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November 4th, 2009.

COMMISSIONER JENSEN: Good evening. My name is Lisa Jensen and I'm the vice chair of the commission. On behalf of the entire Planning Commission, I would like to welcome you to the Planning Commission public hearing of Wednesday, November 4, 2009. Please remember to turn off your cell phones. Parking ticket validation machine for the garage under City Hall is located at the back of chambers. If you want to address the commission, fill out a speaker card located on the table by the door on the parking validation At the rear of the room and at the bottom of the stairs near the audiovisual technician. Deposit the completed card in the basket near the planning technician. Please include the agenda item Not the file number for reference. For 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 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. The planning Commission may request staff to respond to the public testimony, ask staff questions, and discuss the item. If you challenge these land use decisions in court, you may be limited to raising only those issues you or someone else has raised at this public hearing or in written correspondence delivered to the city at or prior to the public hearing. The Planning Commission's action on rezoning, prezonings, general plan amendments and code amendments is only advisory to the City Council. The City Council will hold public hearing on these items. And looking at the attendance here this evening, please note all commissioners are here with the exception of Chair Thang Do, and Matt Kamkar, Commissioner Matt Kamkar is not here. On to the 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 commission may determine either to proceed with remaining agendized items past 11:00 p.m, continue this hearing to a later date, or to defer remaining items to the next regularly scheduled Planning Commission meeting date. Decision on how to proceed will be made by the Planning Commission no later than 11:00 p.m. Staff.

SPEAKER: Thank you, Madam Chair. There is a late breaking deferral, on the consent calendar, item number 2C, this is file number CPA 03-021-1. This is for tacos Al carbon. Staff is recommending deferral at the applicant's request to November 18th, Madam Chair, due to a slight modification in their request. That is November 18th for Item 2C, and that is all the staff recommended deferrals, Madam Chair.

COMMISSIONER JENSEN: Thank you, is there a motion?

SPEAKER: Second.

COMMISSIONER JENSEN: All those in favor? Opposed? The matter of deferrals is now closed. On 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. At this time, we have a request to remove from consent item 2H. Are there any other requests for taking things off consent? Seeing none, may I have a motion? All those in favor, thank you. Moving on to hear item 2.H, staff. I'm sorry, this is item 2.H.

SPEAKER: Thank you.

COMMISSIONER JENSEN: Thank you, please go ahead.

SPEAKER: CP07-083. CP07-083. Is a Conditional use permit to demolish an existing gasoline is to allow 24 hour operation and offsale of alcohol on a .72 gross acre site located on the southwesterly corner of Tully road and McLaughlin avenue. I guess it is worth noting that the existing service station does have a mini mart with an ABC license, even though the demolition of the proposed gas station would technically remove the legal nonconforming status. There is no new ABC license issued on this site so there is no trigger for the finding for the public convenience or necessity. Prior to this conditional use permit, or actually the conditional use permit was filed first, however, there was a subsequent general plan amendment, and rezoning approved, within the past year to allow for the commercial use on the site. And a mitigated negative declaration was prepared for this. Staff is recommending approval. This concludes the staff report. Thank you.

COMMISSIONER JENSEN: Thank you, staff. Is the applicant here? Would you like to come down? Thank you.

SPEAKER: Good evening. My name is Bobby goldshire with WD partners. I represent the parties that general plan amends for this site in order to get the -- I mean the commercial use for this site. And the subsequent rezoning. At this time, basically what we're proposing to do, what we feel is that with the demolition and rebuild of this site, we'll actually be able to not only improve the general aesthetic quality of the site through architectural upgrade, site improvements, landscaping improvements, we'll in addition be able to provide the same services that are there, currently, but also, in an improved setting, traffic circulation will be improved on the site. As a result of this going through the general plan amendment process and the rezoning process, extensive studies have taken place, obviously, including traffic, noise mitigation, things of that nature, and those have subsequently been factored into the approvals that we've gotten up to this point. And ultimately as I was stating in terms of the general improvement of the site it's a high priority of BP ARCO who is the business that is going to be here, to have a great amount of security at that site. You know, including things like making sure that we have clear store front, clear visibility for the cashier to not only the entire convenience store area but onto the site. The security system includes monitors, cameras throughout the site so we feel that

generally this is a great improvement for the site and it's a continuing of the existing uses but primarily updating and providing not just an aesthetic upgrade but generally welfare safety upgrade as well to the site.

COMMISSIONER JENSEN: Thank you. I don't see any questions from the commission at this time. But after the public testimony, you may have up to five minutes to respond. Thank you.

SPEAKER: Thank you.

COMMISSIONER JENSEN: Would Brenda Meng like to come forward and speak to this item? Thank you, Ms. Meng and you have up to two minutes.

SPEAKER: Yes, I have a number of concerns about this project. I -- this is -- I'm a resident right behind this gas station. And I really appreciate what the gentleman just said, that he would like to improve the architectural aspect of the site, and also of the security, one of my main concerns was safety public safety from this site. Right now, there is -- there are a number of people that loiter on this site. And that doesn't -- doesn't appear to be being addressed currently. And with the convenience store being moved to I believe it's on this side, at least on the original plan that I saw a couple of years ago, was that it would be moved to the -- towards the South of that plot there. It would be moving the convenience store closer to my backyard. And thereby -- it seems as if this is -- these are a bit of a magnet for gang activity and loitering in that area. And so that is one of my main concerns. There is a similar project on the other side, on Tully and McLaughlin. It's a Chevron station. And I noticed this morning that it has already been tagged twice, even though it has not even opened for business yet. So that's a main concern for me, is the gang-related activity in that area. And the other is that there's an existing wall that borders their property, that is the four people that are in the backyard there. It's a single brick wall, and I was wondering if, you know, improvements are going to be made to that because it is deteriorating and falling down in a number of areas. And there's also -- my concern is about noise pollution, and lighting pollution. Right now their fluorescent lights stream into my kitchen, so I have to close my blinds most of the time. There is fumes and there is noise pollution for car alarms people arguing who's in front of the gas station. So.

COMMISSIONER JENSEN: Great about.

SPEAKER: I would like the Planning Commission to consider that in consideration of this. Thank you.

COMMISSIONER JENSEN: Great. Would the applicant like to come forward? You have up to five minutes to respond.

