us both tonight and in the past that statistics generated especially in this particular area of the city shows that residents are spending less than 100 cents on dollars here on retail. We don't have any comparative statistics and have never been presented with comparative statistics suggesting that the relationship between moneys spent retail in San Jose and out of San Jose by San Jose citizens is any different than the experience in other jurisdictions. So although that statistic keeps getting thrown in our face, I don't know if that's a valid comparison or not. We also have been presentlied time and again, way back since Commissioner Zito and Commissioner Campos and I first joined the commission, with comparative data from cities such as Santa Clara, which have a much higher industrial use to residential use relationship than we do in San José. Thirdly, I just want the commission to be very -- council, rather, to be very careful when we talk about job development. Jobs are not plastic. A retail job, because of the nature of that industry, is not the same value in terms of a tax component or an economic multiplier effect as an industrial job, as a productivity job or a production job, making people who make things

as opposed to sell things make more money and spend more money. And therefore the multiplier effect is much greater. I've been very pleased with what staff has put forward with respect to as an example the Brocade option in terms of North San José development. And I just want to make sure the council clearly thinks out the long term vision. It's not simply industrial versus nonindustrial or industrial versus retail. We have to consider that. I know the envision 2040 folks are taking a look at that carefully. So I'd just like to have those thoughts commented and conveyed to council and for that purpose and that purpose alone I'll be voting against the resolution.

COMMISSIONER ZITO: Thank you, Commissioner Platten. Commissioner Cahan.

COMMISSIONER CAHAN: I too will be opposing this because I concur with Commissioner Platten's points. I think that they're extremely important. I do want to express my support with allowing the director the discretion to grant permit time extensions. I believe that that's important. And again, the only reason why I will be opposing this is for the same reasons that Commissioner Platten will be opposing it.

COMMISSIONER ZITO: Thank you, Commissioner Cahan. I don't see any more lights. I very much appreciate Commissioner Platten's underscoring my concern and curiosity in regard to the industrial conversion. Staff had said that it is essentially an expected tradeoff and there would be no net loss in the sense that it is something that has been somehow calculated into the overall equations, is how it translated to me, if you will. And so I take that on faith, and going to the city council, I think Commissioner Platten is right to essentially raise the red flag there, so council does consider that point very seriously, and really go back over their numbers, and make sure that their vision of industrial job preservation is, in fact, met. So just again, I appreciate Commissioner Platten's comments, and as usual, he's able to elucidate that much better than I have. Commissioner Jensen.

COMMISSIONER JENSEN: Thank you, Mr. Chair. I also would like to support Commissioner Platten's comments, and add to that that I think big box retail is probably not the appropriate direction, in the event it does go retail anyway, for a wide variety of reasons. I will, however, be voting in support of the motion, because I think that Commissioner Platten has done an excellent job of outlining the reasons for his concern, and I'm sure staff will convey that completely and fully to the council when they get this. And I don't want to throw the baby out with the bath water. But if there were a motion to split this item, then it might make it easier for us. Thank you.

COMMISSIONER ZITO: Seeing no such motion, I see no further lights. Let us vote by light on this, please. And that motion passes 5-2 with commissioners Platten and Cahan opposed. Item 3C. PDC 08-035. Planned development rezoning from LI light industrial and RM multiple family residence zoning districts to A(PD) planned development zoning district to allow relocation of one national register eligible house demolition of five structures and construction of up to 50 residential units and approximately 4,000 square feet of commercial/retail space on a 1.08 gross acre site located at the southwest corner of Edwards avenue and South 1st street. Staff.

SPEAKER: Thank you, Mr. Chair. My name is Sally Zarnowitz, I'm a project manager in downtown development review, and then project manager for this project. The project at the aforementioned location, as outlined in the staff report, has several main issues and those are related to historic resources on the site, the interface with the existing neighborhood and the relationship of retail space to parking. Staff would also like to note that the front setbacks from Edward avenue on the development standards shall be six feet rather than seven feet. Regarding historic resources, the Mission Revival Style Liguori Meats building and the Neoclassical Cribari House appeared individually to qualify as structures of merit. And standard measures have been included to address that loss, in light of the general plan goals of relocating or locating mixed use projects along transit corridors. Staff would like to note that staff worked with the applicant to design the rear interface of the project to reduce the impacts to the new setting for the distinctive early 20th century eclectic Craftsman with Mission Revival and to National Register Oldham-Long House. Regarding neighborhood interfaces, the modern project has been designed to be compatible with the scale of all interfaces by keeping the higher density mixed-use product closer to South 1st Street while proposing courtyards on top of a podium and lower-scale townhouse units abutting existing residential uses to the rear of the site. And regarding retail space and parking, the guidelines -- while guidelines recommend a retail tenant space depth of more like 45 feet as a minimum, this project is in substantial conformance with that, in that the smallest spaces are 33 feet in depth, while increasing most of the retail spaces to a 50 foot depth that is closer to industry standard. And in order to provide this depth the parking requirement for the commercial component of the product has been reduced. From a practical standpoint, the six onsite garage parking spaces designated for the retail uses would most likely be used for employee parking, and since the street frontages have a pedestrian friendly scale, and the retail would not likely be a regional draw, staff feels that it would be appropriate to provide some onstreet parking towards meeting the overall commercial parking requirements. And the project also can take advantage of alternating parking arrangements with residential parking. So with that, this includes staff report, and staff is recommending approval. Thank you.

COMMISSIONER ZITO: Thank you, staff. Is the applicant available? Okay. Could you please come to the podium and state your name and you'll have up to five minutes to discuss your project, or just answer questions if there are any.

SPEAKER: Hello, my name is Kelly Melendez, and I'm an architect and agent for the developer, Dean Hansen, who is in the audience today also available to answer questions. I would like to briefly state I'm very excited to be part of this project. We have attempted to be as proactive in the neighborhood as we can. We have been to several SNI meetings and have spoken to neighborhood and have been trying to react and incorporate their comments into the project. We have had number of sessions with the planners over the last number of months to address and incorporate the historical needs. It's actually a rather -- it's a challenging site. The site has an interior corner which makes addressing the low-density neighborhood adjacent to it a challenge. We're trying to meet the high-density requirements for the project in order to make the project funding work out. But we've been striving to make this a high-quality project. We are in a transit-oriented

district. So we do feel that the parking compromises are well suited for this project, and we are also trying to accommodate much of the neighborhood's request for local retail. We have accommodated actually a little more than 5,000 square feet of retail and have been requested and are hoping to meet the needs of the neighborhood of local coffee shops or those sorts of items to serve the neighborhood. If there's any questions, I'd be happy to answer them.

COMMISSIONER ZITO: I see a question from Commissioner Kamkar.

COMMISSIONER KAMKAR: Thank you, Mr. Chair. I'm looking at your development plans, and one of the things that caught my eye was your parking proposal. I guess it seems like you're proposing 50 tandem units.

SPEAKER: 52, yes. They are equally matched up with the number of two-bedroom units so they are not split between ones and two bedroom units, they are tied directly to two-bedroom units. So the parties that share the two bedroom units would have that dedicated to tandem parking stalls.

COMMISSIONER KAMKAR: But the ratio of the tandem units that you're proposing, you know, if I'm, let me say, can -- you're proposing -- what's the total number of units -- what's the total number of parking spaces?

SPEAKER: Actually, that's a very good catch. It's something that planning and us have been working towards. In very recent revisions to the plans we've increased the retail depth and sacrificed some parking to make that happen. So we have been working back and forth try to meet the intended parking requirements. And so what we do, we do have what is needed is to -- to do a negotiation between the amount of retail that is going to be within the parking structure, versus the amount of parking for retail which is allowed on this -- to use the street parking area. So if we do dedicate each tandem unit to the two bedrooms that are required, then we do need to incorporate all of the parking that is within the parking structure. So that the housing units can incorporate, can utilize all of that. However, as Mrs. Zarnowitz suggested, that that offset parking can be used for the retail in sharing for employee parking with the date, with -- during the offtime of the day use for the residential parking slots. And that would be for five stalls to offset to still meet the prior parking requirements.

COMMISSIONER KAMKAR: Yeah, but my question is regarding the number of tandem units that you're providing in relation to the total number of parking spaces, do you have that figure for me?

SPEAKER: There's 52 tandems, and there's 26 two-bedrooms that that will accommodate. Is that the question?

COMMISSIONER KAMKAR: No, it's what's the total number of parking spaces that you're providing?

SPEAKER: There's 79 total park places for the residents currently proposed.

COMMISSIONER KAMKAR: And 52 of them are tandem?

SPEAKER: Yes, that's correct.

COMMISSIONER KAMKAR: So that's approximately 60, maybe 65%?

SPEAKER: Yes, correct. And there are a number of two-bedrooms who don't -- which are not assigned to tandem parking, and then the single bedroom units are assigned single stalls.

COMMISSIONER KAMKAR: Right. I guess my concern, you know, I like the retail you're providing, I like everything you are providing. It's just number of tandem units because in my opinion they don't work. You know it's a feel-good measure and you like to think of it as working, but you know my experience has been, that many will not work, you know. 10 to 15%, you know, I think makes sense because you're providing flexibility for people, but you know, talking about 60, 65% here. And it's just -- I can't support so many tandem units, you know, for a structure. So I just wanted to throw that out.

SPEAKER: Uh-huh.

COMMISSIONER KAMKAR: My next question was regarding open space. You can point out on any of your plans or drawings that's in front of us the open face requirement and how you're meeting those?

SPEAKER: Yeah, we have exceeded the open space requirements. We have provided -- there's private open space for the majority of the units in the form of balconies. Because it is a busy street and a busy area, we have been attempting to focus energy on developing public open space. We have, in the ground floor level, we have a children's play yard, a tot lot yard, and then on the podium level which is the first level of residential, we have three major court yards. We have a large interior courtyard where the units face onto each other.

COMMISSIONER KAMKAR: You can refer to the page number so we can follow?

SPEAKER: Sheet 5B. Sheet 5B, there's courtyard number 1 which -- it's about 4500 square feet of open space. We have courtyard number 2, which is intended to work in concert with the multipurpose room, which would be usable for the tenants. And then have an -- it's an associated outdoor space for events or parties or other organizations like that. And then courtyard number 3 is open to all residents. And I'm going to see if I can see that. It's about 2500 square feet, I can't see it on here. And it's an attempt to try to give as much open space as we can. And it also accommodates a very -- a very specific intent to pull the building away from the lower scale residential. So we are trying, in the majority of the perimeter locations, to keep the podium one-story level at the -- adjacent

to the single story structures and then where the buildings step up to the three stories and four stories, we've pulled that 20 to 30 feet away from our property lines. So that courtyard number 3 and courtyard number 2 were developed to specifically address the need of the changing in mass and scale in the neighborhood. So those are our open space intent -- intentions to meet the open space requirements. The relocated home, we have under the guidance of a local historical consultant, and as well as under the guidance of the Planning Department, have attempted to really cordon off the area for the relocated home to create as much of a single family environmentalist to maintain the historical context for that home. Because it has the potential for historical status. And then in the attempt to accommodate that, that has its own private outdoor yard in the rear. It also has its own very standard single family home side yards, drive, a separate parking structure, so that it has -- it can maintain its character. And then we've also attempted to -- we've brought down the third story of the adjacent structure which is about 60 feet from the property line to three stories instead of four to try to create the openness around the structure.

COMMISSIONER KAMKAR: Okay, thank you for that. My next concern would be regarding the energy efficiency but you know, I'm not going to monopolize the time so I'll give some of my colleagues who have questions, if not I'll be back.

COMMISSIONER ZITO: This is the rezoning. Commissioner Jensen. Thank you, Commissioner Kamkar.

COMMISSIONER JENSEN: Thank you. And I know this is the rezoning, but since we have the architect right here in front of us, you don't have a better opportunity to ping them with energy efficiency.

SPEAKER: I can have a sit down now.

COMMISSIONER JENSEN: So as you're moving forward, and as you're working with staff, I'd just like to really encourage you to build in sustainable design, adaptive reuse, which you're already doing with the relocated historic house, which is great. Green rooftops, passive solar, active solar, low E, whatever kind of sustainable, recycled materials, low VOCs, and if possible, for any kind of landscaping that you're doing, finding ways to use recycled water if that's at all possible.

SPEAKER: It's one of the reasons I'm excited to be a part of this project, is that the developer came to us with a commitment to making this a LEED project, a LEED certified project. We've been working -- we've already contracted through the Davis Energy Group. We've already submitted a preliminary LEED form for this project. We are, like you commented, in the zoning phase, so we have put forward a list of energy-efficiency items that we want to try to obtain. As we move into the PD phase and into the building documents we will solidify our commitment to specific items. But as I said, the developer has come to us with that intent, and that is part of why we're excited to be a part of this project.

COMMISSIONER JENSEN: That's great. And then as somebody who's cycling every day this month for some unknown reason, I'd like to encourage you with your retail to put a bike rack out in front, instead of hiding it somewhere. So that people can park their bikes out front and feel safe.

SPEAKER: That is a great idea. We have incorporated -- we have almost doubled the amount of minimum required bicycles. The minimum required bicycles for the tenants is 13, and we're offering 24 -- not quite double. Because we are -- there's, you know, five bus lines, there's the nearby rail. We are trying to not offer less parking, but to encourage alternate methods of transportation. But it's an excellent point. We have not considered bicycle parking for the retail, so we will do that. And then on the comment on the recycling, we have already incorporated separate recycling chutes and containers for both residential and the retail, and have started preliminary discussions with, I forget, the green, the garbage pickup company, with how that will work and how pickup will work of the two different products.

COMMISSIONER JENSEN: Fantastic, you're way ahead of us, thank you.

COMMISSIONER ZITO: Thank you, Commissioner Jensen. I see no further questions. There is a motion to close. Thank you very much. Motion to close public hearing. There's a second. All in favor? Any opposed? Seeing none, staff any further comments?

SPEAKER: Thank you, Mr. Chair. I would like to respond a little bit to Mr. Kamkar's Commissioner Kamkar's question regarding the tandem parking. I know this is an issue that's been brought up on many other projects in the past. One thing that's important to note, I think that the issue has kind of first came up when we were dealing with sort of small garden town house or row house type projects and we had private garages and those private garages were tandem and the concern that there's obviously an inefficiency, and staff won't argue that tandem isn't as efficient as side by side. We would do side by side if we had the ability to do that. Because this is not a private project, as the case of many of the past projects we've seen, we don't have the problem of back tandem space being used for storage and potentially displacing parking. This is a little bit different, because in an more urban application like this, in a common parking garage all the parking space are open. And so while that may not entirely satisfy Commissioner Kamkar's concern, I think that it does help the situation as compared to private garages. I think that that probably is understandable. Because the spaces are not likely to be used for anything other than parking. If anything, they would sit idle and not used, as opposed to used for storage and displacing cars out into the neighborhood.

COMMISSIONER ZITO: Thank you, staff. Refresh my memory. My understanding is that any tandem parking would be allocated to a specific unit and not shared between units, is that correct?

SPEAKER: That's correct. Normally, the parking space are 1.8 park spaces. That assumes that they're not Tam tandem, that assumes they're side by side. In this case, there is no really way to share a tandem parking spot, if a development is going to use

tandem parking then really the parking requirement for a 2 bedroom unit has got to be 2 per unit, not 1.8. You have to up it so that both of those spaces are shared by the same unit.

COMMISSIONER ZITO: And just for the record, I've certainly known cities that do have tandem and sometimes triple tandem parking spaces that are shared between units or among units. So that makes it quite an interesting logistical exercise.

SPEAKER: Another option that we could look at doing is -- and I know that this commission has seen this on some other projects recently on the Alameda, where we used parking lifts.

SPEAKER: Commissioner Zito: Right.

SPEAKER: And that was done -- you know, and that's something that could be done as opposed -- as to an option, to tandem, that would maybe potentially actually allow the retail depths of some of some of the shallower spaces to actually be increased. That would be a fairly exhaustive change. We haven't really been through that with the applicant. The down side to that is that the ceiling height would have to be made a little bit taller to accommodate the lifts, and staff does have some concerns about the height of the building, particularly next to the adjacent single family. And so they've moved the building mass forward to try to increase that, but we'd hate to go back and do something that would add another four feet to the height of the building.

COMMISSIONER ZITO: And I certainly didn't want to propose that we have contaminate den either. But they do that in some other cities. Commissioner Do.

COMMISSIONER DO: Thank you, Mr. Chair. I would like to suggest to staff to take into consideration at other development stages. One has to do with the setback along 1st Street, and I understand the issue -- I understand the desire to have zero setback, or have very little setback, but I know that there's another project that we are going to be discussing tonight with the Alum Rock Street zoning issue where we're trying to widen the sidewalk. And I'm just wondering if there is any kind of consideration for widening the sidewalk in the future which along first street, which it seems to be a similar kind of street and could you use such an enhancement for pedestrian traffic and so on, so forth. So I understand it has other implications in terms of reducing commercial space depth or possibly park and all of that but that's one issue that I wanted to bring up. The second one is that I wonder if, to animate the facade, especially along first street a little bit more, right now it looks a little bit flat. And I understand that it's only at the zoning stage. There's some consideration for allowing balconies to intrude into the setback area, to allow some variation on that facade. The last comment has to do with the existing character of some of the structures, especially the commercial structure that is right up -- up against the sidewalk. That I think that you described that as a mission revival structure or something like that. And I think that some images such as that are highly applicability for this project. And it would be nice if that could be retained somehow,

rather than -- rather than San José that is fairly modern and fairly, you know, without a clear style that is being shown on the rendering. So those are my three comments.