SPEAKER: Thank you very much. In terms of the comments that were raised, the interesting thing is that we actually think that the way that we're proposing to do this will improve the safety and will reduce loitering. The way that these sites have typically been laid out in the past was often to have the convenience store being in the center of the lot or close to the center of the parcel and you had a lot of circulation area around. In my experience in seeing these sites oftentimes what you have when you have sites like that is you have a lot of areas where lighting

just simply doesn't reach and you have a lot of space where frankly eyes don't see. I mean people who are in the store, people who are patronizing the store, you have dead spaces sort of around. The way we have the site plan here proposed is in a lot of ways takes into consideration this very issue of loitering and things like that. Some of the specific things we'll do is by pushing the C store back will allow visibility from the C store towards the essentially towards the entire property. And improving the traffic circulation part of that comes from improving the lighting situation so there aren't these dead zones so we don't have these areas of loitering. We've actually experienced this in areas we've done projects like this, the terminology is the backward conversion, we actually push the C store back into the lot. This is in a lot of ways for traffic circulation and safety issue. We think we're going to be improving this. Obviously you know some of the things that are standard will be no loitering signs, a lot of notification that that's simply not allowed on the site and again, like we said before, you know, in dealing with these kinds of issues when we have the security cameras, the visibility in the C store putting the convenience back here is going to improve the situation, because everything will be in eyes of the people all the time without having the dead space around it. So that's what we would like to suggest as being basically the way forward. And in terms of noise pollution, light pollution, a lot of these as I said before in order for us to get to this point with the project, we've had to go through a general plan amendment in order to get this general plan changed so that we could get then the rezone for the commercial use. And in doing those things we had the lighting, a photometric study and a noise study has shown that we would not be increasing significantly the decibel level at this site. In fact I don't have it in front of me but my understanding is, we're not increasing it at all. And generally we believe again that this is going to be an improvement to the site and from an architectural and planning standpoint we feel that when we do aesthetic improvements to a site we raise the level of quality of the businesses, of the store fronts, and I think that, you know, we feel that that has an effect in and of itself and the architecture is enhanced obviously will be enhanced obviously as well as the site architecture and landscaping. For a greater level of safety and community harmony for the site. Thank you.

COMMISSIONER JENSEN: Thank you. We do have several questions from the commission so if you would remain at the podium. Commissioner Zito.

COMMISSIONER ZITO: Thank you Madam Chair. Couple of questions. The speaker before you asked about the boundary wall. Any improvements being made there, can you comment on that?

SPEAKER: Yes. I wasn't sure exactly what location on the site that she was referring to. And I think if I'm not mistaken I think it's a masonry wall that she's referring to, not exactly sure what location she's referring to but it falls to us to make improvements to that boundary wall, because of the quality of it it is something that could definitely be considered.

COMMISSIONER ZITO: I would think just overall sounds like over the years that might need some work gathering from the speaker. So whatever you can do in that regard. I can't tell from the plans whether or not it's slated to keep the walls as-is or to somehow enhance them. So I think that's something that needs to be looked at. Can you tell me where on the plans are your garbage bins?

SPEAKER: Yes. If you look at the location of the convenience store sort of as it is, sort of sitting the way it is in the lower most corner there, you go as to the compass points to the Northeast you will see where the trash enclosure plans to be located.

COMMISSIONER ZITO: That's what I thought. That backs up against a residential boundary?

SPEAKER: Yes.

COMMISSIONER ZITO: What time does your garbage pickup occur, do you know?

SPEAKER: To be frank I'm not quite sure what time the garbage pickup will be on the site.

COMMISSIONER ZITO: I would ask for harmony purposes if it's possible to relocate that or to somehow arrange that pickup isn't like 4:00 or 5:00 in the morning waking people up I think that's a big issue in terms of noise. Right now you have an ABC and a 24-hour use, is that correct?

SPEAKER: Correct.

COMMISSIONER ZITO: Do you -- I'm not sure given that you're grandfathered in does your current license allow you to sell alcohol 24-7?

SPEAKER: No. The ABC license is restricted, which allows us to sell alcohol from 6:00 a.m. to 2:00 a.m.

COMMISSIONER ZITO: What do you do to prevent selling alcohol outside the hours you are supposed to sell it?

SPEAKER: We don't sell it. That's state law.

COMMISSIONER ZITO: Do you lock the refrigerator cases or anything like that, or just if they bring it up, you say sorry, you got to put it back, or --

SPEAKER: Typically, if they bring it up, they say, sorry, don't bring it back, I mean, there is a big emphasis for the store owner not to do that. To be honest, I don't know -- I don't believe there's locks on those cooler doors, I don't believe that's the case. But typically as I said it's in the best interest of the store owner to not violate that law.

COMMISSIONER ZITO: Sure, I understand that but sometimes it takes the -- it takes the pressure off of the attendant especially if it's not a store other than and if it's somebody there just watching the shop right not to have excuses and say well it's locked and we can't get to it kind of a thing, you know.

SPEAKER: Sure. Sure.

COMMISSIONER ZITO: That's my biggest concern that you do have that. You're already grandfathered in and that's not the issue tonight. I just think overall that that area is an area that probably needs a lot of care and attention. I mean the area itself, Tully and McLaughlin probably is an area that needs a lot of attention and whatever can you do to maintain the security and the peace if that includes somehow active ways of preventing sale of alcohol during the off-hours certainly any kind of sound buffering you can do with the garbage bins or redoing the walls I think those would all be important issues. Thank you.

COMMISSIONER JENSEN: Commissioner Cahan.

COMMISSIONER CAHAN: Thank you Madam Chair. The neighbor of the site expressed concern about loitering at the site and you explained that you will put up no loitering signs and that there will be greater visibility from the attendant. However, I didn't hear you say how you would handle loitering if it occurred.

SPEAKER: That would ultimately rest with individuals who would be operating the store at any given time, having the knowledge and really the foresight in order to understand the area and understand that, you know, the best thing to do would be to -- if that visibility is available to be able to contact the police, to have, make sure that the cameras are operational and that the monitors are operational and ultimately you know, in terms of people coming on to the site and loitering and things like that we think from design standpoint the best thing we can do is reduce the areas where that could take place. I think that in terms of people operating or working at the store I think it's reasonable to say that there is only so much they can do to prevent people from coming on. The best approach is to improve the design and to make it such that it is difficult for people to find areas within the sight to not be within eye shot and draw attention to themselves and we think that is going to be in a lot of ways most effective to preventing the loitering.

COMMISSIONER CAHAN: But did I hear you say that you will be instructing the attendants to call the police?

SPEAKER: Yes, these sorts of things in terms of how to handle those things those are standard within the operational training and things like that for the attendants and for the employees.

COMMISSIONER CAHAN: There's also a concern about lighting. And I'm wondering as you're moving the building back are you going to be putting lights on the back of the building that are up high, that would potentially shine down into the neighbor's yard that abut there?

SPEAKER: Typically what we have on the building is we would have a -- because we have the electrical panels located, it looks like it's showing here on the back side of the building, we would have minimal lighting on the back. There's a small amount of space between there and the wall so we would have minimal lighting on the back and minimal lighting on the sides. Not such minimal that you know, when come from -- basically what we have is like wall sconces. So it wouldn't be so high that it would bleed onto the neighboring properties but it would provide visibility to the sides of the building and to the pavement surrounding the area. Typically the larger lights that are for the side lights are, you know, in the front of the building and then throughout the site itself so around that area closer to the boundary with the neighbors we would

have more subdued lighting. Still such that it would be significant enough to light the area around the building but not so great that it would shine and have a lot of glare into the neighbors' yards.

COMMISSIONER CAHAN: So you believe that the lighting would be lower toward the neighbor?

SPEAKER: Yes.

COMMISSIONER CAHAN: Thank you.

SPEAKER: Uh-huh.

COMMISSIONER JENSEN: Thank you, Commissioner Cahan. Staff -- there are no further questions from the commission. May I have motion to close public hearing?

SPEAKER: So move.

COMMISSIONER JENSEN: All those in favor? Staff.

SPEAKER: Thank you, Madam Chair, a few comments in response to the public comments. Currently in the draft resolution we included a condition for planning permit adjustment just to deal with slightly changing the perimeter landscaping, just to make sure that the grading plan and landscape plan basically jibe with the latest provide site plan. But within that permit adjustment staff considered adding an additional line basically saying the area along the side and rear of the building shall be fenced off with an open wrought iron type fence and existing fences shall be repaired and maintained. Just I mean I think what the applicant said that by moving the building back on the site, they're basically removing the area on the existing gas station which is somewhat appealing to loiter on, they kind of have a fairly open corner area right now, while behind the building, and in the revised building would be a fairly narrow space and it doesn't seem like a place where people would likely loiter and the rest of the site would have a lot of visibility from the public which right away would make me think it's less likely that there's going to be loitering on the site. Some of the other concerns is graffiti, there is an antigraffiti condition in the permit requiring them to clean up any graffiti within two days. This gas station has been on the site for a long time. And I don't know when it dates to but I'm sure it's before we adopted our current outdoor lighting policy. The current gas station will be required to comply with our outdoor lighting policy which should greatly reduce any light pollution to the neighbors. There's a requirement that basically any canopy lighting needs to be recessed and shielded so that it's not visible from the public right-of-way or adjacent residential uses. And I believe that concludes the staff comments. Thank you.

COMMISSIONER JENSEN: Thank you, Commissioner Campos.

COMMISSIONER CAMPOS: Thank you Madam Chair. Ready to make a motion that move approve for a conditional use permit to demolish an existing gasoline service station and construct a 2900 square foot convenience store/sales building, canopy, fuel dispenser, and

underground fuel tanks, and related site improvements, and to allow 24-hour operation and off-sale of alcohol on a .72 gross acre site. thank you, Commissioner Campos. Commissioner Zito.

COMMISSIONER ZITO: Thank you, Madam Chair. I have a couple of questions for staff. You just mentioned the wrought iron fence. I'm just wondering how that balances with the existing block wall. Is there any provision in there to upgrade or help better sound attenuation, for offering the adjacent residences?

SPEAKER: Thank you, Mr. Commissioner, maybe I kind of mumbled there a little bit on the end. I did say also within the condition would be that existing perimeter fencing and walls shall be maintained and repaired as necessary. That would be an additional condition of the adjustment if the commission chooses to make that motion.

COMMISSIONER ZITO: That is currently not included did you say?

SPEAKER: Currently that is not in the adjustment, no.

COMMISSIONER ZITO: I would like to make a friendly amendment to include the upgrade of the wall for sound attenuation.

COMMISSIONER CAMPOS: Acceptable.

COMMISSIONER ZITO: Okay, second question I've got is looking at the plans, I guess it's A2.2, and I could be misinterpreting this, outside access to the restrooms; is that correct? I see two doors there, they may not be restroom doors but that's the way I interpret them.

SPEAKER: Commissioner Jensen: It's the very last sheet.

COMMISSIONER ZITO: Or if it pleases the chair, just to have the applicant answer a single question about restroom access. Looks like he's ready to solve that question.

COMMISSIONER JENSEN: Would the commission like to open, return to public hearing for the purposes of asking this one question? Seeing no disagreement, please step forward.

COMMISSIONER ZITO: Well, my question very simply is, restroom access. Is it from the interior or the exterior.

SPEAKER: The door you see on the outside of the building, there is an access door. If you would go inside the separate doors are inside of that.

COMMISSIONER ZITO: If a patron wants to use the restroom would they go through the store to get to the restrooms or they go from the outside?

SPEAKER: Yes, through the store to get to the restrooms.

COMMISSIONER ZITO: Through the store, I would think if there was there would be more noise and possible -- thank you for solving that.

COMMISSIONER JENSEN: Second, is there a second? All those in favor, thank you.

COMMISSIONER ZITO: Last question I have for staff, any possibility of moving or have you thought about the trash containers and where they're located in relation to possible noise with the neighbors?

SPEAKER: Thank you, Mr. Chair, Madam Chair. That particular issue we're a little bit hampered because there's a groundwater remediation on the back portion of the site. We also took into consideration where bedroom windows would be, and staff felt it might be advantageous to keep it in the front, for a couple of reasons. It's away from bedroom windows, and in that location, it's going to make it incumbent on the applicant to keep that area neat and tidy because it's sitting basically on their doorstep. We found in a lot of retail situations actually by having trash enclosures in parking lot areas, that that actually promotes better and more orderly maintenance of trash areas, and so that's why it's located where it is.

COMMISSIONER ZITO: How about pickup, that's what I'm mostly concerned about.

SPEAKER: That's something we don't really have the ability to regulate with this permit, unfortunately.

COMMISSIONER ZITO: Okay.

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

COMMISSIONER CAHAN: Thank you, Madam Chair. Does the motion with the amendment now include the wrought iron fence? Or does it only include repairing the wall? You discussed two different things when you said that you would --

SPEAKER: I -- the proposed modifications that I state included the wrought iron fence. I'm not sure whether the friendly amendment that Commissioner Zito proposed included that or not.

COMMISSIONER ZITO: I didn't mean to encroach on the fence -- the wrought iron fence at all but just to upgrade the wall so I'm assuming that it includes both.

SPEAKER: Okay so then it would be included, yes.

COMMISSIONER CAHAN: Thank you.

COMMISSIONER JENSEN: Thank you, there's a motion and second on the floor. If we may vote by light. Please note, all commissioners vote in favor. I would be Thang Do. We have Commissioner Do and Commissioner Kamkar absent on this vote. Thank you. Public hearing. Generally, the public hearing items are considered by the Planning Commission in the order in which they appear on the agenda. However, please be advised that the commission may take

items out of order such as to accommodate significant public testimony or to defer to later times in the agenda for public hearing items only. Item 3A. PDC 06-069. Planned development rezoning from LI light industrial zoning district to A(PD) planned development zoning district to allow up to 166 single family attached residences on a 3.28 gross acre site, located at/on the west side of north 10th street, between vestal street and East Mission Street. Staff.

SPEAKER: Thank you, Madam Chair. Filed in 2006, the project originally proposed up to 137 attached residential units with a maximum height of 60 feet which was in conflict at that time with the land use designation of the site. A general plan amendment was approved in 2008 to change that designation to allow a maximum height of 65 feet and a maximum of 60 dwelling units to the acre. The current project with a density of 58 dwelling units to the acre and maximum height of 60 is consistent with that new designation. The project is also consistent with general plan housing, growth management, and sustainable city major strategies, as a mid rise intensified urban development near the downtown which conserves infrastructure, national resources, economic resources and air quality. Also, the project is also consistent with the 1992 Jackson Taylor residential strategy which calls for conversion of the older industrial lands in the area to residential and commercial uses to support the nearby growing residential neighborhoods as well as the downtown area. In terms of consistency with design guidelines from that strategy and from the residential design guidelines, the project basically proposes three buildings over a raised podium with a central courtyard, the facades are tripartite. Two of the facades have a central -- with a central podium entry face North 10th Street, and are set back and punctuated by four-story vertical bays with individual pyramid gabled roofs. The southern side elevation includes an articulated podium entrance gate fronting onto a park. The -- while the density of this project does not exactly lend itself to double aspect units, one of the criteria or one of the design guidelines in the residential strategy, the balconies do face the street, and the possibility of providing direct street access to first-floor units facing north 10th could be explored at the planned development permit stage. Resulting in a development permit which would be filed after July 1st, 2009, this project is also subject to the City's green building ordinance and is considered a tier 2 large residential project and would be required to submit a deposit prior to receiving LEED certification or 50 greenpoint rated. And a in terms of environmental clearance a mitigated negative declaration was circulated for public review which was adopted on November 27th, 2007, as part of the general plan amendment and included in that would be traffic improvements which will be identified at the planned development permit stage. So at this time, staff is recommending approval of the planned development rezoning as it is consistent with the general plan land use designation diagram with the residential -- the Jackson Taylor planned residential community, also is consistent with several general plan goals and policies, is compatible with surrounding land uses, conforms to applicable policies of the guidelines and conforms to the requirements of CEQA. Thank you.