COMMISSIONER ZITO: Thank you, Commissioner Do. Commissioner Jensen.

COMMISSIONER JENSEN: Thank you, Mr. Chair. So this project is nearly doubling what the current zoning is for the area. The current zoning is 12 to 25 DU per acre, and we're going to go with 46.8. And one reason we're doing that is because there is a case of exceptional design. So I was wondering if you could share with us what the exceptional design components are.

SPEAKER: I think as outlined in the staff report, the relationship to the adjacent neighborhood, stepping down, creating courtyards, having a smaller third story town house unit at the rear, and I think the architect touched on that, as well. I think also, the facade along 1st Street creating store fronts that relate in proportionate least to that street. The -- overall, the proportion of the projects are carefully considered and they function again both as a commercial -- as a mixed use project you would want it to do, and also at the scale of the residential on both higher density at 1st street and stepping down to the adjacent neighborhood. Also, the use of the historic resource and the relocation of it, while required under CEQA, is also done in a very careful way that addresses the context of Edwards Avenue. So I think those are some of the points.

COMMISSIONER JENSEN: Okay, so I would actually consider those normal. When you're trying to put a project such as this next to a residential, we often have step-downs required, and as the relo and the reuse of the historic house is mandatory, that doesn't seem to be exceptional. So I share Commissioner Do's concerns about the image provided to us. Recognizing, of course, this is not the design phase, I would encourage you to work on the design of the building so that it didn't have such a large, boxy, bulky feel on 1st Street, and find some articulation. I think that I'd like to commend the architect and the applicant for working with the Washington Area Community Coalition and meeting with them on more than one occasion. It's a wonderful, wonderful group, and thank you for working with them. And to commend you also for the relocation of the historic building, and thank you for anticipated our green requests and going with LEED certification. That's really highly admirable. And the exceptional use of bike parking that you have in the parking garage. And I recognize there's a problem with tandem, but I like the bike parking. But I would really encourage you to look for some kind of exceptional design components. I'm not sure I share Commissioner Do's request for balconies. This is in the flight path, and I know that the rest of this neighborhood has had a long, challenging battle with the airport. So I'm not sure I could share that, but with that, I am prepared to make a motion.

COMMISSIONER ZITO: Okay, please.

COMMISSIONER JENSEN: Consider the mitigated neg dec in accordance with CEQA. Recommend approval of a planned development rezoning from light industrial and RM multiple family residence zoning districts to an A(PD) planned development zoning

district to allow relocation of one national register eligible house, demolition of five structures, and construction of up to 50 residential units and approximately 4,000 square feet of commercial/retail on a 1.08 gross acre site as recommended by staff.

COMMISSIONER CAMPOS: Second.

COMMISSIONER ZITO: I hear a motion and second. Anyone speaking any further on this?

COMMISSIONER JENSEN: Just to say that -- I've said enough, I've said a lot. I'll just complete by saying, you know, we're going to use exceptional design to put 50 units on a slightly more than 1 acre parcel. And I think that being in conformance with residential design guidelines does not constitute the use of exceptional design. So I would strongly encourage you to find something in the facade development that would help it. Thank you.

SPEAKER: Thank you. And staff would like to clarify that that's 5,350 square feet of retail. So whether the -- that's reflected in the staff report and in the MD, just to be clear on that recommendation, thank you.

COMMISSIONER ZITO: So instead of 4,000 it's --

SPEAKER: 5,350.

COMMISSIONER ZITO: So we'll amend the motion to include that clarification, if that's okay with the maker.

COMMISSIONER JENSEN: That's fine. I'm just reading it straight out of the --

COMMISSIONER ZITO: I understand.

COMMISSIONER JENSEN: Thank you.

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

COMMISSIONER KAMKAR: Thank you, Mr. Chair. I just wanted to say a few words about the comments from staff regarding tandem parking. You're absolutely right, you know, because it's more open, and it's not in the private property, it's not going to be stuffed with clutter. But I don't think there's anything stopping one from parking a vehicle that doesn't work there. I don't think there is anything city can do about that. So that's one of the reasons. The other item is, I'd like your suggestion you know in talking to applicants regarding those lifts and see how that can be incorporated. And if that makes circulation or access any better, and if it makes the building four foot higher, so be it, you know, we're in the general plan 2040, that's direction the city's going to grow. I mean, and so I think we have to be open to that. With that said, I like the project. Everything's great. I just think the tandem is just way to high of a percentage for me to

support. So as much as I'd like the LEED and as much as I like everything about the project, the tandem's just too much for me so I couldn't support the project. Thank you.

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

COMMISSIONER CAHAN: Thank you, Mr. Chair. I too am very enthusiastic about your design plans to meet environmental improvement sustainable design. Thank you very much for including that. I do want to make sure I went on the whistle tour and we looked at some great developments that were near transit. However, some of the areas were really not conducive to the pedestrians actually getting to the residential units. And I just wanted to make sure that the overall plan in this area is conducive to pedestrians being able to reach all of the transit that is available in that area. Thank you.

COMMISSIONER ZITO: Thank you, Commissioner Cahan. I see no other questions but I have one for the staff. You can elaborate a little bit more on the historic preservation aspect of this project? It seems there are two additional structures of merit but only one is going to be preserved in any way, shape or form.

SPEAKER: Yes, thank you. The city, as you know, as the commission knows, has General Plan policies around preservation, and those are to some extent to consider structures of merit in the development process. And that is weighed against other goals that the city is considering through the entitlement and the development process. And so while structures of merit, they're not considered historic resources under CEQA, the Oldham-Long House is considered a resource under CEQA, it's eligible for the National Register, so a highly significant resource. And that is the one that is actually required to be relocated in order to mitigate that impact. And again, as the others are not -- in order to balance this goal are not proposed for preservation onsite they will be offered for relocation. That will be in a newspaper, 30 days minimum, on Websites and there will be also documentation which will be provided to history San José and also an offer for salvage which is also consistent of course with LEED and with our seed program for demolition. So there are considerations for those structures that would not be given to -- necessarily to structures that did not qualify for the inventory at all.

COMMISSIONER ZITO: Okay. Kind of going along the line of exceptional design, et cetera, you know essentially invoking the two-acre rule, I understand one of the major considerations is because of its location near a major transportation corridor, and that's really why doubling the density essentially doubling the density is being considered to the extent that it is. But we are giving up a little bit of the historical character of that neighborhood, even though you are keeping the one home. Being one of the old-timers on the Commission, it brings me back to some of the first applications that came before us when I first joined. And there were a few that had historical merit. And the one thing that we'd like to see is that there was more, how can I say, consideration of that historical significance inside. So maybe not saving the two other homes, but making it more of an integral part of the, how can I say, the character of that development. Maybe naming, you know, a portion of the project in honor of Cribari or Liguri, maybe having some plaques or some historical data or maybe in the shared rooms, some sort of a subject

matter on the historical significance of that site. So I really would strongly recommend those kinds of things, I think, to totally just kind of erase it. And I understand the way things go is you put it in the paper for 30 days, and if nobody takes it, you know, the bulldozer eats it so there's not much you can do about that. So I think preserving the historical nature of the neighborhood is very, very important. And even though the two are only structures of merit and don't meet the national register criteria, especially considering we are making the exception with the two-acre rule, I think we do need to pay more attention to the historical significance. There is a motion and a second. And there are no further questions. So let's vote by light. That motion passes 6-1 with Commissioner Kamkar opposed. Okay. That brings us to the Planning Commission spring 2009 continuation of general plan amendments. And item 5 is the general plan consent calendar. We do have –

SPEAKER: Commissioner Platten: Mr. Chair, absent any speaker cards, I will move for adoption of the consent calendar.

COMMISSIONER ZITO: Okay, so there is one speaker card for Item 5C, which we will pull.

SPEAKER: Commissioner Platten: Very good. Move adoption of remaining consent calendar.

SPEAKER: Commissioner Zito: Okay, that would be 5A, GP 08-07-01 and 5B, GP 08-T-09. There is a motion and a second on General Plan Consent. Any other questions, comments, concerns of the commission? All in favor, opposed, seeing none that motion passes unanimously. Item 5C, and that is GP 08-08-02, general plan amended to change the land use transportation diagram designation for very low density residential to low density residential, five dwelling units per acre, on a 9.1 acre site located on the Northeast side of San Felipe Road, approximately 800 feet north of Silver Creek road and the terminus of Grand Oak Way. Staff.

SPEAKER: Thank you, Mr. Chair. The proposed General Plan amendment to change the land use designation from very low residential to low density residential is consistent with the policies of the 2020 general plan. Specifically the growth management strategy as the change would facilitate infill development within an urbanized area. The housing major strategy is the change will maximize infill housing opportunity and at the same time be compatible with the surrounding development pattern and the residential land use policy number 9 as the change in density will allow for the existing development pattern in the surrounding neighborhood to be carried over to the subject site. For these reasons, planning staff is recommending approval of the proposed general plan amendment. This concludes staff report.

COMMISSIONER ZITO: Thank you, staff. Commissioner Cahan. We have a speaker card on this. Do you have a question of staff?

COMMISSIONER CAHAN: I do have a question. Thank you, Mr. Chair. The sign that was posted at this location said that it was for 17.98 acres and for 22 homes. Could I get clarification on that?

COMMISSIONER ZITO: Thank you.

SPEAKER: Thank you, Mr. Chair. I think that what happened is, there was a recent rezoning on this site, and so I think that that's the sign that Commissioner Cahan was seeing, is that we just recently rezoned the site for the front portion, and so I think that's the sign that you saw. I'm getting a nod.

COMMISSIONER ZITO: Okay, okay. Is the applicant available?

SPEAKER: Chairman Zito, members of the commission, my name is Mark Lazarini. I'm with Dow Properties. This General Plan amendment will build on a PD zoning approval that we received in January 2007 and a PD permit approval that we received in May 2009. And to the sign, we were negligent in that we did not update the sign for the current application, so we apologize for that. This general plan amendment will allow us to complete the development of this site that is consistent with the East Evergreen hills development policy, several of the general plan goals and policies that are identified in your staff report. Furthermore, it will help us to implement the PD zoning application on file. That is consistent with the understanding that we have with the community on the buildout of this site so that it is most compatible with the character of this neighborhood. Consequently the general plan amendment has the support of the neighboring community, has the support of city staff. We ask that the Planning Commission certify the mitigated neg dec for this and support staff's recommendation for this general plan update. Thank you.

COMMISSIONER ZITO: Thank you. I see no questions of the commission. Okay. We do have one speaker card on this item. Bonnie Mace.

SPEAKER: Thank you, Mr. Chair. I'm Bonnie Mace, and I represent the group of homeowners on the Meadowlands Cal Oak Creek side of the project. We've been working with the developer for three years now, since February of 2006. As Commissioner Cahan stated, the first part of the project was currently rezoned for 15 houses, and we're now looking at the back part. We support the general plan change from two units to five units, though we have three comments. One concerns a memorandum of understanding between our community and the developer signed in December of 2006. The second concerns density, the third concerns road configuration. So let me just talk about this briefly. It is a very complex project. In 2006 we signed a memorandum of understanding with the developer, with the input from staff. Staff was with us every step of the way understanding how this was working. We understand the memorandum is not legally enforceable, but we expect that it will be politically blinding upon the council. And what it states is there will be no more than 35 units overall on the entire 17.98 parcel. That means 15 in the front, 20 units in the back. Currently what the developer is applying for is 20 units in the back. That is 6 units that had previous

allocations and 14 units that would be new allocations, with a maximum of 20. We understand that a five dwelling unit per acre would allow potentially more, but the developer doesn't want more, and in fact this would be a density of 3, which is in conjunction with the rest of the neighborhood, which is semi rural. So in terms of density, we hope that you will continue with this policy of allowing 20 units which is what he has applied for. The third issue I want to address very briefly, and you will get this at the rezoning hearing in June, when it comes back to you in June for rezoning, is the issue of road configuration. Currently the only issue that is really on the table from the community perspective is how the road is going to be configured. There are several variations, one of which includes a potential cut-through. I don't know if you can look at the map above you, and I might run out of time here. The problem is, currently this is pasture land, and there is zero traffic on this pasture land. Obviously, it is pasture. A potential cut-through road would be potentially be a shortcut from Cal Oak Creek, which is on the south, to the Meadowlands, which is on the north. This cut-through could potentially bring through 100 houses of traffic through that little area. So what we would like is if it could be possible is for staff to at least do a traffic analysis to let us know what the potential -- am I out of time? Potential is for traffic coming through. Thank you very much.

COMMISSIONER ZITO: Okay, I see no other questions but I have a question for you. Please help us understand a little bit more about this memorandum of understanding. And how it was arrived and pain some of the discussion behind that.

SPEAKER: There was a memorandum of understanding, it went from February 2006 approximately until December 2006. A group of homeowners about 15 homeowners on the meadow lands side and about 20 homeowners on the Cal oak side, met with the developer for a period of time to negotiate it. It is on the public record, I hope that the city council will will look at it. Because it doesn't only concern 35 units, it also concerns aspects like riparian and other things. Staff was involved at every step of the way, so it is not something that surprises them at this point.

COMMISSIONER ZITO: Okay, so regarding your street cut-through, there isn't much in the staff report that discusses the street, because this is only a GP change. But is it essentially, if you'll look at the general plan pictures on the second page of the staff report, would this be essentially a continuation -- and my eyes aren't the best here -- Grand Oak Way?

SPEAKER: Correct. There's several configurations, and it would be a continuation from Grand Oak Way through the pasture land, either terminating in a cul-de-sac or going out to San Felipe. Those are basically the options.

COMMISSIONER ZITO: I see. And what is the preference of the neighbors?

SPEAKER: The neighbors prefer no cut through, except for emergency vehicle access, obviously if you have to get a fire engine or something like that. We have a private driveway that can facilitate that. But we prefer no cut-through primarily because of

speeding, and the fact that all the California Oak Creek from that side has a shorter distance to go through that, than to go all the way around to San Felipe, putting all that traffic through the middle of the pasture, well what is pasture now.

COMMISSIONER ZITO: Thank you. I see no further questions. Motion to disclose public hearing? Wait wait, sorry. Give the opportunity for the applicant to say, I see a motion that he's not interested. In making any further comments. There is a motion to close public hearing.

SPEAKER: Second.

COMMISSIONER ZITO: There's a second. All in favor, any opposed? None. Commissioner Kamkar.

COMMISSIONER KAMKAR: Thank you, Mr. Chair. Got a question for I guess our counsel. Is there anything we can do to make that memorandum of understanding more binding?

SPEAKER: Well, at this point we're only at the general plan stage, and what proposals the developer may have made to the community is one thing. But the developer is free to apply, I think as one of the speakers noted while they recognize it is not legally binding on the city, it's something that they want to put into the public record so that the decision makers can at least see what the developer has promised the community. So no, it's not legally binding on the city. Certainly not at the general plan or the rezoning stage, because those are legislated actions. And this is a private arrangement or agreement with the applicant and the community.

COMMISSIONER ZITO: Anything further? Commissioner Cahan.

COMMISSIONER CAHAN: Thank you, Mr. Chair. I have concerns about continuing development in this area after our conversation at our environmental meeting prior to this meeting, the discussion was about not developing as much in the rural outskirts areas and doing nor infill projects. Part of the uniqueness and draw of this area is that you have housing units and then you have rural area and then more housing units. So it's a nice mix. And I'm just concerned about us losing this lovely pasture land, and once it's gone, it's gone. I'm concerned about allowing up to five dwelling units. I understand that there is a private agreement, but there is no legal binding to not building up to that capacity, which I think would be too much in this area. And I'm not sure that I can support this motion or when the motion comes up. Thank you.

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

COMMISSIONER CAMPOS: Thank you, Mr. Chair. I'm prepared to make a motion.

COMMISSIONER ZITO: Okay.

COMMISSIONER CAMPOS: That we consider the negative declaration in accordance with CEQA, and recommend to the city council approval of the general plan land use and text amendment request as described above as recommended by staff.

COMMISSIONER ZITO: I hear a motion, and I hear a second.

COMMISSIONER CAMPOS: And I just wanted to further speak on this, and Commissioner Platten and the chair, I mean, we saw this what -- we have been seeing this over the past maybe three, four, five years. And certainly what they've come up with to this point has been an example of how the developer and the community can get together and come out with a product that everybody's happy with. And for that, I made the motion. And I think that since this has been something that's been in the pipeline for so long, considering our -- the presentation this afternoon, or you know, earlier this evening, you know, how I'm looking at that is, okay, from here on, we should be looking at, you know, obviously we should be focusing on infill. But I think this has -- I mean they've been working on this for a number of years. And certainly, both interested parties, the neighborhood and the developer, have demonstrated a willingness to try to get this done. Thank you.

COMMISSIONER ZITO: Thank you, Commissioner Campos. Yes, I recall this quite well, and I remember when Ms. Place came up and spoke about this when this first came up. And our concern at that time was, because of lack of flexibility I believe at that time, the applicant came up and essentially front-loaded the project, because the whole project if I remember correctly was 21 units and they put 15 on the front or maybe more than that and two on the back, essential. And we said whoa whoa whoa, we have to be careful about that, because then they can come back and rezone the back end and put a whole lot more units on there. And essentially I am also very appreciative of the applicant working with the community. I know there were a couple of years working with the neighborhood and doing quite a bit to meet their needs and work with them. So it's definitely a case study in how the applicants and community should work together. My only concern, and I'm still giving it a little shot, is when you do the GP change it goes with the land. And so the one thing we have to take into consideration is even though there is an MOU and even if we memorialize it by saying, for instance, and I believe counsel can correct me if I'm wrong, it has been stated before, not that it's binding but we can say, you know, I might say, I'll support this motion because of this MOU convinces me that the right thing is going to be done, right? So it's memorialized but there's no real legal bite there. You can just say this is the terms that I considered this and would accept that. So that could be essentially put into the record, right?