COMMISSIONER JENSEN: Thank you, staff. Would the applicant like to come forward? You may have up to five minutes.

SPEAKER: Good evening, vice chair Jensen members of the commission, my name is Eric Shanehauer and the Shanehauer company represents Hudson industrial equities on this application. Since 1992 our site has been planned for high density residential development as part of the Jackson Taylor Japantown neighborhood revitalization plan. The purpose for high

density housing in this plan is to do a number of things, one is to provide a growing customer base for merchants in the Japantown NBD and other businesses in the neighborhood, is to provide transit riders for transit assets in the community, within a block of this site is the new community bus route 11, as well as VTA bus route 66 and 62, which provide an easy link to light rail. In addition to those purposes, the goal is to provide housing in the city center for people who work in the downtown area. So this has long been planned for high density residential and we're just implementing that neighborhood plan. Our development has 166 planned units in it. All of the parking for the development is contained in a podium garage underneath the development. There's a large courtyard with a swimming pool and other amenities in the middle of the development and we will also be providing land to a future public park that will be developed through a contribution of land from ourselves and from the adjacent property to the South. So we hope that you will find this consistent with the plan and the neighborhood and that you will support staff's recommendation of approval. I'm available for questions. I don't know if there's any public testimony. I can come back after that.

COMMISSIONER JENSEN: We don't have any questions from the public but we do have a question from the commission. Commissioner Zito.

COMMISSIONER ZITO: Thank you, Madam Chair. Mr. Shanehauer what's the logic with dropping the mixed use component?

SPEAKER: I'm sorry, I couldn't hear you.

COMMISSIONER ZITO: What's the logic with dropping the mixed use component?

SPEAKER: We actually didn't drop any mixed use component. This site never included commercial development on it. It was always designated residential. So I'm not sure -- I think the staff report may note that our general plan request was to allow height and density with no commercial. And that was just a clarification. Because it was a complex general plan amendment where we, at staff's recommendation, added our site to the mixed use district. Mixed use zone. And we wanted to clarify when we were being added to the mixed use zone, that didn't mean that our particular site would have commercial. Because it was never planned. The commercial, in this mixed zone, mixed use zone, it was designated along Jackson -- no I'm sorry, Taylor street, Taylor street frontage of our adjacent neighbor's parcel. Did that explanation make sense?

COMMISSIONER ZITO: Yeah, the way I read the Jackson Taylor plans residential community was that mixed use would be in dispersed throughout. But what you're telling me is your particular site never had any mixed use intended on it.

SPEAKER: That's correct.

COMMISSIONER ZITO: I'll get staff's input on that as well.

SPEAKER: Unfortunately I don't have the residential strategy in front of me but the block, the parcel to the south of us commonly known as the Labitsky block, the plan has always called for

mixed use development there, with the commercial being conceptually at Taylor Street, and abandoned Mission Street. But the mixed use never extended north onto our block. So this is 10th Street. And our site is located right here.

COMMISSIONER JENSEN: Mr. Shanehauer if you could use the microphone so we could record it. Thank you.

SPEAKER: I'm sorry. This is 10th street. Our site is located here. And this dark designation is high-density residential. And this fluffy area is the conceptual public park. So we are implementing on our property residential and the park. The mixed use component of this area is on this parcel.

COMMISSIONER ZITO: Okay.

SPEAKER: Which is highlighted with these triangles. This is the mixed use component here, and a little component there. None of that exists on our parcel.

COMMISSIONER ZITO: Okay, thank you for that clarification. I didn't have the luxury of that picture when I was reading through this. Thank you.

COMMISSIONER JENSEN: Are there any other questions from the commission? Seeing none, thank you very much Mr. Shanehauer. There are no speaker cards here. A motion to close public hearing.

COMMISSIONER ZITO: So move.

COMMISSIONER JENSEN: All those in favor? Okay, public hearing is now closed. Staff.

SPEAKER: Thank you. Responding to the question about the designation, the land use designation, that would be correct, that it was high density residential at that time. So the mixed use did not have a floor or a minimum requirement for commercial. So I think the explanation given was quite good, thank you.

COMMISSIONER JENSEN: Thank you, staff. Commissioner Zito.

COMMISSIONER ZITO: With that Madam Chair, if it pleases the commission I recommend proofing for the planned industrial zoning for the light industrial zoning district to A(PD) planned development zoning district to allow up to 166 single family attached residences on a 3.28 gross acre site recommended by staff.

SPEAKER: Second.

COMMISSIONER JENSEN: Thank you. Seeing no further questions from the commission, can we vote by light? Thank you. All commissioners present are in favor. I would be Thang Do. Commissioner Thang Do and Commissioner Kamkar are not present at this meeting. Thank you. Moving on to item 3B. PDC 09-022. Planned development rezoning from R-1-1 residence

zoning district to A(PD) planned development zoning district to allow up to 95 affordable multifamily attached residences on a 3.06 gross acre site, located on the north side of Ford road, approximately 550 Feet East of Monterey road. Staff.

SPEAKER: Thank you, Madam Chair. First I'd like to note that there was an additional comment letter recently received and distributed to you tonight from the Santa Clara County Housing Action Coalition. The letter states their support of the proposed parks project, and also there was a brochure submitted from the applicant, Eden housing, in regards to their development. And then finally staff recommends approval of the proposed planned development rezoning as it's consistent with the 2020 general plan and it will maximize the in-fill housing opportunity on the site and add to the production of affordable housing. This concludes the staff presentation.

COMMISSIONER JENSEN: Thank you, staff. Would the applicant like to come forward? Thank you. You may have up to five minutes.

SPEAKER: Good evening, commissioners, my name is Andrea Osgood, and I'm with Eden Housing. We're an affordable housing developer that's been in existence for over 40 years in the Bay Area, and we're very excited to be here and to be selected by the city housing department and city council to develop this parcel of land. And we have been working in close collaboration with the community and our architect since being selected in December of 2008. I'm going to turn it over to Rich Caldwell with HKIT architects who is going to go over a little bit of the architecture and site planning.