COMMISSIONER CAMPOS: Perhaps if I could just add to my motion, since that would be a legislative decision, that we --

COMMISSIONER ZITO: Just a recommendation.

COMMISSIONER CAMPOS: Yes, we ask council or recommend to council that they consider making it more binding, the MOU.

SPEAKER: Commissioner Zito: Counsel.

SPEAKER: And again, we're only at the general plan stage. As it moves forward there may be additional opportunities to impose conditions, maybe when it comments forward but now would not be the time.

COMMISSIONER ZITO: I would just say with five units to the acre, I think the net on this particular piece of the property would be six, almost seven acres, is that it, out of the nine? So if you were to -- if it were to build out to the full J.P., it would be more like, what would it be like, 9 times 5 is 45, I'm sorry, yeah, I mean, so it would be more like seven times that, so 35 units on that that back portion? Staff, I'm sorry, putting you on the spot here to get your calculator out.

SPEAKER: I can't -- thank you, Mr. Chair. I can say, I don't have a calculator here, but the maximum density of this site and the front part of the site over would be 3.28 dwelling units per acre, 7.73 net acres, with two units to the acre and 6.5 net acres with 5 units to the acre, which equals 35 units in total.

COMMISSIONER ZITO: So a total of 35 is the maximum they could build if we approve? If we -- not approve, but recommend.

SPEAKER: With blending the densities.

SPEAKER: Mr. Chair, I think one other comment, just to add, not that again -- that it is binding, but just to remind the commission that we do have an actively pending zone planned development rezoning on file currently, which would be coming forward later in the summer. So essentially we do have that minimal amount of assurance that the project that would be coming forward, at least at this point, would comport with the density and the comments that have been made tonight. Thank you.

COMMISSIONER ZITO: Appreciate that. For my -- well, to improve my recollection and maybe even educate me a little bit, these are actually two separate parcels, is that correct? The front parcel, which was already considered, and then we're considering a back parcel, adjacent parcel?

SPEAKER: Thank you, Mr. Chair. They are actually one legal parcel. The entire site is one legal parcel. We're only proposing the general plan amendment on the rear portion of the site. So if you look at page 3 of your staff report, it sort of outlines the entire site, and then the portion that the general plan amendment is on.

COMMISSIONER ZITO: Okay. You'd think, after seven years, I'd have this down. If this is one parcel, how you can have two GPs?

SPEAKER: Mr. Chair, if I can add, we can actually have that split and it's not uncommon especially in hillside areas to have large parcels that have multiple general plan destinations. Generally speaking, when one comes to zoning and certainly

development permits, we would want those to more carefully follow the lines of assessment.

COMMISSIONER ZITO: So are there actual assessor parcels, that associate with the two GPs? One parcel?

SPEAKER: One parcel.

COMMISSIONER ZITO: But where do you draw the line, if you will? How do you determine where the 5 starts and the 2 -- you know.

SPEAKER: Thank you, Mr. Chair. The engineer for the project drew the lines so the density would make sense. They were in conformance with two units or across the area. And the density worked out on that piece where they already have a 15 unit approved project. The rear of the property will have the five units per acre. And if you blend the properties, it will come to 3.28. It would mask calculation to determine how much acreage.

COMMISSIONER ZITO: Okay, so essentially when they build, they are allowed to blend the densities, so that you could, essentially, when you look at the two quasi, or virtual parcels, you may have more than two on the front and less than five on the back, but together that's how you're reaching this essentially 3 units to the acre?

SPEAKER: That is correct.

COMMISSIONER ZITO: That you're telling me is a maybe not common, but a standard way of doing things.

SPEAKER: That is correct. There is language in the general plan that allows the blending of densities over an entire parcel with one project. I would like to point out that planned development rezoning for the project will be over the entire property, not just a portion of the property.

COMMISSIONER ZITO: So we won't see this in pieces coming forward?

SPEAKER: No, you will not.

COMMISSIONER ZITO: Okay, that's reassuring. Note to new commissioners: You learn something new every day.

SPEAKER: Laurel Prevetti: Mr. Chair, if I may.

COMMISSIONER ZITO: Certainly.

SPEAKER: Laurel Prevetti: If it's useful to you, I also just wish to remind the commission that our land use designations, when we talk about two units to the acre or

five units to the acre, those are maximum. So it's up to five. And it's really at the planned development zoning phase that the number of units are set. Just because it says 5 doesn't mean there's a presumption that the developer is going to get if full five.

COMMISSIONER ZITO: I understand that but often the portion that's two, because it's blended they're going to get more. That's kind of the special feature of this particular application which is interesting. I do have one more question about riparian. It seems like we've had a lot of other riparian concerns on this back part. But there is none on the front part of the calculation?

SPEAKER: At the planned zoning stage there will be considered for that, there will be a setback from that creek.

COMMISSIONER ZITO: Okay, thank you. Commissioner Do.

COMMISSIONER DO: Thank you, Mr. Chair. My kneeling is you're a little bit, continuing suburbanization of the city. And to me, I think they're the only two ways to develop the city which is either build at a much higher density, which is obviously not appropriate to this site or to try to preserve the character of the site. But at the same time, 15 units it's not inconsistent with what's happening adjacent to that. I just wanted to make that comment, thank you.

COMMISSIONER ZITO: And one other clarification, if staff can help. Remind us of what the -- given the two in the front, it's two in the back now, if I'm not mistaken, right? So what would be the blended -- if we -- if this did not pass, our recommendation would leave it to how much total for the -- how many units for the blended parcel?

SPEAKER: Thank you, Mr. Chair. They would currently get 15 and -- 21 units on the site overall.

COMMISSIONER JENSEN: So 21 versus 32.

SPEAKER: Right, what they currently have approval for. There's an approved planned development zoning for 21 units across the entire site.

SPEAKER: Commissioner Zito: So it's 21 versus 32. Help me to understand how --

SPEAKER: 35. It's 21 versus 35.

COMMISSIONER ZITO: I'm sorry? 35, okay. But the -- I'm sorry, did the MOU say a maximum of how many?

SPEAKER: 35.

COMMISSIONER ZITO: Oh, it does say a maximum of -- there it is. How does this work with the Evergreen development policy? What part of this would be actually credited against the pool?

SPEAKER: Mr. Chair, I believe it's the 14.

COMMISSIONER ZITO: The difference?

SPEAKER: Yeah, I mean, if you go back to the comments that Ms. Mace mentioned earlier, there's an existing allocation of six, and now, with the new policy that's in place, they'd get the additional 14.

COMMISSIONER ZITO: So it would be 14 units that would be credited against the 500 pool, and the traffic impact fee would only be assessed against those 14?

SPEAKER: Well, the new traffic fee would only be assessed against the 14. The prior six would be under the old policy, and so they would still be paying traffic impact fees, but it would be under the old policy, I would presume.

SPEAKER: Actually, as point of clarification regarding the allocation, it's actually 13 units of allocation that we would be drawing up on the pool. Because when the original planned development zoning was done, there was actually a credit given to a house which had historically been located on that site. I think there was still remnants of the foundation. We gave it credit for that. So there is actually 13 being drawn from the pool, not 14.

SPEAKER: And Mr. Chair, I should also clarify that with the new rezoning, we believe that the new fee would be imposed on all of the units because they are in fact rezoning, like they are now.

COMMISSIONER ZITO: So you're changing what you had said before?

SPEAKER: The allocation is still the same. It's just which that fees would apply, I think, to all 20, all the 20 units, all of the new units, I believe.

COMMISSIONER ZITO: For this site?

SPEAKER: Yes.

COMMISSIONER ZITO: So the 20, not the 35?

SPEAKER: Correct, yes.

COMMISSIONER ZITO: Okay, so not just 13, it would be 20 that would be paying the new TIFF? Okay, yeah, there's a lot of complexities in the Evergreen development Policy, knowing how much is being credited against that, so I appreciate that. I see no

further lights. So if we would vote by light. That motion passes 6-1 with Commissioner Cahan opposed. That leads us to the general plan public hearing. First item is GP 08-10-01. General plan amendment to change the land use/transportation diagram land use designation from a medium low density residential, 8 development units per acre, to a medium density residential, eight to 16 development units per acre, on a .85 acre site located on the East side of Almaden road, approximately 300 feet north of Redmond Avenue. Staff.

SPEAKER: Thank you, Mr. Chair. A mitigated negative declaration was adopted for the proposed project on May 26th, 2009. Planning staff has responded in writing to comments received from the Santa Clara Valley Water District. Before the end of the public review period. The Water District comment letter and staff's response were handed to you at the beginning of this meeting. The comments contained in the letter did not affect the conclusion of the mitigated negative declaration that there are no significant environmental effects from or to the proposed project. The proposed general plan amendment to change the land use designation from medium low density residential, 8 dwelling units per acre, to medium density residential, eight to 16 dwelling units per acre, will allow for an increase in residential density on the subject site from six to eight units. A development of this type would not achieve compatibility with the existing land use patterns. Planning staff recommends denial of the proposed general plan amendment because the increase in density is inconsistent with the goals and policies of the San José general plan in that the proposed amendment would significantly change the neighborhood character and would not enhance the existing neighborhood. Additional comments were also received and handed to you at the beginning of this meeting, and all of the letters were in opposition to the proposed project. A community meeting was held to discuss the general plan amendment on April 28th, 2009, and the neighbors expressed concern over the proposed increase in density because it would not be compatible with the existing neighborhood. Specifically the development at the proposed density would have lot sizes that are much smaller than the surrounding neighborhood. In addition, there was much concern about how the subject property would be accessed. The neighbors have indicated that the subject site, along with undeveloped properties to the north and south, should have jointly planned access that does not occur through Fleetwood drive, but directly off of Almaden expressway. The Fleetwood neighborhood does not support the proposed general plan amendment if it accesses the subject site current -- occurs through Fleetwood Drive. Staff will continue to work with the neighborhood, the applicant, and various city and county departments and agencies as to how this site will ultimately be accessed at the planned development zoning stage of the project. Please keep in mind that the issue before you tonight is whether or not the subject site should be approved for an increase in density and not the access to the site. Finally, for the reasons stated, Planning staff recommends the Planning Commission forward a recommendation to the city council. This concludes staff report.

COMMISSIONER ZITO: Thank you, staff. Is the applicant present? Please approach the podium and state your name. You'll have up to five minutes.

SPEAKER: Thank you, Mr. Chair, members of the commission. My name is Jerry Strangess. I represent the applicant, Michael Roberts Construction. I want to be able to first say that in reviewing the staff report, as the applicant, we have a lot more in agreement in what staff has presented than we have in disagreement. And so in setting that aside first, clearly the issue of access, we've worked long and hard on, we had told the neighborhood we would expend resources, money, energy, to try to resolve those issues, working with staff we have. Your professional staff is here and I think they can address the steps that actually took place there. But we do supportfully the staff recommendation in the report as to why and how access to this site should be done. We really -- I have here with me our architect, Anthony Ho along with our engineer, Melissa Lander from HMM engineers. There are a number of folks from the community that want to speak, and what I was planning on doing is keeping my comments brief and would like an opportunity after, in rebuttal, to address some of the issues that the community addresses. It really comes down to really, one disagreement with staff. And it's, I think, a pretty minor issue, and it's really the definition of compatibility. Our application that's on file right now for our PD zoning is for eight units. Under the existing general plan, we can probably get somewhere right around seven units. So it's not going to make or break the City's housing policy as to, you know, the difference in what we're asking for here. What I would ask this commission to consider tonight is to really allow us what would be some flexibility as we go forward in evaluating some of the issues staff has raised in our PD zoning. Real typical issues some setbacks, height of the building, square footage. Those issues are going to be worked through when we come back to you, and hopefully in a few months on the actual PD zoning. We probably have more in agreement than we have disagreement there. And by allowing the change of the general plan, which accommodates our zoning that's on file which is 9.4 units to the acre, the existing general plan is eight units to the acre. So we need that little bit of flexibility and the only way we get it is by changing the general plan. So compatibility is really the focus. You know, we're proposing single family, detached residential units. The lot sizes would be smaller than what the existing neighborhood has. But I would remind you that from a pricing standpoint, we're going to be at or exceeding the value of the existing neighborhood, primarily because we will have new product, and the existing neighborhood is 35, 40 years old. So with that I'll just defer to the public and would reserve comments at the end, unless there's fully specific questions the commission has right now.

COMMISSIONER ZITO: Thank you, Mr. Strangess. I see no questions at this point. There are several speaker cards. We have a question. Commissioner Platten.

COMMISSIONER PLATTEN: One question. I went out and looked at this site because, although I'm familiar with Almaden Expressway, Mr. Strangess, this is a peculiar site, this is a peculiar triangular piece of property. So if I understand your position correctly, you want the new designation to give you sufficient flexibility just to get you over the hump in terms of what you think property values pencil out as; am I correct?

SPEAKER: Yes, sir.

COMMISSIONER PLATTEN: Okay. My question to you is, I'd like you to address this in the context of responding to the staff recommendation. This is a transit corridor, there is a preexisting older neighborhood, as you've pointed out. I looked at the staff report, and I looked at the property, and it seems to me what you've got on paper, at least developmentally, obviously the actual plan itself would proceed after any GP amendment, if that's adopted. Seems to me that your development proposal is essentially a buffer from this -- from the transit corridor, Almaden Expressway, to the preexisting homes with some high-density housing. I don't see how that's not compatible with already existing housing. Can you just address that? It sounds to me what your proposal is, is in fact compatible.

SPEAKER: Commissioner, if I understand the question, because of the location of our site, it acts as an automatic buffer between the -- and you're correct, I think it does that. And we've tried to be sensitive to the existing neighborhood directly to the north of us, which is at a lower density than what we're proposing. But there's a map here, if I can, this map, if you look at just to the south of us, there's a development that actually is a higher density than the --

COMMISSIONER PLATTEN: Right.

SPEAKER: -- area to the north. So there is sort of a natural transition there. We've been looking at this -- the property owner that is the actual owner of the property, Ron Woodrum, Phyllis Woodrum, they've owned the property for almost 12 years now, and a lot of options, and they've tried to be sensitive to the community and the neighborhood and do something that makes sense with the neighborhood. I think the neighborhood concern -- and I'll let them speak for themselves -- is primarily an access issue, where we're trying to deal with the flexibility that we need with the request tonight for the general plan change.

COMMISSIONER PLATTEN: And on the corridor, if your GP goes through, and you get that flexibility, you are right across the expressway from a commercial establishment, retail establishment.

SPEAKER: That's correct.

COMMISSIONER PLATTEN: Okay. I just wanted to see if I was reading your argument correctly. Thank you.

COMMISSIONER ZITO: Thank you, Commissioner Platten. As I mentioned, there are several speaker cards, and you'll have an opportunity to come back and address us afterwards.

SPEAKER: Thank you.

SPEAKER: Commissioner Zito: There are four, so I'll call up all four speakers, and if you would just queue up, and as you come up, state your name. Bill Heller, Allison

Dougherty, Charles Smith, and Francis Wright. You will each have two minutes. So Mr. Heller.

SPEAKER: My name is Bill Heller. I live at 6191 Clover Hill Drive which is at the entrance of the access that's proposed for this project. We are against the zoning change just because of density. We believe that higher density is not a -- we understand in order to make a project work, that you want to have more houses on the properties that you are trying to develop. But that should not be at the sacrifice of the existing neighborhood and its quality of living, okay? Number 2, I don't think that the houses that they are proposing are consistent with the houses. Most of the houses are one-story houses. There are some two-story houses, but the lots are much bigger. They're two stories plus a loft and they are very small lots. So we don't think that that's consistent with the existing properties. We're actually opposed to any development that uses access down our existing Fleetwood Drive as an access to the property. We believe the correct access is to work with the County and get the access from Almaden Expressway. And there's many, many examples of access from Almaden Expressway that have already been done, including the county, the parks, the garden center, the veterinary clinic, even a public street access from Clover Hill Drive from Almaden. There is plenty of examples of access from Almaden expressway. Please note that this property is one of four adjacent properties that will come before your panel for development. Your panel and the Planning Department have a opportunity -- a unique opportunity to plan ahead for the access for all four of these properties. If you take these as a group and work with them, and they work with you, then we can resolve quite a few of the problems. Because basically, we know that this property wants to be developed, and should be developed, but shouldn't be -- we shouldn't have to sacrifice our quality of our neighborhood just so that somebody can develop the property and make money. They all knew they had the property. They all knew it needed to be developed. It's -- and of course now, to say look, the only way I can make my money, you know, as much money as I want, is to pack more houses in and in existing streets. I would say based on comments on earlier plans, this is not an example of developers and owners work together --

COMMISSIONER ZITO: Mr. Heller, I'm sorry, your time is up. But I do have a question for you.

SPEAKER: Yes.

COMMISSIONER ZITO: The way it's currently GPed they can do seven units as it stands now.

SPEAKER: Yes.

COMMISSIONER ZITO: Mr. Strangess says they want the flexibility to do eight units. I'm just going to ask you the obvious questions question, what is the difference? And don't say one unit.

SPEAKER: Well, based -- one of my comments is that we don't feel -- we are against anything that uses our streets as access to the property. But we believe you're packing just an extra house in there. Why not just put in seven; what's the difference?