SPEAKER: Good evening. I'm Rich Caldwell of HKIT architects. We're extremely pleased to be working with Eden on this opportunity and this very unique site as you can appreciate. As Andrea pointed out we've been meeting for a while with the community. And our site plan that you see here is composed of a number of elements. Just to point them out quickly, we have a large family housing block of building here that has a podium parking garage, we have at-grade three-story walkup elements here, and a special needs community building residential building also as part of this entire development. We've sited these various elements to take advantage of the unique geometry you see on the site. We've located the larger building which is three and four stories and the part of the project that's furthest distance away from the existing residential single family neighborhood. We've also done the same thing for the three story walkups here. In fact, this is a change from our original concept. After meeting with the neighbors the first time, where that was brought up as an issue, that perhaps better orientation for these buildings might be to separate them more so from the single family houses along this edge. We've also located the -- this two-story special needs building here in such a fashion to take advantage of the kind of triangle that you see which allows the least amount of the building itself to actually encroach, you know, close to these single family residential buildings. We've also programmed the buildings such that there are very few living units on the second floor that actually face the back side of the property. The vast majority of the units face the street or the inside of the property and we've located a fairly large open space as a buffer zone here. And then we have a common space circulation elements and only two of the units are actually on the second floor. And we've oriented the building such that those view lines are actually askewed from the houses along this edge. These are actually two-story houses here that exist, and the one-story houses in this

neighborhood are all located along the back side. And so again we've tried to be sensitive in terms of locating our buildings so that they do not have view lines directly into the backyards of these one-story elements to the extent that we could. Go to the next one. This is the podium level of the family housing element here go back one, oops. There we go. In this case we have a large open space taking advantage of the fact that our parking is now concealed in that envelope. And we've wrapped the entire parking envelope with housing units. The first floor units actually face the street. They have entries off the street and creates a very nice kind of eyes on the street neighborhood extension of these single family neighborhoods as we go down here. This large open space is accessed from the grade, there's a stair here, there's also an elevator, a large community facility that serves the family housing that's at access from both the podium and the at-grade open space which is here. Next one. And then the -- we've used very judiciously the same kind of residential roof line elements that you see surrounding the neighborhoods here, where we have mostly gabled roofs, some shed that break up the mass of the building. We're planting our parking area as kind of a treescaped orchard scheme where the orchard itself exists inside the parking area. The cars exist under the orchard. We're trying to again kind of soften the impact of the cars, the majority of which are concealed in the garage itself. The main entry point to both the large buildings is back deeper in the development here and also right here for the --

COMMISSIONER JENSEN: Thank you, thank you, your time is up.

SPEAKER: Oh, okay.

COMMISSIONER JENSEN: We do have two speaker cards, and you will be allowed five minutes afterwards.

SPEAKER: Sure.

COMMISSIONER JENSEN: May we have Eric Cading and if Bob Collins could come come to the front as well.

SPEAKER: Good evening, commissioners, my name is Eric Cading. I'm on the city's disability advisory commission but I'm speaking on behalf of myself to speak in front of the commission. I'm here to speak in favor of this excellent project proposal for one it would meet two needs we have in this city, it would provide housing for families with very low income and would provide on-site services for people with cognitive disabilities. To my knowledge the city supports only one other project for people with developmental needs. This is of interest to me because I'm a former special education teacher. And part of my job as a special education teacher was to initiate conversations with parents about their children's futures and the most difficult part of those conversations was always housing. Because there is such a significant lack of facilities in this area, where people with disabilities can live independently, and parents know that they can't take care of their children forever. So we definitely have a need for this type of facility. If we don't build it, we will just need to build a more institutions and prisons and I don't think any of us want that as an option for people who can't live completely independently. So I urge you to vote in favor of this excellent proposal. Thank you.

COMMISSIONER JENSEN: Thank you, Mr. Cading. Mr. Collins. Is Bob -- thank you.

SPEAKER: Good evening, commissioners. My name is Bob Collins. And I'm here on behalf of the greenbelt Alliance. For more than 50 years, greenbelt Alliance has worked to protect more than 1 million acres of Bay Area farm lands and open space. And one way we have done this is to promote livable, compact, transit-accessible communities with a wide range of housing options for families of all sizes and income levels. The Ford and Monterey housing proposal meets these criteria. And I want to encourage the Planning Commission's support of the development for a variety of reasons. First and foremost, the site is a superb infill location. Within walking distance of both amenities and transit. Secondly, the proposal provides homes that are 100% affordable including 20 homes for developmentally disabled residents of very low incomes. An often overlooked and underserved segment of the population made possible through developers' impressive efforts minimize excessive parking and provide the right amount of parking spaces for a project of this nature. Finally we feel the commission should take note of the strong inclusive community outreach process, undertaken by the developer. Every new development is an opportunity to create more livable and climate friendly neighborhoods with 95 new affordable homes situated on just over three acres, this project is a prime example of the kind of development that not only helps to alleviate development pressure on the Bay Area's open spaces but also uses infrastructure more efficiently. The high degree of affordability and number of homes provided may indeed be compromised should the developer have to comply with what have shown to be excessive parking requirements given the nature of this development. The developer has conducted extensive research on peak parking demand at four of their comparable projects in San José and has found the provision of 121 space will exceed the demand by 10%.

COMMISSIONER JENSEN: Thank you Mr. Collins. Your time is up. Thank you very much. Would the applicant like to come forward? Thank you.

SPEAKER: Thank you. I will make myself available for any questions that you may have but I would agree with all of the speakers.

COMMISSIONER JENSEN: Thank you very much. I see no questions from the commission. Thank you very much. Close public hearing?

COMMISSIONER ZITO: Move.

COMMISSIONER JENSEN: All those in favor? Thank you. Staff.

SPEAKER: Thank you, Madam Chair. Staff has no additional report.

COMMISSIONER JENSEN: Thank you. Commissioner Zito.

COMMISSIONER ZITO: Thank you, Madam Chair if it pleases the commission, I would like to make a motion, that we Recommend approval for a planned development rezoning from R-1-1 residence zoning district to A(PD) planned development zoning district to allow up to 95 affordable multifamily attached residences on a 3.06 gross acre site as recommended by staff.

COMMISSIONER JENSEN: Thank you. I see no comments from the commission.

COMMISSIONER ZITO: Madam Chair, if I could just say, I looked through this project and it looks like a very, very well planned out project and it was gratifying to see that the outreach was extensive and this is definitely one of these projects that should be a -- what is the word for it -- an example for those coming forward. Thank you very much for your hard work.

COMMISSIONER JENSEN: Thank you. Seeing no further questions from the commission may we vote by light? Thank you and that passes unanimously. Please note I am commissioner Thang Do and commissioners Do and Kamkar are not present. At this time, I would like to official open Planning Commission fall 2009 hearing on general plan amendments. Okay, thank you very much. There's a motion and a second, all those in favor? Thank you very much. Thank you very much. I will be recusing myself on item 5A, GP 09-T-03. I serve on the board of directors for the emergency housing consortium -- I'm sorry, I'm not recusing myself. I'm going ahead. Okay. On item GP 09-T-03. General plan text amendment request to add policy language to the San José 2020 general plan to facilitate intensifying economic development areas including, but not limited to those areas located on transit corridors, major collectors or arterials.

COMMISSIONER PLATTEN: Madam chairman, may I just move as a point of order, may I suggest that if you do need to recuse yourself, our immediate past chair, Richard Zito, serve as chair on that issue.