COMMISSIONER ZITO: It's a fair question either way.

SPEAKER: Yes.

COMMISSIONER ZITO: But it sounds to me that your statement overall was you'd rather not see houses there, period.

SPEAKER: We would rather not see houses that are not compatible with the neighborhood and use an existing small street to -- and you remember, on the entrance of the project. So I already see all the traffic for the neighborhood. Every single car that goes in the neighborhood goes past my house. Now you're going to add another third to half the number, again, number of cars that go past my house.

COMMISSIONER ZITO: Sure. I'm just going to make a statement, it's not a question.

SPEAKER: Sure.

COMMISSIONER ZITO: And something that staff had mentioned as the precursor to this decision. The commission's purview is to discuss the land use in the matter of the number of units. It is not nearly the time to discuss access. Where the streets are going to be, and that sort of thing, it's just not there yet. All right? So my only point for you, and for the other speakers -- which by the way we uncovered four more cards, so those of you who thought you were left behind, we found you -- is that overall, we could sort of consider that. But the real question before us, you know, is it seven units, or is it eight units? That's what it comes down to. So at the zoning stage, at the PD stage, if it does move forward to that, then access as far as where the street is, that's certainly a viable question.

SPEAKER: Yes.

COMMISSIONER ZITO: So just so you know when we make our decision, the weighing on that is not going to be that significant.

SPEAKER: May I make one point?

COMMISSIONER ZITO: Certainly.

SPEAKER: Actually, it occurred to me that this is kind of a red herring. So they're throwing this out to say, look, let's see if we can get eight, you know, and of course, once we get this ball going, then we can bolt through the rest of it. So we say, look, okay, we'll go for seven, but we're going to do something else. But I believe it might be just a red herring. Who knows? But -- and I believe they could have worked with the

community. We didn't know anything about this again until the time we had the first community meeting. Nobody talked to us. We've been very active on the first one of these developments and they know how to get a hold of us. Leslie has spent a lot of time, right? They know how to find us, and they did not spend any time at all getting hold of us.

COMMISSIONER ZITO: Let me ask that question then. What was your notice? Did the applicant have a community meeting with you, and did you feel –

SPEAKER: We did, it was with -- as we got the notice, I don't know like I felt he presented it based on trying to work with us. It was presented and said, this is what we're doing.

COMMISSIONER ZITO: But you did get notice and you had an opportunity to meet with the applicant and staff.

SPEAKER: Uh-huh. But there was no sitting down and saying, what would you like here?

COMMISSIONER ZITO: Thanks very much. Okay, Allison.

SPEAKER: My name is Allison Docherty. I'm a resident of fleetwood drive. I understand the issue is only one of the prospect of changing the land use. That said, I would like to support the staff's recommendation to deny the change. I kneel that this gives us a unique opportunity to deal with the four parcels, that it is only at this point in the process that there is the leverage to involve the city, the county, the Planning Department, the residents the other than and the developer and have some leverage so that we can find a solution to the problems that will make everyone happy. I don't think that any of the residents are against any development. I think that the question is, if you consider the four properties together, it has a different impact than if we do it one at a time as we -- you know, as you are required to do. But that this is an opportunity in this denial for us to look at the entire piece. And that's all.

COMMISSIONER ZITO: Okay, thank you very much. Ma'am, Ms. Docherty, there is a question for you. Commissioner Kamkar has a question for you.

COMMISSIONER KAMKAR: Thank you, Mr. Chair. So if you could please help me understand. If let's say a city and a county were able to work out a safe access from the Almaden expressway, then would your concern about density go away?

SPEAKER: Yes.

COMMISSIONER KAMKAR: Okay. So the main issue is the access, and you know, because the access hasn't been worked out –

SPEAKER: I mean honestly, I would rather see the houses that are proposed be more in keeping with the existing nature of the neighborhood. But I think that our overriding concern is the access.

COMMISSIONER KAMKAR: Access is over, okay, thank you.

COMMISSIONER ZITO: Thank you, Commissioner Kamkar. Next speaker, please. Not Charles.

SPEAKER: No.

COMMISSIONER ZITO: Okay, are you Frances?

SPEAKER: Yes, I'm Frances Wright. Thank you, Mr. Chairman. I had some prepared remarks but I don't think I'm going to use them. My house backs onto this piece of property. And I don't think there's anybody who would rather see it developed more than I do. I very much want it developed. But I want it developed in such a way that it doesn't have all kinds of negative impacts on me. For one, I have a one-story home. As far as the piece of property itself, I think that what you need to consider is an access-related issue, and that is that if we get the access that we all want, a little bit of that property's going to have to be dedicated. So you're going to have a smaller usable piece than is currently envisioned. It couldn't be that whole triangle that you're looking at. Secondly, my understanding is that the property next door is being cut off. The Hudson property to the South. Beyond that, if we get the access that we want off the expressway, you'll have an extended frontage road that will provide a buffer to the expressway, as well. Now, I live there, I've lived there for 40 years. And the first ten years, our street was the access to the expressway. I still have the pole that held a 25 mile per hour street sign. It is a straight street and it's a straight run and it is totally inappropriate to support the four projects that will be going in adjacent to the expressway. There has been no communication, no cooperation, I didn't even receive notice of this meeting. I was unable to make it to the meeting that was held, and I sent an e-mail to Jerry Strangess who I've known for years, asking him a couple of questions about what was planned. I never got a response. That isn't the way that these things are supposed to happen. There's supposed to be communication and cooperation. Commissioner Platten mentioned being out there, okay? You should all see the condition of that property at the moment. The bushes are overhanging the expressway. The weeds are all over the place. I had rats coming from that property two years ago onto my property. I'm afraid of that happening again. There is no communication and no cooperation.

COMMISSIONER ZITO: Thank you for those comments. Appreciate that.

SPEAKER: Any questions? No? Thank you.

COMMISSIONER ZITO: Well, actually, you just, Ms. Wright, I think you scared up a question. Commissioner Kamkar.

COMMISSIONER KAMKAR: Thank you, Mr. Chair. The question I asked, the property to your South, the Hudson property will be cut off?

SPEAKER: That's my understanding.

COMMISSIONER KAMKAR: So you're saying, I mean this is a GP, so we're doing a general plan, we're doing a general plan amendment. So the configuration shown on this plan I understand might not be the final configuration. They're just showing how eight can fit. But you're showing that the -- well, is that opinion you're telling us or is that known for a fact?

SPEAKER: I'm telling you that is what I was told. I've never seen any of these documents before, nothing.

COMMISSIONER KAMKAR: Okay, that is something I will ask for staff, then, thank you.

COMMISSIONER ZITO: Thank you again. And Mr. Smith. And while Mr. Smith is approaching the podium, I've got four more names. Douglas Page, Connie Page, I think it is Jim Larkin, it could be Jin Larkin, and Karen Larkin.

SPEAKER: I'm Charles Page. I live on Mazzone Drive. I do not live in that neighborhood. I live about a mile away. There is a question earlier that one of your commissioners asked, and what's the difference between adding -- increasing the density? And the difference is, increases the density to up to 16 parcels per acre. Now, maybe you couldn't put that in this particular property, but if this property gets that high a density, the one below it will probably ask for that high a density. Two properties up will ask for the higher density. That's what happens when you change a density. Other people will say, well, you gave it to him, you have to give it to me. That's where the difference comes in. I'm very much against increasing the density higher than the surrounding property. It's against city policy. I think it's a bad policy to do that. Maybe in this case it wouldn't make a difference but you have no way to fair owe it down to one particular case. Everyone is going to ask for that if you allow it. Having said that, these homes don't look like anything similar to the nearby homes and I think increasing density is just the wrong way to go. There doesn't even seem to be enough parking for guests in the way that he has it drawn here. I'll say one more thing, even though you're not doing that, not looking like that today officially, using Fleetwood Drive would be a huge mistake, that's putting a lot more people on that street. When that street went to the expressway before it was a raceway. And you are going to put a lot of houses on that. Also, there is talk of it connecting to the property up above, and a second exit on Mazzone. And that's where I live, I live on Mazzone. That would be people who want to escape the traffic light down below here will probably cut through Fleetwood, cut up and go up through our neighborhood, as well. And that, I think, is a bad policy. If it is heavy traffic on Almaden Expressway, we are going to be getting through traffic through our neighborhoods, both of our neighborhoods. That's not a good sign, either. And you need to keep that in consideration. Thank you.

COMMISSIONER ZITO: Thank you, Mr. Smith. Okay, Douglas Page.

SPEAKER: I've been working on this project for a little over two years, not this particular one, but the one prior to this, and the other two that are also adjacent here, the north and the south. So I want to let you know that I'm totally against any change to the general amendment. R-8 is good enough. R-8 means for that property which has .85 acres, 6.4 homes. We all know you cannot build .4, so that means 6. The one thing about the six homes that would be good is it would probably allow them to have a little bit more parking space which is going to be at a premium shortly. Gary talked about the natural area to the so it, it's a transition where they have quite a few homes. These are nice, small, clean homes. Each and every one of the 17 that were put in there has two covered and two uncovered parking places on the property. So there's no guest parking. There's no overflow parking, et cetera. If this has changed and allowed to develop off of fleetwood drive for traffic going to and from the Hudson property to the South virtually will be cut off, it will become an island and has only one way to in and out, and that's off the expressway. That is fine and dandy. If he can come off the expressway, so can this property, and so can the property to the north, which I believe already has dedicated some property to -- or has property dedicated to that fact, it would become a frontage road. I may be wrong there, but I believe it has. That was formerly the Sukulas property. To the north of that is the Mazzone property. Again, this gentleman brought up a good point. There are six homes right now proposed for the Sukulas property. There's eight proposed right now for the Woodrum property. If this is allowed to go to 8 on the Woodrum property, they're going to want to put 8 to 12 on the Hudson property, and eight to 12 on the Mazzone property. That makes it more than doubling the neighborhood, all off of one small street. And if you look carefully at the map -- and I think all of you have a map there -- you'll see Fleetwood goes all the way up and then makes a sharp left, and at the end of that is the T which is the old Almaden Road. You can plainly see that there's no room there for overflow parking. The people in that corner, that end up there, already complain to each other that there's no parking. And they have two places covered and two places in the driveway.

COMMISSIONER ZITO: Thank you, Mr. Page.

SPEAKER: But they still have difficulty.

COMMISSIONER ZITO: Thank you for your comments. Sorry, your time is up. I appreciate your comment. We have another question. Wait, Mr. Kamkar has a question. You got to get your light on quicker.

COMMISSIONER KAMKAR: Sorry, I wait until you --

SPEAKER: Commissioner Zito: These guys are getting a workout going back and forth.

SPEAKER: Commissioner Kamkar: That's right. Wait until you walk away, and then I turn on my light.

SPEAKER: I'm sorry, I would love to go on about compatibility and a lot of other issues, too, but I can't do that in two minutes

COMMISSIONER KAMKAR: The question I have is, so I understand you don't want them to go through Fleetwood, you know, and I know you don't want them to go through Mazzone, so are you suggesting that the City pursue the Almaden Expressway alternative?

SPEAKER: Yes. It was called Alternative 3 back in 2007. And we had talked it over with practically everybody. And it was decided that they should -- everybody should get together and discuss this and try to get it ironed out two years ago. This never happened. There's probably no better, more opportune time than it is right now to do something like that to get this ironed out for once and for all. I think it is very important. Because it will change the amount of property for them to build homes on, each and every one of these four sites, which are all approximately one acre. They will change the amount of usable land.

COMMISSIONER KAMKAR: Right. Do you live on Fleetwood, did you say?

SPEAKER: I'm sorry, what?

COMMISSIONER KAMKAR: Do you live on Fleetwood?

SPEAKER: Yes, I live -- I have lived on Fleetwood for 40 years.

COMMISSIONER KAMKAR: Okay, so the question I'd like to ask you is the question I asked the previous speaker. If the access from Almaden Expressway was going to be the access, would your issue about density also go away?

SPEAKER: Absolutely not, because of incompatibility. They're talking about building three-story homes, on land that will be graded six foot, four to six foot higher than the current existing land of the homes that live in. So if you go up four to six foot for the grade, and then you go up three stories, because they have a full-sized bedroom, bathroom, et cetera, in the third story, with a balcony and a loft overlooking the neighbor's fence --

SPEAKER: Commissioner Zito: There would be privacy issues.

SPEAKER: -- that puts the person standing there 26 foot off the ground on his feet, at least, and he's looking down into the backyard of everybody there. And that in no way compatibility.

SPEAKER: Commissioner Kamkar: Thank you.

SPEAKER: Commissioner Zito: I also want to thank you for correcting my math. You're right, the density would allow 6.8, and as you said, you can't deal with a .8.

SPEAKER: I thought the property was .85 acres.

COMMISSIONER ZITO: .85 times 8 –

SPEAKER: That comes out to 6.4, 6.5.

COMMISSIONER ZITO: 6.8.

SPEAKER: 6.8, okay, I won't argue with you.

COMMISSIONER ZITO: You can't build a .8 –

SPEAKER: It doesn't come up to 7 and it doesn't could come up to 8.

COMMISSIONER ZITO: But downtown a .8 is six homes, so -- but not here.

SPEAKER: Yeah, it does not come up to 7 or 8, and it comes up to 6. And with 6, they might be able to get two cars covered and two cars driveway.

COMMISSIONER ZITO: You're right. And that does make -- when you go 6 to 8, there's a significant difference in mind. So thank you for that correction. Is Ms. Page here, Connie? I wish we could bring the podium to you.

SPEAKER: No, that's fine. Good evening, my name is Connie Page, the other half. Lived on Fleetwood for 40 years, have enjoyed a great life, wonderful neighbors. And I too am against the planned change. One of the reasons being, if you take the Jaden Lane property, which is currently, I believe, a little over an acre, and as I recall has dedicated land to access off of Almaden Expressway, has been zoned for six homes, which is much more compatible with the existing neighborhoods. I don't understand how you can take a property that is under an acre and want to change that to 8 to 16 units, and now he could possibly be putting on ten, 12, 13 homes? No, it's not compatible at all. And like my husband said, the elevation does not work either. And the access, yes, is definitely an issue. And from Planning Department, we have been consistently told that roads and airports does not want to address -- does not want -- I shouldn't say address -- does not want the access off of Fleetwood -- off of the expressway. However, in a memo from, I believe it was William Lee to Maria Angeles, they did state that yes, they would prefer, prefer, access off of Fleetwood. However, if city council is willing to listen to -- they'll be willing to listen to the city if they so decide that Alternative 3 is the way we should go. And that is what we would like the Planning Department to recommend to the city to keep our neighborhood intact as the way it is today. Thank you.

COMMISSIONER ZITO: Well, thank you very much. Mr. Kamkar, no questions? Okay, thank you. Mr. Larkin.

SPEAKER: Mr. Chairman, commissioners, I want to say that I strongly support the staff's recommendation to deny the change to medium density residential, and you were

right, it works out to 6.8 homes, not 7 homes. And what I think needs to be made public to the audience, as you commissioners well know, is, if this goes through, the six to eight -- the eight to 16 dwellings, we're not talking about homes, we're talking about dwellings. And when you go into that category you now can have a mixture of single family and rent units. We could have on this .85 acres of land, up do 13 bills-k not homes but 13 dwellings. And that is totally inappropriate for this small piece of land. So I encourage you to take the staff's recommendation and denying this. Secondly, I'd like to talk to Mr. Campos, Commissioner Campos' question about the Hudson property.

COMMISSIONER ZITO: That would be Commissioner Kamkar.

SPEAKER: I beg your pardon?

COMMISSIONER ZITO: That's Commissioner Kamkar.

SPEAKER: Oh, Kamkar, I'm sorry.

COMMISSIONER ZITO: That's Commissioner Campos.

SPEAKER: I'm sorry, Commissioner Kamkar, about the Hudson property. Just last week they put a cyclone fence all across the frontage of that property. So if nothing is before the planning commission yet, something certainly is coming fast. And the way that this plan is laid out now for this property that's under discussion, there is no access to the Hudson property unless they come in through a driveway off of Almaden Expressway. So it makes absolutely no sense to go forward with any of these four properties that have already been discussed without looking at in serious matter the ingress and egress from Almaden Expressway, not from Fleetwood Drive. And what I think I'm seeing, in personal opinion, is that it was brought out at the public hearing at our library when this was first came up, that we're seeing developers coming in as a divide-and-conquer, they come in with their parcel, and they want Fleetwood access. The next one comes in, and they want Fleetwood access. And so we don't want that. We need to have all four parcels looked at in unison so that we have a coherent plan.

COMMISSIONER ZITO: Thank you, Mr. Larson, your time is up. And it is a challenge with Commissioner Kamkar, Campos and Cahan. We're just missing a Cahill and a Callaghan, and then I'm really messed up. Karen Larkin.

SPEAKER: My name is Karen Larkin. I too am a resident of Fleetwood Drive. My initial reason for coming up here was to correct the number of homes. This is not seven, it is six. But that has been corrected. I am opposed to the changing of this density on this land. It would open the door to far greater number of dwellings on this piece of land. There -- once this change is made, there is no reason, then, that the developer should limit himself to eight dwellings per acre. It could go higher. There's no -- there's no reason for him not to create smaller homes, with smaller pieces of property, and to fill it up to what the new allowable number would be. I strongly oppose a change thank you so much.

COMMISSIONER ZITO: And thank you. Okay, Mr. Strangess. A lot's been said and you have the stunt to address those issues if you choose.

SPEAKER: Thank you, Mr. Chair. Members of the commission. First item I just took notes as the speakers spoke, as far as outreach to the neighborhood, I've been doing this for wife years. Number 1 rule in this business is, reach out to the neighbors. I did not get Fran Hirsh's e-mail. I've known her for 20 years. I think she could have called me and I take offense to her suggestion, I wanted to ignore me. I did meet with the neighbors in January at economy page's house. She was nice enough to open her house. She invited I think three or four of her neighbors, had the discussion, very clearly stating that the access was their concern. What we promised is that we would look at it, and we did. We spent money, we spent time, we spent considerable resources looking at various alternatives of getting access from Almaden. It was in our interest to look at that. If that was able to be obtained, they would have been supportive of our project. We looked at it, working with your professional staff, and jointly decided that it was not feasible. It was really more of a Public Health and safety issue, and with the capacity that exists on Fleetwood, that was the direction that we went. A question about the Hudson property and what's going on there. For really probably over a year there's been discussions. The properties jointly developed would be a better plan. Up until now we've been unable to come to terms, so what's in front of you today is just our property. As you can see from the plan, Fleetwood Drive comes in and directly accesses our property. Fleetwood actually stubs to our property. That is the natural access. The Hudson property would potentially have three points of access, one potentially coming through our property as an issue that would be resolved at the PD zoning. He presently -- they presently have access on Almaden Expressway, so we're not land locking them. They have access on Almaden Expressway now, and then conceivably the property to the south, there is a street that parallels their property. So, you know, with discussions, negotiations, it's just as feasible that they would be able to get access there. Again, we have an application on file. It's for eight units. The request tonight to change the general plan would allow us the flexibility we need to work with staff and deal with some of the issues that they raised, like a three-story structure. What we are planning is on doing that on the Almaden Expressway side, not necessarily on the side where the existing homes are. Those are issues that we would again resolve at the PD zoning and it's not at issue tonight. So I think with that I would respectfully request that for purposes of flexibility, in working with your professional staff, you grant our request to allow the change to get the one unit or two units that would allow the property to be profitable. Thank you.

COMMISSIONER ZITO: Thank you, Mr. Strangess. There are no questions from the commission, but I guess I have a question. You currently could build 6, okay, and I think one of the other concerns besides access to the Fleetwood Drive there is, again, the massing, right? So the three stories versus two stories and so on. Would it be correct, in kind of summing up what you're saying, is that six houses is just -- you can't do it with six houses, I mean, is that really what it comes down to?

SPEAKER: In looking at the site plan, and looking at the market conditions that exist today, we feel that an eight-unit project is compatible and would be a better project for us.

COMMISSIONER ZITO: Okay. And do you have any response to what I believe is also a concern of, we'll call it the domino effect.

SPEAKER: The what? The what effect?

COMMISSIONER ZITO: The domino effect. The fact that if you get 8 to 16, the other land owners would say, hey, he's got 8 to 16, we should have 8 to 16 as well.

SPEAKER: I think any future decision is going to be left with this body or the city council. We have no say or control on what's going to happen. We're simply request that on our property, we get the general plan allowed to comment what is a rezoning on file with the city? We're hoping to come forward in the next month or two with that plan to you.

COMMISSIONER ZITO: And what you are saying is you have sat down with adjacent properties but you just haven't been able to come through the –

SPEAKER: What I've been told, Mr. Chair, is that it's a nonstarter because of the access issue. And in fact some of them had said that if we did get access on Almaden, they wouldn't have a concern about the density. Others have said it's too much. But you know, one or two units is not really the make-or-break, I think, issue for them. The concern is the access issue, and talking with staff and our own traffic engineers that we spent considerable resources looking at it, it just doesn't work. There is a safety issue in getting traffic off that Almaden Expressway from a deceleration and then acceleration. And it's not safe. Not when you have capacity already existing on Fleetwood.

COMMISSIONER ZITO: I appreciate that. Commissioner Kamkar has a question for you.

COMMISSIONER KAMKAR: Thank you, Mr. Chair. Have you explored the possibility of joint development with the Hudson property? Because I'm sure when you combine properties there's efficiencies that can be realized. There's not that fence in the middle where you have to keep your setbacks, you know, and you may be able to accomplish, you know, both your goal of having more units without exceeding the -- you know what the neighborhood would like you to have. Has that been discussed between you and the other property?

SPEAKER: Yes, I think the neighbors made it clear and staff has actually been very helpful in working with us and wanting us to address issues of setbacks. As a matter of fact, the setbacks in our most recent plan does meet very closely what the existing setbacks are on the neighborhood in Fleetwood. As we work through, Commissioner Kamkar, the PD zoning application, the issues of the concern of the third story we're

prepared to deal with. Again, not having it on the site that is adjacent to the neighborhood, but more on the Almaden expressway site, would probably make more sense. Dealing with some of the issues of setbacks, the appropriate place to deal with that is at the PD zoning stage. Again, the request for -- we're asking for tonight gives us that flexibility to be able to deal with that. Ultimately you will have and the council, the city council will have the final say on what's approved, ultimately. Even if you were to grant the change tonight ultimately we might still end up with six units because that might be the will of the commission or the council. We're looking for flexibility to try to deal with a difficult tight site and respect the neighborhood's concerns.

COMMISSIONER ZITO: Thank you very much.

SPEAKER: Thank you.

COMMISSIONER ZITO: Seeing no further questions, motion to close public hearing, second, all in favor? Opposed? Seeing none, staff, couple of interesting comments. Obviously a lot had to do with access and massing and all the things that we don't deal with at a GP. But overall, away I'd like to hear a little bit about is, kind of the collective big picture. And you know, what's really on staff's mind with this -- with their denial of their recommendation.

SPEAKER: Thank you, Mr. Chair. Planning staff is recommending denial of the proposed general plan amendment because of compatibility with the existing single-family detached neighborhood. Their lot sizes is 6,000 to 7,000 square feet, single-family detached homes, and with an increase in density on the subject site, the lot sizes would be a lot smaller than that. So it would be incompatible with the existing development. As far as access and considering the other development sites, if you can look up on the map, staff has worked with Department of Transportation and Public Works as well as the county roads and airports to look at access not only to this site but to the Hudson property to the south, the Jaden Lane project to the north, and then the zoning property to the north. And at this point in time we feel that access from Fleetwood Drive with an extension of Almaden Road would be the best access at this time to not only provide safe access for the site itself, but the connection of Almaden Road all the way to the north and the south would allow for trips to be dispersed up through Mazzone Drive as well through Fleetwood Drive onto the expressway. So that the projects would not only have to come through Fleetwood Drive, they would have another option to go through Mazzone Drive if Almaden Road could be connected both north and south. And hopefully, if you have more technical questions in regards to that, I can defer to Public Works further.

COMMISSIONER ZITO: There are questions from the commission. Commissioner Jensen.

COMMISSIONER JENSEN: Thank you. So one of the speakers raised the question about access from Jaden lane. I think we heard that not -- I don't know, a long time ago now. What is the access provided for Jaden lane, do they have access to Almaden?

SPEAKER: Thank you, Mr. Chair. The Jaden Lane access, is through Fleetwood Drive with the extension of Almaden Road across the front of their property. Their approval did include some money designated to looking at an accel-decel lane from Almaden Expressway. And the dedication that they did for the extension of Almaden Road would accommodate the accel-decel lane for their property.

COMMISSIONER JENSEN: And if that were to happen, would that then require a dedication of land from the Hudson and the property we're looking at tonight?

SPEAKER: That is correct. If the accel-decel lane were to go through, it would require a dedication from the Hudson property, the subject site. The Jaden Lane, which has already dedicated public right-of-ways, it would just be for the accel-decel lane, instead, and for the Mazzone property, as well. In addition, it would also require either an easement or property from the Santa Clara Valley Water District property, which we have no comment from them at this time, adding to that.

COMMISSIONER JENSEN: There was also a question raised that this was a transit corridor. Can you tell me is there planned light rail or bus rapid transit here?

SPEAKER: Thank you, Mr. Chair. On the general plan, this is currently not designated as a transit corridor, transit oriented development corridor. It is an expressway, however, but it is not a designated corridor on the general plan diagram.

COMMISSIONER JENSEN: Okay, great, thank you.

COMMISSIONER ZITO: Okay, we have a question. Thank you, Commissioner Jensen. Here we go. Commissioner Cahan.

COMMISSIONER CAHAN: Thank you, Mr. Chair. I can't help but look at this project and compare it to the previous project which was the more rural setting, and go back to our prevention meeting that we had right before this meeting where we discussed not developing as much in the rural areas and developing nor infill projects and our existing areas on transit corridors. I understand this is not next to a light rail but it is on Almaden expressway. So in keeping with the discussion that we had about how the city wants to go in that direction, it sees as though we should be looking at opportunities to get extra housing in our existing areas and not in our rural areas. Now of course I don't want to put stress on streets where it's not appropriate but that's not the topic for us to discuss this evening. Thank you.

COMMISSIONER ZITO: Thank you, Commissioner Cahan. Commissioner Do.

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

COMMISSIONER ZITO: Please.

COMMISSIONER DO: I would like to move to -- make sure it's the right motion. To move to consider the negative declaration in accordance with CEQA and recommend to the city council denial of the requested change to the land use/transportation diagram of the San José 2020 general plan as recommended by staff. And I'd like to explain my motion.

COMMISSIONER ZITO: Let me get a second if there is one. There is a motion and second. Go ahead Commissioner Do.

COMMISSIONER DO: I think my main reason for making the motion is access. I think that the site is an awkward site, and I think that any solution for this site, at this density, would require a more comprehensive solution to access. And for the reason that many people have already stated, I think this is one reason why we should stop having cul-de-sac in the future. Because that's what puts us into this kind of bind in the first place. And so that's my main reason. I do -- I normally support higher density and all of that. But to me this is not the place to do it. Thank you.

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

COMMISSIONER KAMKAR: Thank you, Mr. Chair. I wanted to ask staff regarding the issue of, would this site be able to block access from Hudson property just south of it? And if it is access blocked then what are they going to do if they ever come in for development?

SPEAKER: Thank you, Mr. Chair. This site could potentially block access, and staff will be recommending that they provide access to the southern site. However, it potentially could be approved by council to not have access. In that case, the Hudson property would have to access off of Almaden Expressway in the future. And I believe the county would have to approve some sort of variance or something like that to allow them to have access, which they have done at other sites along Almaden Expressway that are blocked for other options.

COMMISSIONER KAMKAR: Would they have to work with the county then as far as the access portion is concerned?

SPEAKER: They would.

COMMISSIONER KAMKAR: Or do they work with you, and then you work with the county?

SPEAKER: They would work with the county and city staff.

COMMISSIONER KAMKAR: Thank you.

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

COMMISSIONER CAMPOS: Thank you, Mr. Chair. I actually see this as an in-fill site. It might have been rural years ago but I see this as an in-fill site. I don't think that you could probably get more of the -- it looks like the housing types that diagrammed on the back, but we're not here to talk about that. But it doesn't look like you could get more than eight. So you know, I don't see this as high-density housing. I mean, it is sort of straddling the density requirement there. I would actually like to see them go through to council, you know, pending on what we decide tonight, and see how they could work out a project that would allow them up to the eight units that they're requesting, of course it would require a different motion, but I will let -- you know, I'm not going to propose an alternative motion. I'll see where this one goes. But I do think it's density. I also think that Fleetwood, it could handle capacity. You know, regardless of its six units or seven units or even, you know, looking down the road there, the other properties, Fleetwood could handle the density. And -- or the traffic. And I will read something that is in the staff report, and the only reason why I'm reading it is you know, it is in the staff report and we shouldn't really be considering access. But in the staff report it does say that there is a 72 inch diameter high pressure water transmission pipeline and associated cable rung through the Santa Clara Valley Water District property immediately above the site in an above-grade vault in such a position that it could render the acceleration and deceleration lane infeasible. So I think that pretty much tells us it's not feasible. If there is access on to any of these sites, including the one in question tonight, it's going to have to be through Fleetwood. Those are my comments. Thank you.

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

COMMISSIONER PLATTEN: Thank you, Mr. Chairman. I agree with Commissioner Do that this is a unique and awkward site, but along with Commissioner Cahan, I don't see any big distinction between this site and the site we approved immediately previous. I think of it as an in-fill site. I think we're only talking, as the chair has pointed out, one unit here --

COMMISSIONER ZITO: That's true, I was correct.

COMMISSIONER PLATTEN: Well, but essentially it is one in the net. I just think it's a transition piece, and I think Commissioner Campos just made the point with respect to seven properties. So I'm going to oppose the motion. But it is a close and difficult decision, I acknowledge that.

SPEAKER: Commissioner Zito: Thank you, Commissioner Platten. I'm not convinced yet either way so I've got a couple of questions for staff. I'm sorry to do this, but I appreciate Commissioner Campos pointing out that piece in the staff report, because that was my concern as well. Looking at the picture that's up there, I'll use my handy-dandy pointer here. We have this dotted red line here that I'm guessing is essentially there to illustrate a potential acceleration deceleration lane. Is that a fair statement?

SPEAKER: Where we're looking at could be an acceleration, deceleration lane. It could also be just a frontage road that does not connect to the expressway.

COMMISSIONER ZITO: Now, I understand that this here is lands of the Santa Clara Valley Water District; is that correct?

SPEAKER: Yes.

COMMISSIONER ZITO: Would we have the right to build whatever, whether it be a frontage road or anything else? We would have to get the Water District to dedicate that land to us; is that correct?

SPEAKER: We would need to get an easement, at the very least. But from information we do have there is equipment, there is existing constraints that would make it difficult to build a road through there. That said, we are really looking at two potential types of roads through there. One would be the engineering constraint for doing an acceleration, deceleration lane, which involves making sure the the grades are also properly aligned, to the degree that there's obstacles there that we have to work around that may not make it workable to do an acceleration deceleration lane, but it might still make it possible to do a frontage road because you have a little more flexibility with a frontage road in terms of how that's designed, how that meanders around equipment and what the right-of-way looks like. So that existing -- those existing improvements in that property may not necessarily be an obstacle to a frontage road. But we still have work ahead of us. We have been having conversations with the county, and we have worked with D.O.T. to put together a proposal that we've asked the Water District to look at and respond to. But we don't have that comment, and we think that obviously that's an answer that we'll have to have ready for this body and the city council before we move forward with the planned development zoning.

COMMISSIONER ZITO: Now, if my memory serves me correctly, I think Commissioner Jensen brought it up. There was another property along the frontage here that was maybe a year ago, year and a half ago, something along those lines, two, three, Jaden Lane, right. If you could refresh my memory, what did we end up deciding there, or what ended up getting approved there, maybe that's a better --

SPEAKER: That project was approved for six single-family houses. So I think actually that graphic shows that, although it appears kind of fuzzy from where I'm sitting, that identifies really the four new projects that are kind of coming down the line within that area. The subject property is the triangular one, indicated as an eight-unit proposal. Ultimately there is a planned development zoning on file for that. The Hudson property has a planned development zoning that's actually on file right now that I'm sure is very interested to see the outcome of this particular meeting. Their proposal is for nine units. Just to the north, like I said, Jaden lane has a six-unit development. Further north there's the Mazzone property. They have a planned development zoning on file. They also have a general plan amendment that's pending, too, that we're still working through. There's other complicated issues, and so that's why it's not here tonight. They're proposing nine units. So you know, from a big picture standpoint, we have been looking at this in our discussions with the county and D.O.T. and Public Works have always been to find a

solution that's going to work for access for the development of all those properties, not just this one. And so that each one would have the ability to come in and develop in accordance with their current general plan.

COMMISSIONER ZITO: So this is Jaden right here, right?

SPEAKER: That's correct.

COMMISSIONER ZITO: And that is 1-8?

SPEAKER: Is it one acre?

COMMISSIONER ZITO: No, no, it's GPed 1-8, eight units to the acre?

SPEAKER: Up to eight units to the acre, yes, sir.

COMMISSIONER ZITO: So that's not the 8 to 16, it's 1 to 8?

SPEAKER: Correct.

COMMISSIONER ZITO: So this one is proposing six units, I think you said?

SPEAKER: They're proposing nine units.

COMMISSIONER ZITO: Nine, I'm sorry. And is that also eight units to the acre?

SPEAKER: That's correct.

COMMISSIONER ZITO: That's showing here, yeah. Okay. My concern is that whenever -- you know, we're trying to do the right thing. We're trying to say, hey, how do you handle all these properties, do it the right way, as opposed to piecemealing it. That's something I think this commission's been pretty consistent about, let's not piecemeal things, because it may never work out, right? But on the other hand, you know, is it, given what the staff is seeing, given where these projects are, is it feasible to think that you can link these four right now, given where they are in thier process?

SPEAKER: Thank you, Mr. Chair. We have probably a golden opportunity in that we have, you know, all three of these other vacant sites with pending applications on file right at this moment. So we have the opportunity to cooperate with those property owners and come up with a cohesive answer that is going to make things work. And so where we're headed is trying to find some way of having acceptable access as we indicated in the report from the Jaden Lane project as well as this one, you know, we feel there is adequate traffic capacity on Fleetwood Drive to be able to handle the traffic from these developments. However, we do recognize that will be slightly more than the neighborhood would prefer to have. So we are looking at opportunities that, in the event that the county does not feel comfortable with doing an acceleration, deceleration lane,

and based on the memo that we provided, and our staff was at the meeting with County, they really are -- they do have some concerns about that from a safety standpoint. And then their take on this was essentially that you look at all four of those brand-new project proposals. They total I think about 31 units maybe collectively together if all of them were to be approved. That's not really a lot of units to justify a new access point directly onto the expressway. And so, you know, we're looking at alternatives, and in recognizing that if we can't do that connection, we're going to have to connect these four properties to -- through existing single-family neighborhoods, and from a staff perspective is, let's try to minimize that impact, and try to find a way for properties to develop in accordance with their current designations, as opposed to encouraging -- increasing the density on any of these four properties.