COMMISSIONER JENSEN: I'm not sure if Richard Zito with but Jim Zito would. Is that a motion? Okay, all those in favor, except for myself? That passes unanimously. Chair Zito, you will be chairing on item 6 A.

COMMISSIONER ZITO: Thank you, Madam Chair.

COMMISSIONER JENSEN: On to 5 A. Staff.

SPEAKER: Thank you, Madam Chair. This item is being pulled from consent to address the public correspondence that we have received subject to the posting of the staff report. That public correspondence which expresses concerns about the generality of the proposed amendment has been distributed to you tonight. Staff has also distributed a matrix listing the numerous public outreach meetings and Web items posted for the Winchester enhancement strategy, to illustrate the type of outreach that could occur as specific business areas are identified for a business zone, as envisioned by the policy change. You will notice, if you look at the matrix, that the outreach has included residents and commercial property owners and tenants. It's fairly extensive. The proposed amendment would establish a policy basis at a high 30,000 foot level to allow the city to consider future amendments to the zoning ordinance, in conformance with the general plan. The intent is to accommodate future business zones for areas like the Winchester business nodes in other parts of the city. Some examples include The Villages which have been identified through the Envision 2040 update process and neighborhood clusters designated by the redevelopment agency. Many of these areas can support viable businesses that are within walking distance of residents if development standards are customized to match the unique opportunities and constraints of these areas. We all know that the city is

underretailed by 20% and that sales tax have a good afternoon leaking out to neighboring cities. Yet paradoxically, San José has vacant store fronts. If we create a streamlined process to support strategic place making of business zones in the city, we can keep more revenue in San José and provide more neighborhood services within walking distance of residents. Thank you.

COMMISSIONER JENSEN: Thank you very much. Ms. Bellandra.

SPEAKER: This is to remind you what a reduced setback looks like. From the other side of the fence. I can assure you when I look out the back windows of my home, this reduced setback does not look like a minor exception. Most small commercial infill that this GP text amendment is intended for will most likely be unique mixed use developments with housing above that will back into an established neighborhood community and will basically be treated as a TOD with compromised regulatory standards. A year ago, Chet Lockwood and I presented our TOD requirements to you. With chair Zito's lead, you unanimously voted to include them in your recommendations to the city council for the new TOD commercial land use general plan text amendment, most of our same items apply to this proposed GP text amendment today. I brought you copies that you should have. Outreach to the general community on this GP text amendment was nearly nonexistent. Did planning staff or our economic development director hold any public outreach meetings with any commercial business stakeholders? What were their thoughts and concerns? This is an important amendment and needs more outreach. I suggest you defer it to next year's agenda. Where in this proposed expedited development process does the immediate surrounding community weigh in? We have seen time and time again that the public outreach process happens too late in the game after plans are made and color renderings are drawn. As the last piece of infill are developed all over our city we must be mindful of the results of waived or minor exceptions with regards to regulatory standards. Shorter setbacks, less parking and higher heights bring loss of privacy, less desirability, traffic and parking issues thus impacting the value and appeal and quality of life of the immediate surrounding properties. Property owners have most of their personal worth, life savings and retirement incomes tied up in their property and land use decisions can deeply impact their lives. Although there will always be unique exceptions to ever land use policy by changing the rules and allowing staff and council to make vague minor exceptions to established regulatory standards is a dangerous precedent.

COMMISSIONER JENSEN: Thank you, Ms. Bellandra your time is up. However there is a question from the commission. Commissioner Platten.

COMMISSIONER PLATTEN: Ma'am, you indicate in your e-mail that is dated today that the text of the amendment was not available until this past weekend, is that correct?

SPEAKER: The text amendment, the agenda wasn't available to Friday with the text amendment on it. Is that what you mean?

COMMISSIONER PLATTEN: That's what your e-mail said, I want to verify that.

SPEAKER: Uh-huh.

COMMISSIONER PLATTEN: When did you first hear that it was coming before us this evening?

SPEAKER: I was one of the six community members at the community round table meeting.

COMMISSIONER PLATTEN: When was that?

SPEAKER: I don't remember.

COMMISSIONER PLATTEN: Within the last week?

SPEAKER: It was mentioned sort of off the cuff and we never heard about it again.

COMMISSIONER PLATTEN: A week ago, a month ago, how long ago?

SPEAKER: Pardon me?

COMMISSIONER PLATTEN: A week ago, a month ago, how long ago was this meeting?

SPEAKER: Perhaps a month ago.

COMMISSIONER PLATTEN: Your e-mail had 16, 17 questions. Have you had any of these questions responded to before tonight?

SPEAKER: Before tonight?

COMMISSIONER PLATTEN: Yes.

SPEAKER: No.

COMMISSIONER PLATTEN: You didn't have a second, it appears to be that you have a second e-mail dated Sunday and that e-mail also has a number of questions. Have those been responded to by staff?

SPEAKER: I talked with Jenny today. Right before the meeting.

COMMISSIONER PLATTEN: Have you had those questions answered, the ones –

SPEAKER: Not really, no.

COMMISSIONER PLATTEN: Okay, thank you, ma'am.

COMMISSIONER JENSEN: Thank you. Are there any other questions from the commission? Seeing none, thank you, Ms. Bellandra.

SPEAKER: Thank you.

COMMISSIONER JENSEN: Motion to close public hearing? Thank you, there's a motion and second. All those in favor? Thank you. Public hearing is closed. Staff.

SPEAKER: Thank you, Madam Chair. The amendment was first entered into our database in August and also presented to the neighborhood round table in August and Ms. Bellandra was in attendance. It was part of a presentation of all the general plan amendments that we expected would be going to the fall hearings. There was concern expressed at that time that the language was very general and vague. In response to additional feedback from a number of community members, including those who responded before the packet went out, we did try to accommodate their concerns, while still keeping the amendment general and high-level enough to address lots of different areas in the city. I do sense, from the correspondence that I've received from a number of community members, that there is a concern that this is an ordinance. And actually what it is is an amendment to establish a policy context to allow the consideration of future ordinances. So there will be several opportunities for more specific discussion relating to specific areas where, you know, the standards that would be considered would be addressed in a much more customized fashion. I totally sympathize with the public in the sense that this does seem to be a very general text amendment but it's actually intended to be very general to anticipate the full range of areas that could come before the decision makers through specific ordinance proposals. Thank you.

COMMISSIONER JENSEN: Thank you. Are there any questions or comments from -- thank you, Commissioner Zito.

COMMISSIONER ZITO: Thank you, Madam Chair. That's what kind of caught me, as well, as I know reading all these e-mails from various community leaders, also some members of the district 8 community round table came up to me and asked me to explain it. And I was frankly at a loss. I couldn't explain how it could be applied. And that's my biggest conundrum is, I don't know what we're voting on. You understand what I'm saying? I can read the word and I understand that, but the application of it escapes me. For that reason it would be very difficult for me to support something that I don't know how it could be used. So maybe if there's some further -- I don't know, examples or a way to describe how this will be applied, that would be very useful.