COMMISSIONER ZITO: This Mazzone property you said was nine, is that correct? They're currently proposing nine?

SPEAKER: They're proposing nine, right.

COMMISSIONER ZITO: And does that keep with their two to use per acre?

SPEAKER: That would actually, I think, slightly exceed -- they have a general plan amendment on file right now to change it to 8 to 16, and that actually went to the council for early consideration, sometime in '08, can't remember the exact date, I apologize. And the council direction at that time was to go back, and they didn't deny it outright, but was to, you know, work at coming up with a plan from a design standpoint that worked out some access issues. But I think the general direction of the council at the time was try to find a way to get the development to work out at 6 units net to the acre, which essentially imply, you know, work within the existing general plan designations have.

COMMISSIONER ZITO: And you had mentioned the possibility of splitting this load by going to Mazzone Road over here or Drive or whatever that's called up there?

SPEAKER: That would be one possibility, I think --

COMMISSIONER ZITO: But you would have a creek crossing to deal with at that point, right?

SPEAKER: That in itself is not an insurmountable situation. The planned development zoning for the Mazzone property already shows a bridge going to the north crossing Gulf Creek. And so their proposal that is on the table right now was already planning to go to Mazzone. So the only difference for them is, we would actually be asking them to probably potentially stub the street to the south, as well, so that we have the ability to connect south. And so we'll certainly explain it with the first planned development zoning of this batch that were to move forward what we think our best solution is. But we think that one opportunity that is worth while to consider -- and Leslie had already indicated that, you know, there may be some value to having a frontage road that

connects to points north and south. So that whatever development does occur would not exclusively have to go through the Fleetwood Drive neighborhood all the time.

COMMISSIONER ZITO: Okay, so I guess one lesson to take away from this is that if these sites get built, regardless, it's likely, given the discussion tonight, that Fleetwood Drive is going to be affected, regardless. So that's a fair statement either way, I think, maybe not to the extent -- I mean, obviously, if you increase the density, there could be more. But the way it is now, it's just unlikely that you're going to get direct access to Almaden. So –

SPEAKER: It sort of appears that way.

COMMISSIONER ZITO: Yes, again. Okay, this is a tough one. There a motion on the floor to deny. There's a second. Is there any further comments? Seeing none, let's vote by light. The motion passes, 4-3, with Commissioner Campos, Platten, and Cahan opposed. Okay, that moves us on to 6 B. GP 09-04-01. Proposal to amend the general plan land use designation for a property located at the southeast corner of Ridder Park Drive and Fox Lane to add the mixed industrial overlay to a 3.5 acre site designated industrial park on the San José general plan 2020 land use/transportation diagram. The general plan amendment request is for a land use change only. No new development is being proposed at this time. Staff.

SPEAKER: Thank you, Mr. Chair. This proposal is just to add the mixed use industrial overlay to a 3.5 acre site which is currently developed with two buildings totaling approximately 50,000 square feet. This is actually in an area that is both zoned and general planned industrial park, with the exception of Orchard Elementary School immediately to the north. We're talking about the west side of Oakland Road. The purpose of the mixed industrial overlay is to allow assembly uses in industrial areas, things like religious assembly, auctions, similar assembly uses. Functionally, staff feels that it weakens industrial areas for industrial uses, including the ability for people to reuse things like the 200,000 square foot R&D facility immediately south of the subject site, which is currently vacant. So for that reason, staff is recommending no change to the general plan diagram, because the MIO -- adding the MIO at this location is inconsistent with the economic development major strategy, could limit industrial uses in the area, and reasonable alternatives exist in the neighborhood in the form of a mixed industrial overlay area to the north at Montague and Oakland road. Thank you.

COMMISSIONER ZITO: Thank you, staff. Is the applicant present? Okay. You can come down, state your name, you have up to five minutes.

SPEAKER: Good evening, chair, mitigation of the commission. My name is Francisco Nares. I'm a representative of New Harvest Christian Fellowship. We had applied for the general plan amendment. And first off, this is my first time at a commission hearing. It is pretty exciting. I didn't know they were this fun to be at. So –

COMMISSIONER ZITO: And you can catch us prime time on TV.

SPEAKER: Yeah, I didn't know that. You know, after our previous one –

COMMISSIONER ZITO: Soon it will be on Pay Per View.

SPEAKER: I have my wife Tivoing this right now. No, just kidding. The reason for our application is, this building was surrounded by a number of vacant buildings, and at the current time we applied at different locations, the one stated earlier that have the mixed industrial overlay. And those ones were at twice the rate. And for us, at that time, we were a smaller net of -- or smaller group of congregating members. They're in our joining or during being there, we've actually multiplied and have grown, I'd say maybe about 40 to 50%. Which, you know, kind of represents the need for us to be there. Since our involvement in the community, we've had a number of outreach programs. We are a very community-based church. We do offer a lot of programs to underprivileged youth. To help you know, gangs and drugs and we do offer a lot of programs to teenagers. We do have members of the 49ers attending our church, so we do offer a lot of programs for them. We offer recovery programs, we offer Life Hurts, God Heals program, we offer a beat program, we offer a focus program, a parent project program, and also, there is a number of different other programs that we do offer there inside. We are an outreach-based church, so we do hit the community, and we feel that we do have the support of the community for this, for this general plan amendment. Oh, also, another key thing was the Orchard Street Elementary School. Since our becoming a member of the community, orchard elementary school, the principal there, I can't remember his name at the moment, but he did come over, and he was happy to welcome us in the neighborhood. He did ask us if we could be a safe house for natural disaster or crimes where kids come in with guns or something, so that they have a place to take their kids. We do offer our sanctuary as a safe house, which we -- I believe we could fit up to 300 people, and we did give them a key to our facility for that, so just a couple little things that we offer. Thank you.

COMMISSIONER ZITO: Appreciate it. You did fine. So don't worry. There is a question from Commissioner Do.

SPEAKER: Okay.

COMMISSIONER DO: Yes, sir. A quick question. Are you the only tenant in this facility?

SPEAKER: I'm sorry?

COMMISSIONER DO: Are you the only tenant in this facility?

SPEAKER: No, we're not.

SPEAKER: So -- the situation we're taking about. In terms of the application for the conditional use permit, does it apply only to this substantiate or does it apply to all the tenants in this facility? Because I think I saw some other signs of other, that were also religious or something of that in nature. Thank you.

SPEAKER: Thank you, Mr. Chair. It would apply to the entire property and there are other tenants on site operating without a conditional use permit. Thank you.

COMMISSIONER ZITO: The designation goes with the property. And so if you hook at the diagram, whatever's in that red circle would have that overlay. So could you tell us a little bit about the other tenants in that park? Do you know anything about your neighbors?

SPEAKER: Yes. We do have a crane church that offers an after-school program. And for the little orchard school next door. They are there in the evenings and during the week they've been there for, if I remember correctly, seven years, with no complaints. The only reason there was a complaint is there was a Kung Fu school that opened up And put flags along the street. I don't know if somebody complained but we do have a Kung Fu school next to us that practice that they're doing a little bit of instructional martial arts.

COMMISSIONER ZITO: Thank you. There are no further questions. I appreciate your coming up and testifying. I believe there are no speaker cards either. So is there a motion to close public hearing? All in favor? Opposed, none. Staff.

SPEAKER: Just to reiterate, this is a fundamentally industrial area with the exception of the Orchard School. The landlord has been obviously renting to tenants and not advising them of the need for a conditional use permit. That's the situation the applicant's in at this time. Thank you.

COMMISSIONER ZITO: Thank you, staff. Commissioner Campos.

COMMISSIONER CAMPOS: Thank you, Mr. Chair. I'm going to ask staff this question, so that it puts me in a better frame of mind as I make a motion. This must have happened maybe three, four, maybe even five years ago. Do you remember when FCC, Family Christian Church, came before us for the Edenvale park area? Did they come for a -- the mixed industrial overlay as well? Do you remember?

SPEAKER: Laurel Prevetti: Yes, Mr. Chair, that was their proposal, that was in a completely different portion of San Jose, but that was the idea.

COMMISSIONER CAMPOS: Right, so I guess my point is, that was -- and I even used the term back then, it was -- and I'm not going to use it, now because we're on TV. It was 100% industrial, there was no houses, no nothing around it. And if I can remember correctly, staff was recommending approval on that; was that correct?

SPEAKER: Laurel Prevetti: No, that's not correct.

COMMISSIONER CAMPOS: So staff recommended denial on that?

SPEAKER: Laurel Prevetti: That's correct. And we had several others in other locations. We had one up in this vicinity, also for a new mixed industrial overlay, and for

the reasons that staff articulated tonight, we remained concerned about how those uses would affect the viability of the larger industrial area.

COMMISSIONER CAMPOS: Okay, so then going further down the road there, there is a big indoor soccer facility. And it was a huge, huge warehouse and they came before us again, this might have been a year or year and a half afterwards, and they also came for -- I believe it was the same designation. Do you remember, and I'm not trying to be a lawyer here -- do you remember if staff recommended the approval of that, you know, of allowing them to have that use as well in that facility. You might not even remember what I'm talking about.

SPEAKER: Laurel Prevetti: This was also in the Edenvale area, as I recall.

COMMISSIONER CAMPOS: It was in the Edenvale.

SPEAKER: Laurel Prevetti: As I recall. I don't recall what our staff recommendation was, but I -- my recollection is that we supported it, but it was very carefully done so that way it would maintain the large space, so that if in the future an industrial user could come in, it would be able to be reused. You know, I think we have kind of come full circle in terms of this whole industrial conversion issue, and so that's one of the reasons why you're looking at one tonight, is here is yet another one, and we have stronger policies now than we had back in those earlier days.

COMMISSIONER CAMPOS: Okay, thank you. And so -- and that actually puts me in a better frame of mind. But I do want to start with, you know, this particular neighborhood, and of course when Commissioners Platten and Zito and I came onto the commission, and I mean, back then it was an issue of housing, in which you know we had some very, very lively dialogue on that. And if you look at just this aerial here, it can be, you know, pretty telling that, well, you know, this could be in transition as a neighborhood, there's a school, and you know, you could actually make an argument either way. However, I do -- I mean, staff has, and the council, they have come back with really tightening the designation of preserve -- and the policy of preserving industrial lands. And so if, you know, if it was before that, I can tell you I would be making a different motion. But I will go ahead and make a motion that we consider the negative declaration in accordance with CEQA and recommend to the city -- hold on -- I thought this was a staff -- did I get the wrong one?

COMMISSIONER ZITO: Staff's recommendation is for denial.

COMMISSIONER CAMPOS: Oh, it's 6B, I sorry, I was looking at 7. That we consider the negative declaration in accordance with CEQA and recommend to the city council denial of the requested change to the land use/transportation diagram of the San José 2020 general plan as recommended by staff. And I say that actually really wanting to make a different motion. But, I mean, we really press staff very, very hard to better define what we should be doing in these situations. And you know, I completely, you know, see and understand the great work that you're doing out there as well as the other

groups that are in there. And I wish there was a better way for the city to actually regulate on the property owners, to actually communicate with you whether or not, you know, your use is compatible with the land. I mean, that in itself to me is a crime. Because they've led you in a bad direction. So those are my comments, thank you.

COMMISSIONER ZITO: There is a motion and second. Commissioner Jensen.

COMMISSIONER JENSEN: Thank you, Mr. Chair. So I see in here that the problem came up because they're operating without a C.U.P. And I read that even if they got the overlay, they still needed a C.U.P. So could you explain to me the benefit would be, even if they got the overlay?

SPEAKER: Thank you, Mr. Chair. The conditional use permit is only allowed in an area of the mixed industrial overlay, without a mixed industrial overlay the use is prohibited.

COMMISSIONER JENSEN: Okay. Because when I read in here the milks is a result of a compliance order, the operator had been operating without the benefit of a conditional use permit. So my understanding on reading that was that they needed a C.U.P. to operate where they are. Which would imply that they could get one.

SPEAKER: Mr. Chair, if I may, I think what we're trying to say is, that they do need a C.U.P., that's correct. But as the precursor for staff to be able to make the findings that we need to make in conformance with the zoning ordinance, they need to have the MIO, the mixed industrial overlay, for us to be able to approve the C.U.P. So we first need that mixed industrial overlay before we could go forward and recommend approval of the C.U.P. So this is really the first step.

COMMISSIONER JENSEN: Okay, I can see where everybody, I can see where the applicant would be confused, because in looking at the zoning regulation it says for an IP -- and I neglected to bring any zoning regs here tonight, I apologize -- it says that they need a C.U.P. So I was operating under the assumption that they could get one, in either case. My apologies for my misunderstanding.

SPEAKER: It is -- in the zoning code this use is labeled as a CM, meaning conditional use permit in the mixed use overlay designation only. So the way it works with the code enforcement department is we do work with our code enforcement staff to identify what the process would be to proceed to apply for approval of the use at this location. And in this case, the use at this location requires both the application of the mixed use overlay followed by a subsequent C.U.P. Staff in planning has been advising this applicant I believe that staff would not be supportive, would not be recommending approval of that mixed use overlay, which would then mean the C.U.P. could not be approved, because under the zoning code, you can only issue a C.U.P. in the IP, industrial park designation if it has the mixed use overlay. So it's a two-step process. And what the code enforcement staff do is outline what the process would be to legitimize the use. And that's always an option for the applicant, and in this case the applicant has come forward

in the first part of that two-pronged exercise. And we'll see what the commission does tonight and what the council does subsequently.

COMMISSIONER JENSEN: Great, so I really must not have had my coffee when I was look at it, because I thought I saw a C, and not a CM. I completely misread it. My apologies, thank you.

COMMISSIONER ZITO: Thank you, Commissioner Jensen. Commissioner Do.

COMMISSIONER DO: Thank you, Mr. Chair. Does the C.U.P. have a time limit or can it have a time limit, for example specify three years or five years or something like that?

SPEAKER: C.U.P.s typically run with the land. However, we do have check-in periods. So it is not unusual for the commission to issue the C.U.P. but ask that either there be a report out, an info memo after a certain period of time to notify the commission in terms of land use compatibility issues and concerns that the commission may have had up front, whether they materialize or whether they didn't materialize. But the C.U.P.s themselves typically run with the land.

COMMISSIONER DO: The reason I asked the question is because I assumed that there is currently a lot of vacant R&D or industrial facilities, and they need a facility. And so why not let them use it for a while? You know, when I was out there, it certainly was not apparent to me that the use is necessarily incompatible with the area. But I can also understand the reasons that staff stated. So I just thought that if there is a compromise of some sort of allowing them the conditional use but it expires or has to be revisited in so many years and that may be a reasonable thing.

COMMISSIONER ZITO: Counsel.

SPEAKER: Thank you, Mr. Chair. Well I guess if I could just highlight the two questions and separate them out, because the issue before the commission this evening is the general plan question. And so the first question for the commission is, is this a site. So the question before the commission tonight is, is this a site that is appropriate to put the mixed use overlay. And the discussion or the comments that Commissioner Do was making goes to whether or not you know, you're saying a school is right across -- right across the street and so maybe this shouldn't be hard core industrial. I mean so the comments that you're making are relevant to the general plan questions, in terms of, is this site appropriate for the mixed industrial overlay. And then aside from that, depending upon the legislative decision on that element, if the council and the commission decides that it is an appropriate site for a mixed industrial overlay then later you'll be seeing a conditional use permit and there will be an analysis of the actual use on the site. But taking a few steps back from the actual use, the conditional use permit that comes forward should this site have the mixed industrial overlay at all. And so it's that higher level decision that's before the commission tonight.

COMMISSIONER ZITO: Thank you, director.

SPEAKER: Laurel Prevetti: If I may just add, again our general plan is really that long range vision for our community. So while today we have the vacancies that we are experiencing, we recognize that in the future, this may actually be the place for new innovation businesses, and so we want to maintain that opportunity for economic development in the long term. We certainly value the services that the organization is providing, and would encourage them to find another site within our community, so that that good work can continue in San José. But from a larger policy issue, we want to maintain the integrity of the industrial area. And much of the industrial inventory is now very attractive to clean tech businesses that are starting to look at San Jose. So that's something else that the commission to consider.

SPEAKER: Mr. Chair, if I may weigh in too briefly, this may help the commission. Staff had these same discussions and the same struggle that you had in terms of having residential across the street, across the old Oakland road, the school to the north, so staff went through that sort of same analytical process. And I think where we ended up some John can correct me if I'm wrong, this sort ever being the corner or that outside edge of that larger industrial area, that we came down on the side of not -- not breaching across the street and starting to encroach into that larger industrial area, that once we had this corner, then you know, then where do you go from there? So I think just from, I don't know, if you'd say a more purist point, that while there is the school, there is the residential, you can certainly make an argument that yeah, maybe this could be mixed industrial, I think staff came down on the side of let's just you know, go with the policies that we've got in place, and not havefully encroachment into that larger industrial area. So we went through much the same exercise. Thank you, Mr. Chair.

COMMISSIONER ZITO: Thank you. Commissioner Kamkar.