SPEAKER: Thank you, Madam Chair. Right now, the -- essentially one of the few mechanisms we have to address customized development standards for sites account planned development zoning district. Another option that does allow some reduction in parking standards is the neighborhood business district overlay, which is a jeopardy designation. Not all neighborhoods meet the criteria for a neighborhood business overlay. When we are looking at a neighborhood business overlay, we have a corridor that have fairly consistent neighborhood business uses extending throughout that corridor. Taking for example, the Winchester enhancement strategy which was the catalyst for coming up with that more comprehensive text change, that corridor has business nodes or areas within the longer transit corridor for Winchester but not consistently and comprehensively a neighborhood business district. So staff didn't think that the Winchester area would necessarily exemplify the criteria that we would want to address through a neighborhood business district overlay in a general plan. However through the public involvement process and the analysis of that area, it has become clear that through some

customized setbacks, and maybe some flexibility in parking standards, because it is an area that has some older developed properties, that this area could become much more vital and viable to the residents who live around this area. And so given that the planned development zoning district process is a fairly cumbersome and inexact tool to address discontinuous nodes within an extended area, and given that this area and many other areas perhaps don't meet all the criteria of a full fledged neighborhood business district, as defined in the general plan, we wanted to consider other approaches that would, in a fairly streamlined fashion rather than waiting for the one or two general plan hearings a year, provide a process for these areas to be defined, and allowed to have more customized regulations, and that would be done through the council resolution process. And it would require some changes to the zoning ordinance to identify that such areas existed. Thank you.

SPEAKER: If I could just follow up on that just a moment. I think the best example is how we have worked over the years with the neighborhood business district overlay, so the council, some years ago through the general plan, identified our downtown as an area of some need for some different rules and flexibility around park and setbacks and also the neighborhood business districts. So following on that we have language in our zoning code that specifies what flexibility is appropriate within those neighborhood business districts. So we had the policy language at the general plan level that was then implemented with changes in the zoning code. So this amendment to the general plan language by itself doesn't make it possible to flexibly apply the standards in any of the locations. What this does is put forth the policy that as we go forward, especially with the update process and we're looking at how we're going to be finding some areas to accommodate some infill development and create some complete communities that don't mean everybody's coming in and out of the few business districts we have already, we're going to need to look at ways to, you know, customize them in a smaller area. And Winchester was an example of an area surrounding those business nodes and the business community. And that was the kind of dialogue we would want to have with any area that would be brought forward as a potential place where some intensification or working with some mixed use or making a more complete community could be appropriate. So this is trying to have the council add to our general plan language that says maybe there are places that aren't downtown in the neighborhood business district where that could be appropriate. And that's what we're trying to put into the superstructure of the general plan.

COMMISSIONER JENSEN: Did the director want to add something? Okay, thank you.
Commissioner Platten.

COMMISSIONER PLATTEN: Thank you, so just so I'm clear with staff as I read one of the comments here, what I hear you saying is agreeing that this would not be limited simply to commercial zones or NBDs but have a broader application than that?

SPEAKER: The intention was really to be to have it around where communities decide we need that kind of flexibility to create the community or the village node that we would want to have. And the community would be engaged in that process of determining what that would look like. And the standard -- different areas might have a different standard that could be shown to be getting in the way. And some of the time, the flexibility around setbacks, I mean, some of the examples out of the Winchester scenarios, have to do with if you flex the standards, you might

be able to incorporate a bike lane. This is not about making it easier to have developers build developments closer to single family residential. This is a dialogue around community residents and businesses in some sub-parts of our city that aren't long continuous NBDs but have some underutilization and some potential. So it is a dialogue with all those parties around where are those, and once we know where they are, getting the council to have a mechanism for identifying them short of a semiannual process to go through the general plan.

COMMISSIONER PLATTEN: So understanding that the flip-side of the term "flexibility" is often the pejorative "vagueness"—

SPEAKER: Could be. We're just wanting to set up some criteria at the upper levels.

COMMISSIONER PLATTEN: So just if you or Mr. Boyd, I don't care whom, maybe just walk us through on so that we are clear here on some of the procedural impacts of how this would procedurally impact, because a number of the questions raised by the speaker and by other writers is, exactly how does this affect the staff process, will these be decisions now that happen at the staff level, at the commission level, et cetera, maybe we could walk through this to clarify this.

SPEAKER: Mr. Boyd, our implementation person, will do that for you.

SPEAKER: Thank you, Madam Chair. It occurs to me that one of the consent calendar items might actually be a good example. If you recall, we had the planned development zoning on consent calendar for the Underwood neighborhood. Where there's a problem that -- because at the time -- the parking standards at the time that that subdivision was created, I think we only required one parking space per unit.

COMMISSIONER PLATTEN: Right.

SPEAKER: Yet we have four units on a lot. So we end up with a neighborhood that's drastically underparked. That PD zoning that you approved tonight was an example of how you might create an exception process to get at a problem or an issue that either allows for better reinvestment in the area or just makes the quality of life better. And I think what's being proposed with this text amendment is trying to find a way to be able to do something like that, but not always need to go through the planned development rezoning process to do it. So I just wanted to highlight that as perhaps a tangible example of how you make an exception because that's essentially what we did with that PD zoning, is make an exception to parking.

COMMISSIONER PLATTEN: So as I'm hearing, let me rephrase that, Mr. Boyd. What I'm hearing from staff is that it effectively allows us to actually democratize the particulars of a situation by allowing the stakeholders to address those problems in a more flexible manner, that's what I'm hearing –

SPEAKER: For a particular geographic area. It's not a one size fits all solution.

COMMISSIONER PLATTEN: Exactly. Thank you Mr. Boyd.

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

COMMISSIONER ZITO: Thank you, Madam Chair. So I guess some of the concerns as articulated to me was something to the extent of in some of the older neighborhoods, there might be some houses that are certainly in need of repair or that are rentals for a while and now, the owners are looking to unload them and somebody on speculation decides to come in and say maybe that will be a good idea, I'll buy up a couple of those lots and put in some sort of commercial business in the middle of a residential neighborhood. And essentially the concern that came to me was, is it possible for somebody to do that kind of speculative purchase if you will and then go to council and say hey, that is a big idea, I'll put up a pet store, I don't know, pick something, a bicycle repair shop or whatever, on those two lots and they don't need to have the setbacks, they don't need to have the parking, say this is commercial, this fits the designation, I'm going to let council to allow it to go through without going through the normal GP or zoning and that sort of thing. Is that a possible scenario or are we just pie in the sky here?

SPEAKER: Well, I don't think that's more possible under our proposal than it is with speculation with development. What we're mostly saying is we think there are existing areas out there that are going to be primarily commercial in character and underutilized. This isn't really to say there are some residential units that are boarded up because they're foreclosed homes, and somebody is trying to make that commercial type activity. This is more of where we have looking where we have at least the start or mixture of uses that we think if we could just bend a little on the rules like what's happened with the business districts for properties that are older than you know the 1960s where we've made it so we allow a broader range of what new uses can go in so we can facilitate restaurants in our NBDs because we have decided over the years that that's a good thing, it works for the public, it might mean that parking is a little tight but they get vital NBDs. That's looking to make this same option possible for smaller mostly existing commercial or mixed use areas.

COMMISSIONER ZITO: So in the situation where it's already commercial and mixed use I completely understand and that was easy to explain. The concern was is it possible there's an unintended consequence that that will spill over to residential and make that easier to happen?