COMMISSIONER KAMKAR: Thank you, Mr. Chair. I've got several questions. One is for our director. As I recall, along the same line of thinking as Commissioner Campos, as I recall there was a church that came in within this neighborhood, that within the industrial area, I remember you know, somebody was in front of us telling us, when I'm driving my forklift, I don't want to run over each other. So I completely -- and I believe church got their conditional use permit, didn't they?

SPEAKER: Laurel Prevetti: Yes, it was on the other side of Oakland road, I believe a little bit north of here, and staff had similar concerns to that. To that one, as well.

COMMISSIONER KAMKAR: So these guys would not be the first ones, assuming they did get it and I believe they did get it.

SPEAKER: Laurel Prevetti: Right, this is also the area that we've used as kind of the poster child for conversions and the domino effect. So if we had a slightly -- a blowup of this area, we could actually show you how other uses have been encroaching into this area.

COMMISSIONER KAMKAR: Absolutely, that brings me to my second point, I will -- I guess I wouldn't be comfortable with you know, going with the conversion either. I would support the denial. However, the way I understand it, the applicant came to you saying, I want a C.U.P. You told them, well, if you want a C.U.P. you need to do this, and he goes okay, fine and now he's trying to to do this and you say, no. So do we have a purview, do we have a purview of you know, granting a C.U.P. if they were to come C.U.P., or does council have that purview of granting a C.U.P? I'm sorry, I know council doesn't, we do. But do we have the purview of granting --

COMMISSIONER ZITO: We could only -- we would do the C.U.P. if I'm not mistaken, only if we can get the findings that allowed them to get the C.U.P.

COMMISSIONER KAMKAR: So if they're doing a good job, if their church, if they're, you know, great asset to the community, they don't have a bad record, to me, that would be a finding as far as I'm concerned.

COMMISSIONER ZITO: Well, they have -- and the reason why they are here now is because we can't make the findings unless the GP allows it, which is in the industrial overlay.

COMMISSIONER KAMKAR: So it's not discretionary anymore, in industrial?

COMMISSIONER ZITO: No, it's not. As was stated by staff several times, this is the first step in getting there. Without this, they can't get that.

COMMISSIONER KAMKAR: Well. I want to know if there is loopholes, if you will. I guess that is my -- okay, thank you.

COMMISSIONER ZITO: We don't do loopholes. Commissioner Do.

COMMISSIONER DO: Thank you, Mr. Chair. I just wanted to know that if we were to add an overlay onto the property, does it -- does it negatively impact any possible industrial or R&D use at all? I mean, it still allows all those other uses, right? It's simply more permissive?

SPEAKER: I believe, and the attorney can speak to this. Once you add the overlay and start with a series of uses that are appropriate in an overlay area, churches or Kung Fu or recreation uses, then there's some longevity to those uses, and to the extent they continue to operate without nuisance, there is this presumption, I think, and maybe the attorney should take it over at this point, that they might be able to continue to operate. So it wouldn't be simply that you could do it and then assume in a few years you could just wipe the slate clean and they wouldn't be there any more. There is the argument they might get forced out as rents start back up. But I think the point I'd like to make for the commission about reuse of vacant buildings in industrial areas, is a number of times over the last 18 months we've been before the commission to streamline the process for putting appropriate uses into vacant industrial buildings that Ms. Prevetti was referring to,

the nanosolars and the recycling facilities where we made those S.U.P.s or site permits rather than C.U.Ps so that we could facilitate the correct type of development going into those vacant buildings as quickly as possible. We had some successes before the economy fell apart in very fast turn arounds, because we're interested in getting industrial uses into those industrial buildings. And here we have -- this is a not industrial use, this is an enormous block of industrial park designation in the general plan, and holding fast at a roadway is often a good marker. The school district was able to develop the school in this location without permission from the city. This is not the preferred location for the school, and as Ms. Prevetti indicated, that was part of the reason for the whole domino of a lot of residential projects to the north that based the compatibility of that use on the fact that the school was there. And the school was there not from anything the city had initially desired. I mean we're working to build the community but we'd like to hold the line at this street corner and keep it industrial park. And you know, staff is going to be willing to work with this applicant, and I think has already been shown some other mixed industrial overlay locations.

COMMISSIONER DO: Could you elaborate, the earlier comment that was made, that if this site were used for nonindustrial use, it would compromise the use of the R&D facility to the south of this? Because a large tenant may not be interested in a site that is limited in land area, or in square footage?

SPEAKER: Well, partly that and partly as you have other uses, and some of our conditional use permit that have come before you, you will see we have evacuation plans and we have to look at adjoining sites to see what chemicals or whatever are being used in those facilities. So you begin to bring those uses closer then to the large block of industrial park. And I think we would say that we do try very hard. There is lots of places in the city where the interface issue between those uses we can do site design to make it compatible enough but in this case we'd like to not start down the road to the south of that.

COMMISSIONER DO: Thank you for that comment. That's enough for me to support their denial. Thank you.

SPEAKER: I'd like to make a motion.

COMMISSIONER ZITO: Certainly.

SPEAKER: (inaudible) city attorney's office. Just two comments that are relevant to this. In the California Health and Safety Code there is a distance requirement, from what they call sensitive receptors and hazardous materials. So to the extent that you have for example, children in a schoolchildren in a daycare, children who are at a church, elderly people who may be, you know, may be in one of these facilities that is converting from industrial use or has a mixed overlay and is authorized by the city, you cannot have or store a certain amount of hazardous materials within a certain distance. I believe it's 2500 feet but I may be wrong. You have sort of a safety zone that is created. So you are backing up certain types of heavier industrial that you can have near these areas. With

regard also to the orchard school recall, too, that in California state law schools that are used entirely for educational purposes are not required to comply with local zoning. So there is nothing that the city can do to prohibit a school from locating in an industrial area. That's a fact that we're stuck with. But what it means is that you really can't consider the schools when they come in. You can attempt to talk to the school district if you are the city but you cannot tell them that they cannot locate there. So that's a sort of red herring argument about we have a school, and therefore we should necessarily allow other uses. You can certainly consider that but that is nothing the city has any control over. So I just wanted to make those two points for you in connection with how to consider industrial areas and encroachment of other types of uses into industrial areas. Thank you.

COMMISSIONER ZITO: Thank you. Commissioner Cahan.

COMMISSIONER CAHAN: Thank you, Mr. Chair. As I was opposed to decreasing 2 million square feet of industrial space in North San José, I will also be against changing this industrial zoning. Thank you.

COMMISSIONER ZITO: Thank you. I see no more lights so I'm going to have a say here. Can I get the technician to put this picture up? We're talking about a mixed industrial overlay. Okay? That doesn't preclude the uses industrial at any time in the future. A C.U.P. has to come before us, are we being invaded or something? A C.U.P. has to come before us to be approved and so therefore, whatever uses are on this site, you know, we would have a say over what they are. So I have one question for staff. It sounds like there are already quite a few uses. If you could put both of them, that would be great. It sounds like there are a few uses in this industrial park already that are illegal, essentially, all right? There's a Kung Fu and there is this church and there's a few others, I suspect?

SPEAKER: That's correct.

COMMISSIONER ZITO: Okay, so does that mean that now that this is in before us, we're going to have code enforcement go out there and kick them out? I mean, is that essentially what needs to happen?

SPEAKER: Actually, Mr. Chair, I think probably what we really need to do is, we really need to contact the property owner and deal with the property owner. That would really be the straight-up thing to do, so you don't have further occurrences of this happening. But it's really with the property owner.

COMMISSIONER ZITO: But technically, those uses have to cease.

SPEAKER: Yes.

SPEAKER: If they can't obtain the mixed industrial overlay and the eventual PDPs, yes.

COMMISSIONER ZITO: But if they can't, right. If you look at this picture, for better or for worse, this red stuff is residential, that this commission approved. We flipped it. We made it residential, and in this gray area here, that's heavy industrial. And if there's any more sensitive receptor that we've got here, is we've got a leaf industrial next to a residential, we have a heavy industrial next to a school, okay? And what we're saying here is we're going to put an yore lay here that allows building owners who have an economic situation now that, you know, may end up being vacant if we essentially have these folks kicked out. And my concern is, that if we allow the mixed industrial overlay and then when the C.U.Ps come before us to put a limit on these C.U.Ps, very strict understanding these are two-year C.U.Ps whatever we decide makes sense then essentially there can be a little bit more control but it gives the flexibility to the land owners to essentially make their properties viable. And it doesn't really change too much what can go on here because it really -- I mean do we know what's happening to these particular sites here? Do we know if there are any --

SPEAKER: Again, the site immediately to the south is a 200,000 square foot building that's empty.

COMMISSIONER ZITO: That's empty. I guess what I'm saying is it seems very ludicrous to me that we have a heavy industrial site right here that butts up against residential and the school and we're saying there person can't make their site viable for the uses of Kung Fu and a church on a temporary basis. And so for that reason I can't support the denial. Go ahead please.

SPEAKER: I just wanted to clarify. It really wouldn't be on a temporary basis. So a couple of things. Again, I'll -- I'm sorry to sound like a bit of a broken record, but putting aside whatever uses may come down the pike, really the issue before you this evening is, is this an appropriate site for the mixed industrial overlay. And then the whole range of uses -- and maybe staff can speak to this -- the whole range of issues that that opens up on that site, because it's not necessarily the use that's there today, I think as the director alluded to. So really, the long range vision is what you should have in your head right now. When the C.U.P. comes before you, that's more the particular use on that site. Again, they do run with the land. Once we change the rules, I think as the director -- or one of the staff mentioned, then legal nonconforming use would kick in, the way our code reads right now. So I just wanted to clarify a little bit the temporary nature, because again, the C.U.P. runs with the land. And even if we did change it back to two years from now, we have a completely different perspective, and we want that -- and for some reason we want that gray, heavy industrial to come down and bifurcate the area, the uses that are currently there would become legal nonconforming and would not be --

COMMISSIONER ZITO: But correct me if I'm wrong, and I don't mean to sound argumentative.

SPEAKER: You're not.

COMMISSIONER ZITO: If the conditional use permit has a time limit on it, wouldn't we absolutely have the right as a city to essentially say your time is up, you can't have a church there anymore?

SPEAKER: Well, the way the municipal code currently reads, a couple of things. I mean, again, the C.U.P. typically does run with the land. So it would be unusual for us to say you get a C.U.P., it runs with the land for two years. The way the C.U.P. currently reads is so long as you went through the process, you came and you received your new conditional use permit, there is a presumption in the code that you should continue, unless you are creating some adverse impact from health and safety concerns. So the way the code is set up is that applicants who go through the process and spend the fees to apply for the C.U.P., and obtain the C.U.P., there are protections put into the code that require us to jump through a few more hoops before taking that grant of approval away. So maybe another way to look at it is, don't think of our land use approvals as being able to flip-flop or change very easily and that's why I know you all grapple with these decisions so much. Because they are a long-lasting decision.

SPEAKER: Laurel Prevetti: I would like to also add that as our general plan, when we do start adding the mixed industrial overlay, that becomes a signal to other land owners that the city is open to other change within an established industrial area. So these types of decisions, even as a recommending body, are very important. So it may just look like one corner but it is really the beginning of a much larger area. Thank you.

COMMISSIONER ZITO: Let me ask staff, is there any other way for this landowner, this -- to allow these kinds of uses through some sort of a special permit or anything else, sounds like it's not.

SPEAKER: Laurel Prevetti: Not in this location. There are other opportunities in San José. But in this -- this is not the location for those activities.

COMMISSIONER ZITO: And I just want to say, my recollection is, and it may have changed over time, but my recollection is that we have absolutely have granted time-limited C.U.P.s in the past. And basically said, they are two-year, three-year. Whatever they are. And they have to come back.

SPEAKER: And I think that's correct. I think the point that the attorney was making is that say it's operating splendidly. They never miss any landscape, the plants are watered, they built everything, they've been operating entirely in compliance. To say that then, on the day after the five years expires, boom, you're out of there, is not generally going to be in our purview or ability, I think. That's the presumption that they're operating in compliance.

SPEAKER: Right, and that they can typically can come back for a renewal. You've been through those. There is a presumption that they should continue. So I just wanted to clarify that while it might be possible to structure something, it would be highly unusual especially for such a short period of time to say that you can have a C.U.P. for 24 months.

COMMISSIONER ZITO: I understand staff's position absolutely. But given the culmination at this point, where everything comes together here, I understand staff's point about the fact that is -- could be the tip of the iceberg. But given, like I said, given that configuration, I can't support the motion.

SPEAKER: It's a tough decision. And I just want to get back to the fact that we in a sense shouldn't be talking about the C.U.P. We should be talking about should this site have a mixed industrial overlay or not?

COMMISSIONER ZITO: It is doesn't change my opinion, given the fact that we built residential right next to heavy industrial there. Okay, let me see if there's any more. Commissioner Campos.

COMMISSIONER CAMPOS: And I think because we did that, we had been pushing staff really, really hard to come up with tighter policies to give us better direction. And again, I think I stated it after my motion, that if this was three, four years ago, I probably would have made a different motion. But it's not. And we've got better direction. Staff responded to us, counsel responded to us, and we're able to -- at least I'll speak for myself -- able to clearly tell the difference now. Thank you.

COMMISSIONER ZITO: I do see that and I truly respect that position. My concern is that the alternative is that we have an empty building, and there's a neighborhood close by that could be serviced by those businesses that won't have the opportunity. And to me, that makes a difference. So there are no further lights, so let's vote by lights. And again, we're voting on the denial. And that motion passes 6-1 with myself opposed. Okay. 6C, GP 08-05-01A, B, C, D, and E, and GPT 08-05-01. City initiated general plan land use and text amendment requests to change various residential and commercial land use designations to transit corridor commercial and modify the Alum Rock neighborhood business district boundary to include various portions of parcels fronting on or within 1,000 feet of Alum Rock avenue between king road and Interstate 680. The associated text amendment request is to revise the definition of the Alum Rock neighborhood business district to reflect the proposed land use changes. Staff.

SPEAKER: Thank you, Mr. Chair. These general plan amendments are intended to facilitate vertical mixed use development and allow consideration of a form based zoning district within the Alum Rock neighborhood business district between king road and integrate 680. The general plan amendments can also create land uses to support ridership for the bus rapid transit service planned for this corridor. If approved, this would be the first time the city designates an area as transit corridor commercial. Staff received additional correspondence after the planning commission report was distributed. The e-mail correspondence from Bonnie Mace and Mark Ferguson and a letter from Paul Ring was distributed to the commission tonight. Staff also was contacted by phone by Ann Maria Sayers, a tribal representative. She requested that she be referred future development proposals for sites within 300 feet of a waterway or 300 feet of a recorded archaeologically significant site. Staff has agreed to this request. Lastly, regarding the initial study, the City's Department of Transportation has notified staff that there are more

recent traffic data than the 2005 information on page 32 of the initial study which is relevant for near-term traffic analysis regarding future development proposals. The 2008 data show that another the intersection of Alum Rock and Jackson, traffic operates the levels of service D in the p.m. peak hour and at Alum Rock and King traffic operates at level -- excuse me, level of service D in p.m. peak hour. At Alum Rock and Jackson it's level of service D minus in p.m. peak hour. Additionally, on Jackson Avenue, the average daily trips in the 2008 data are approximately 25,000 rather than the 49,000 shown in the 2005 data. And staff's available to answer questions. Thank you.

COMMISSIONER ZITO: Thank you, staff. This is staff-initiated so there is a speaker card. Commissioner Kamkar, do you want to wait until after the speaker or would you like to -- okay, Commissioner Kamkar. Oh, you'll wait, okay, fine. We have a speaker card, Paul Ring.

SPEAKER: Good evening, honorable chair and members of the commission. My name is Paul Ring. I work with the core company and I'm here to speak on Item 6C. I believe this is a matter of question on Item 3 regarding the zoning to be taken up after this.

COMMISSIONER ZITO: We will do the zoning after this, correct, and you can choose to speak to that item, as well, afterwards, if you choose.

SPEAKER: I submitted a card for that also. So I wanted to first thank planning staff and the redevelopment agency for the work that they've done to initiate this process. It's one that core supports, it's visionary to being doing a transit corridor along through here and encourage mixed uses that they're doing. It is noble to see cities being crafted to do that, so thank you. I had the fortune to be looking at -- Core has proposed a preliminary review for a project along through here and have been able to work with staff to look in detail at how the transit corridor commercial designation and ultimately the form based zoning would affect that and how they encourage it. And so what I wanted to do tonight is to support the general plan change. However what I realized in going through that is, it is very intricately linked to the zoning. So to have one go without the other one being complete is kind of an incomplete package. So the letter I submitted to you outlines a little bit more the details behind some things that I think need to happen along with this. The form based zoning, and I would recommend that they be tied to the general plan change, the recommendation. So these things, essentially what they'll be doing is help to resolve some of the discrepancies that are between the documents and implementing the details. But both the general plan and the form based zoning talk about the beautiful vision of mixed use, they encourage commercial but the teeth of the document actually end up becoming so restrictive that they are not encouraging mixed use. There is a lot of successful mixed use projects that would not be allowed, and so some of these things that you'll see on my letter will enable additional projects to go forward and really enabling the viable mixed use projects.

COMMISSIONER ZITO: Thank you. Thank you very much. We do have your letter in front of us, and eight points, in your attachment. There are questions, a couple of questions. Commissioner Jensen.

COMMISSIONER JENSEN: Thank you. So you mentioned that there are some successful mixed use projects that wouldn't be allowed to go in. Are there any of them locally that you can point to?

SPEAKER: They'd have to do detailed numbers on individual projects. The ones that I anecdotally have reviewed, there's the 360 residences has a commercial frontage on 1 s frontage for retail commissioner and then it has required lobbies and further for the residential that end up being larger than what would be allowed in the preliminary form based zone. So the land use seems to fit, details on exactly in particular the first item on my list, that's one example.

COMMISSIONER JENSEN: Okay, so -- all right, so that's it, then, the 360?

SPEAKER: So again, there's also looking at Almaden on the Alameda, there's a wonderful mixed use project that's done there, over near Diridon Station, there are some entrance lobbies that allow side entrances off –

COMMISSIONER JENSEN: Like the plants, are you talking about the plants, 351?

SPEAKER: It's not the plant, it's just over from it.

COMMISSIONER JENSEN: Okay, great, thank you.

SPEAKER: So they'd all have some side entrances that wouldn't be allowed under what's proposed. It just wouldn't have the flexibility. That's what I've found, is the current documents don't have the flexibility to do a lot of things that a mixed use project really needs to do. It does definitely encourage commercial. It allows a single story commercial, but I would hope that it could allow a lot more.

COMMISSIONER JENSEN: Great, thank you.

COMMISSIONER ZITO: Thank you, Commissioner Jensen. I don't believe there is any more questions. Thank you very much. So there are no more speakers, motion to close public hearing? Is there a second, yes. All in favor, I don't see any that are opposed. Okay, staff. Anything further?

SPEAKER: Thank you, Mr. Chair. In response to Mr. Ring's comments, I think it's important to note that this is a neighborhood business district and today, with the existing land use designations, most of them are exclusively commercial, or in some cases, exclusively residential. So no mixed use would be allowed as of right. There I think are two situations where the land use designations are transit corridor residential, which would allow exclusively residential, or at the developer's option they could propose up to two levels of commercial and residential above. But the preference or the emphasis is on the residential in those cases. So the main reason that we created the transit corridor commercial land use designation is to acknowledge that there are a lot of areas in the city where commercial does benefit by having vertical mixed use. And at the same time, this

was a way of also acknowledging that it's important to save our employment lands. The transit corridor commercial is intended to achieve both goals: Create vibrant mixed use communities supportive of transit which is located in a transit corridor where we're going to hopefully have bus rapid transit by 2012. And we believe that with the flexibility of having up to 49% of the ground floor not commercially designated uses, that there is ample opportunity to have vertical mixed use. This is also a long range plan and it may very well be that today or in the next five or ten years most of the uses that you'll see with the transit corridor commercial land use designation would still be predominantly commercial. But it does open up opportunities that don't exist today. Thank you.

COMMISSIONER ZITO: Thank you, staff. Several questions. Commissioner Kamkar.

COMMISSIONER KAMKAR: Thank you, Mr. Chair. Mr. Ring brought up a good point and that you know I was going to ask, we need some education as far as what form based zoning, I guess, is all about. I'd heard the term at envision 2040 a few times before. So here we have the zoning and the general plan, and should really go hand in hand. Is there any quick educational material you can tell us as far as you know, I mean, what is form based zoning? How does it differ from what we're doing right now? Thank you.

SPEAKER: Thank you, Mr. Chair. I'll defer to Carol Hamilton to answer the form based zoning question, she's the lead on that. But what I wanted to emphasize is that the general plan amendments, although they are intended to set the foundation for consideration of the form based zoning, are also intended to be considered for approval independently of whether the form based zoning gets approved. So I -- I guess I'd like to clarify my response to Mr. Ring regarding the need for them to be a package. The general plan amendments are intended to be successful in promoting vertical mixed use, whether or not the form based zoning gets approved as proposed. And I'll defer to Carol Hamilton to supply the second part of the annals.

SPEAKER: Thank you. Form based zoning focuses on the physical form of the development. It does also deal with use, but the primary emphasis is on developing detailed standards that will provide a predictable form of development. Standard traditional zoning sets minimums, and allows quite a bit of flexibility in how you relate a building to the street or where you put the parking. And a form based zoning and this one in particular establishes not only minimum but maximum. So in this case, we have a setback, a minimum setback of five feet, and a maximum setback of ten feet. Because the objective is to get the buildings close to the street, right on the sidewalk, so that it's convenient for pedestrians and transit riders to enter the buildings, and shop along the street. So this is a new form of zoning that we think is appropriate to this area of Alum Rock, to provide now the street is sort of a hodgepodge of some buildings back and some close. And this is intended to provide a predictable and consistent pattern of development and to let developers know what the city expects in terms of that pattern.

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

COMMISSIONER CAMPOS: Thank you, Mr. Chair. So using Tier Encantada, would that, if that was coming now, would that fit form based zoning? You know which project I'm talking about? It's on McGuinness and Alum Rock.

SPEAKER: I'm not sure I understand which project you're talking about.

COMMISSIONER CAMPOS: The Tier Encantada, it was the old Mark's Hot Dogs site, would that project, if that was coming now or after form based zoning, let's assume it's adopted, would that fit form based zoning, would the requirements?

SPEAKER: That project would meet most of the requirements for the form based zoning, but there are some that it would not meet.

COMMISSIONER CAMPOS: Could you describe some that it wouldn't meet?

SPEAKER: I haven't done a detailed analysis, but I believe there's more of that frontage that's devoted to noncommercial uses than we are hoping to achieve through this form based zoning.

COMMISSIONER CAMPOS: Would that be the laundromat? Because there is places for residents to wash their -- is that your --

SPEAKER: As I said I have not done a detailed analysis of that but having walked by it I believe there is more residential support uses along that frontage that would be allowed under this proposal.

COMMISSIONER CAMPOS: Okay and the parking on that is on a podium or it's under a podium. Would that fit form based zoning because I'm just trying understand the --

SPEAKER: Yes, I would say in general that building reflects in general what we're trying to achieve as far as putting a building close to the street and having active uses right along the sidewalk, but maybe not quite to the degree that we're hoping to achieve in the future.

COMMISSIONER CAMPOS: Okay, so my next comment is actually on 6 C. I'm just curious, why didn't you extend the neighborhood business district all the way through the village up to Manning? Because if you look at the Alum Rock business association it includes Alum Rock all the way down you know through past 101. So why would you not include that portion? Given that there's -- there is a lot of opportunity there in the village to really create a great shopping experience, dining experiences and so forth?

SPEAKER: I think that it would be very desirable ultimately to include the entire neighborhood business district in the form based zoning. Form based zoning takes a lot of work. There's a lot of detailed analysis that goes into it. And this was a manageable chunk for us to begin with. I think that the study area was initially based on the fact that we had had the prior Alum Rock strategy that dealt with this area and recommended

some things that we thought would be -- could be achieved through form based zoning but certainly it would be very desirable to have form based zoning within the whole neighborhood business distribute and this is our first step.

COMMISSIONER CAMPOS: Okay, so it could in the future go all the way through village?

SPEAKER: That's correct.

COMMISSIONER CAMPOS: Okay, thank you.

SPEAKER: Mr. Chair, if I might add to that.

COMMISSIONER ZITO: Please.

SPEAKER: We did receive public feedback that, because we were trying the transit corridor commercial in this area as well as the form based zoning and they are both new applications within the city, that there was a little bit of trepidation among some of the members of the milk that they were being kind of the testing area, and with that in mind, I think there are benefits to starting with a smaller area and making sure we get it right before we expand to a larger area. So there's also that aspect to consider. Thank you.

COMMISSIONER ZITO: Thank you. Commissioner Jensen.

COMMISSIONER JENSEN: Thank you. And I think staff already answered my question, but I just want to walk through it one more time because it's getting a little late.

COMMISSIONER ZITO: Uh-huh.

COMMISSIONER JENSEN: We're going to be hearing the recommendation 3A, on form based zoning immediately after this. So any questions or comments, and you had solicited feedback that we could send on to council with respect to the recommendations, that's appropriate there, whereas what we're considering now is the general plan amendment to change it to create a commercial land use, and residential land use for transit corridor, and I totally fumbled all my words there but I think you get the gist, right? So this is just the GP amendment and then we'll discuss form based zoning. Thank you.

COMMISSIONER ZITO: Commissioner Jensen. Thank you. Just we have hit the witching hour, 11:00, we will have to make a decision on what we're going to do. We will finish the conversation on this and hopefully, in fact we will go to form based zoning item 3A. Commissioner Campos.

COMMISSIONER CAMPOS: Thank you, Mr. Chair. I think on 6 C, this is the last GP hearing so we have to make a decision tonight and I'm ready to make a motion on that.

COMMISSIONER ZITO: Please.

COMMISSIONER CAMPOS: That we consider the negative declaration in accordance with CEQA and recommend to the city council approval of the general plan land use and text amendment request as described above, as recommended by staff.

COMMISSIONER JENSEN: Second.

COMMISSIONER ZITO: Motion and multiple seconds. Any further comments, questions, concerns? Okay. Let us vote by light. And that motion passes unanimously. Okay, with that let me go on to our deferred item 3A. Oh, yes, yes, thank you. It's getting late. We have to -- so we're at the point where we do 7, which is the approval of the Planning Commission recommendations of the spring 2009 general plan amendments from the May 13th through May 27th. There's a motion and a second. Basically what this does is close the general plan hearings for the spring, just for those commissioners who might not know what we're doing here. All those in favor, anybody opposed? That motion passes unanimously. All right now we go to 3A. And 3A is a preliminary Alum Rock form based zoning design standard and guidelines. So before we consider this, it is 11:04. Question to the commission is, do we take this on now, or do we defer this to a future meeting?

SPEAKER: I think staff would perhaps like to comment.

COMMISSIONER ZITO: Please.

SPEAKER: That it's great advantage in having this item go forward with the neighborhood business district general plan changes. And I believe it's not application of the zoning to this location at this time, and I -- it would be a question as to whether we would have the council give us some direction on the form based zoning even without Planning Commission recommendation. And perhaps Ms. Prevetti has more to add to that.

SPEAKER: Laurel Prevetti: Thank you. 3A, the item that's before you is really just considering some of the preliminary concepts that are, forward, as it relates to a proposed form based zoning. We would not be actually recommending or asking you to recommend on a particular ordinance itself. We want to make sure that the ideas here are solid and then we'll be working with our counsel to put this into ordinance language. Our intention is to take this to the city council in June, prior to their recess. And we would really love to get the Planning Commission's comments as well. If, because of the late hour and your interest in providing comments, because there's a lot of great stuff, a lot of good meat here, so we certainly don't want to give it short shrift, but if you would be comfortable with us proceeding to council and getting their comments, and then also allowing for us obtaining yours, we could sequence it a little bit differently than we normally do. The council, though, would not have the benefit of your oversight prior to - perhaps not have the benefit. I'm not sure we've yet scheduled for council. We have.

SPEAKER: June 16th.

SPEAKER: Laurel Prevetti: Okay, so the next hearing that would you have would be June 10th. So our ability to prepare a written report to the council would be highly constrained but we could certainly do a verbal report if it is the will of the commission to defer to the 10th.

COMMISSIONER ZITO: So let me put out to the commission, I think what I'm hearing is, staff would certainly want our input but it only makes sense for us to give input if in fact we've done our homework to give constructive feedback to staff. And so in considering the vote because it has been put out, a motion and second has been put out on the floor as per our guidelines, I think when you vote you should consider whether or not we could do this justice now, or if we could wait until the next meeting. I will also state that there is a speaker card, and for the sake of Mr. Ring, maybe what we would do is ask him to come and give his comments first. Though that's also an alternative. So Commissioner Do.

COMMISSIONER DO: I would like to withdraw my motion.

COMMISSIONER ZITO: And that is your prerogative. Okay, so there is no motion on the floor. Unless someone else wants to make a motion. Commissioner Campos.

COMMISSIONER CAMPOS: I think that in order to really give this justice, this is a half hour -- no, about a 45 minute to an hour conversation, because really, like you said, there is a lot of meat to this. And having a conversation at 11:00 at night going towards midnight and again, speaking with experience, you know, I'm not going to say we're going to start babbling but we might not be as sharp as we would if this was first on the next agenda. And with staff being able to give a verbal report to the council. However, I do acknowledge that Mr. Ring has been here all night, and perhaps we can record his comments, and continue this to our next commission meeting.

COMMISSIONER ZITO: Is that a motion?

COMMISSIONER CAMPOS: Yes, it is.

COMMISSIONER ZITO: There is a motion and second. Okay, so the motion is back on the floor to defer this to the next planning meeting. What I will do is, we will vote on this, and regardless of the outcome, I am going to allow Mr. Ring to speak so that we can get his comments on record. And then if he chooses to come back at the next meeting, he can also speak again. But at least we have him here and I want to give his -- respect his time. So with that, all those in favor? How many. Raise your hand. One, two, three, four, there are four. All opposed? There are two. And let the record show that Commissioner Platten has left and therefore, there's two opposed, Commissioner Jensen, Commissioner Kamkar, so we will defer this to the next meeting. And put this on, I guess, early on in the agenda. Please. And with that, I'll ask Mr. Ring, again, thank you

for sticking with us. I'll have to agree with Commissioner Campos that we tend to get a little punchy after 11:00. So anyway.

SPEAKER: Thank you, commissioners for allowing me to speak, and also, I think I support your recommendation, it is a meaty issue with a lot of items involved. So to -- happy to come back on the 10th and thank you for letting me say a couple of words here about the recommendation for the general plan. Thank you for doing that, supporting that, and how it rolls into the form based zoning. The details really are important. If you're interested in doing vertical mixed use projects versus 90% commercial projects, the document needs to reflect that. And some of the proposed revisions we had will really take it a long way to doing that so I hope you consider doing those. Thank you.

COMMISSIONER ZITO: Thank you very much. Any questions of Mr. Ring? Seeing none, thank you. Okay, there is no further comment on that issue. So we do move on to the other items. The other items on the agenda just to close out the meeting. But Commissioner Jensen, go ahead.

COMMISSIONER JENSEN: I actually have prepared written comments so I'm going to hand them over to the director so that I could just read them off. But I agree, it's late and in my punch-drunk state I would probably read them incorrectly.

COMMISSIONER ZITO: So seeing as you did hand them over to the director to be put into the public record, I'm going to ask that you forward them on to the rest of the commission.

SPEAKER: Commissioner Jensen: Certainly.

SPEAKER: Laurel Prevetti: Staff will take care of that. We'll PDF this and get this to the full commission. There are issues with the full right-of-way width, so our ability to do all of this is one of the issues that we'll discuss on the 10th, thank you.

COMMISSIONER ZITO: I know there was some comments from members of the community as well and probably get a note out to Ms. Mace, give her an opportunity to come back and talk about it as well. That's the only speaker card we had, right, and Mr. Ring, of course. Okay, petitions and communications, let's see if we can buzz through this very quickly. There are no milk, we have no cards for that so we'll skip that. And referrals from city council boards commissions or other agencies. Nothing there. 10 good and welfare, report from city council.

SPEAKER: Laurel Prevetti: City council has been busy with a lot of land use items. I think some of you were following the bail bond issue, that the council did direct the initiation to proceed with an interim moratorium, so that is moving forward. In addition, they have heard several of the land use items that have come before you at prior meetings. Thank you.

COMMISSIONER ZITO: Thank you. Commissioners reports from committees, San José international?

COMMISSIONER CAMPOS: Thank you, Mr. Chair. We met last week, and I reported on that. And we haven't met since.

COMMISSIONER ZITO: Okay, very good. Envision San José 2040. Commissioner Kamkar.

COMMISSIONER KAMKAR: Thank you, Mr. Chair. We had a meeting yesterday, and we talked about the three areas of the city, the Evergreen, the Almaden, south urban reserve and the Coyote Valley, you know, and the decision of the task force was to leave them as reserve and don't bring them into discussions at this point. We also recommended two additional alternatives to be reviewed to make it a total of five, the two we had done before, the one no-project plus the two. To complete the list of the alternatives where we were going to discuss. These two alternatives was sort of at opposite ends, one was highest job to resident ratio and the other one was the lower, or the lowest jobs to resident ratio. So overall, I would say -- and it was a pretty good meeting. We had quite a bit of turnout from the younger generations and the younger community. Especially for Coyote Valley and their interest in keeping it as a preserving and as an open space. Mainly for I guess field trips and you know, wildlife. But it was a pretty good discussion. That's it, thank you.

COMMISSIONER ZITO: And as I stated, they were doing science. Okay, 10C, review of synopsis. Any comments on the synopsis as provided? Is there a motion to accept or - hello? Is there a motion to accept synopsis? Move and second, all in favor, opposed, seeing none. Consider study sessions, dates and/or topics. Anything further? Staff?

SPEAKER: Mr. Chair, I think not in light of the hour, unless there's something burning that you all have. But I do think that for the next meeting, based on the study session that we had, that you all had this afternoon would be curious to know if there are study sessions now that you may have on your mind coming out of Aconi's presentation of this afternoon but we can take that up next time, Mr. Chair.

COMMISSIONER ZITO: Form based zoning, I think we're going to get a lot of that next week, next meeting. And finally, the subcommittee reports, discussion of formation of subcommittee on environmental issues, I don't think there's anything more on that, is there?

SPEAKER: Laurel Prevetti: I would suggest that given the late hour that we defer our discussion of the subcommittees. Because I think there's lots that we could talk about.

COMMISSIONER ZITO: Okay.

SPEAKER: Laurel Prevetti: But in respect to your time, if we could wait until the 10th that would be great.

COMMISSIONER ZITO: There's a suggest we move that to deferral. All in favor?  
Okay, we'll talk about it next time. Finally, motion to adjourn, second, all in favor? Wait  
wait wait, officially, we're adjourned.