SPEAKER: Not as straightforward. I think we're saying that you could have residential that's going to be engaged in the dialogue around some area about how do we make this a more complete community which could possibly mean adding some residential onto existing commercial but it's a tailored case-by-case kind of a discussion. So we can't know all of what somebody might propose.

COMMISSIONER ZITO: Sure.

SPEAKER: But this is pretty much going to be communities or business district associations coming forward with the concept and wanting a way to have a dialogue about getting that kind of

—

COMMISSIONER ZITO: But does it cut out any of the checks and balances?

SPEAKER: No.

COMMISSIONER ZITO: People look at the Planning Commission and the appeal process as a checks and balance kind of thing.

SPEAKER: There will be checks and balances, and there will need to be associated changes to the zoning code to facilitate whatever parameters of whatever standards the council after listening to all the input from all the stakeholder groups is going to want to consider. So we're several steps before implementation would happen anywhere. And this is really a permissive change in the high level policy in the general plan.

COMMISSIONER ZITO: And there's no other way to do it?

SPEAKER: Pardon?

COMMISSIONER ZITO: In other words this level of flexibility requires this -- and excuse me when I say this, this level of vagueness?

SPEAKER: Laurel Prevetti: Mr. Chair, Ms. Madam Chair, if I may, the proposal is to modify the general plan commercial land use policies and the designation that is part of the land use transportation diagram, so this is not intended to have those unintended consequences, whether it be for public quasipublic uses, industrial uses, or even our residential neighborhoods. As staff has explained, this is meant to be enabling. So as it is mentioned that if there are future changes to the zoning ordinance, you are the body that is a recommendation body to our city council, on all title 20 changes so you would have an opportunity to weigh in and hold public hearings as you are this evening. And then the council would make the final decision. What we're really trying to do here is invigorate our city. So we have a very limited number of business districts now. The Alameda, west San Carlos, et cetera. There are many other streets in San José that would love to have the vibrancy that the Alameda has. But the way our code is structured they're not able to take advantage of some of those provisions. This is really a heads-up if San José is really serious about having more walkable, usable commercial areas we need to have this kind of policy direction in our general plan and then we'll follow up on a case-by-case. Winchester is probably furthest along, as staff mentioned given the community process and the consultant work that's occurred and this is the way of supporting the investment that has gone on so far as far as revitalizing that street.

COMMISSIONER ZITO: Okay. Just a final note staff had mentioned earlier about a matrix. And for some reason I just haven't been able to identify that matrix.

SPEAKER: Matrix, it's actually the last set of the supplemental information that's on your dais. So it's a listing of off the top primary meetings that have occurred with the particularly Winchester process.

COMMISSIONER ZITO: So it's kind of a time line?

SPEAKER: It's kind of a time line. It's not an example that each area would have the same A dialogue. It's to show that it's not just the businesses, it's the businesses and the community. Over some months.

SPEAKER: Commissioner Zito: .

COMMISSIONER ZITO: So this is a template that could be possibly used for future assessments?

SPEAKER: Correct.

COMMISSIONER ZITO: Thank you Madam Chair.

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

COMMISSIONER CAMPOS: Thank you, Madam Chair. I would like to Recommend approval of the text amendment to San José 2020 general plan to add policy language as recommended by staff.

COMMISSIONER JENSEN: Thank you. Would you like to speak to your motion?

COMMISSIONER CAMPOS: No, thank you.

COMMISSIONER JENSEN: Seeing no further speakers, may we vote by light? Thank you. Please note, I am Commissioner Thang Do for the evening. That passes unanimously. Please note also, that Commissioner Kamkar arrived here prior to the initiation of this item and has voted on it. Thank you. Moving on to item 6.A. I will be abandoning you momentarily.

SPEAKER: And for the record we need to state that it's because of a conflict of interest because of board membership, you already did that, okay. Good.

COMMISSIONER ZITO: Thank you. Item 6 general plan public hearing for GP 08-07-04. General plan amendment request to change the San José 2020 general plan land use/transportation diagram land use designation from combined industrial/commercial to high density residential 25 to 50 Development units per acre on a 2.88 acre site, Located on the east side of Monterey road, approximately 700 Feet northerly of Tully rode. Staff.

SPEAKER: Thank you, Mr. Chair. First of all, there was a comment letter received and distributed to you from the applicant, charity housing, their reasons for supporting the general plan amendment. Planning staff is recommending no change to the San José 2020 general plan land use transportation diagram, land use designation on the subject site. The land use change is inconsistent primarily with the economic development major strategy that seeks to attain job centers to balance the existing residential development in the city. If this request were to be approved, there would be less land dedicated for job generating uses. As a proposed general plan amendment is requesting to change employment lands, it is subject to the criteria for the framework for preservation of employment land that was adopted 50 city council and seeks to

preserve remaining industrial and commercial land in the City of San José, to protect key employment areas for accomplishment uses. Maintain employment lands for nonresidential uses and retain or increase job capacity. The subject site is also located within a key employment area, the Morton Monterey corridor development area that has one of the largest concentration of employers in San José. A change in land use from employment land to residential is consistent with the adopted framework. The proposed land use change would facilitate the development of 100% affordable housing project. This is consistent with the general plan's housing goal to increase housing opportunities for low income families. However the location is not ideal livable environment for families which is another goal of the housing, general plan housing goal. Finally as you make your decision tonight please do keep in mind that this item before you is a land use question. For the reason stated, planning staff is recommending no change to 2020 general plan. This concludes staff report. Thank you.

COMMISSIONER ZITO: Is the applicant present? Please approach, state your name, you'll have five minutes.

SPEAKER: Thank you all very much. My name is Jonathan noble. I'm here on behalf of charities housing, a nonprofit affordable housing developer with over 15 years experience developing owning and managing housing within our community. The general plan amendment is a unique one and critical to protecting homeless service and public investment and deserves your support. It's unique that while it's a change to the general plan the amendment simply facilitates the existing affordable housing already on site with new affordable housing. For those of you who have had a chance to visit the site, you'll see that it's currently inhabited by a dilapidated studio SRO complex. This site will continue to have affordable housing until 2049 due to deed restrictions currently riding on the property. Approval of this general plan amendment would clear the way for revitalization of the site and the development of new apartments for very low and extremely low income households consistent with the existing deed restrictions. The development is oh so critical to strengthening the financial capacity of EHC life builders, a nonprofit who provides essential services to homeless households in our community and throughout the county, and also in protecting public investment in the property that exceeds \$8 million. Without the transfer from EHC to charities housing EHC would face significant housing struggles which could bankrupt the organization. As outlined in the housing department memo that accompanied the planning staff memo, the risk to EHC and to millions of public investment in the property is very real. They conclude that this project deserves to be supported and that the general plan amendment is a critical step in -- a series of steps that the council initiated last fall. The Planning Department memo acknowledges the public investment to date, the proposal's merits in terms of fostering affordable housing development and outlines that approval could conform to the conversion policy through use of existing credits. However it recommends no change to concerns regarding the conversion of employment lands in the Monterey corridor. While I acknowledge the importance of industrial lands in the City of San José recommending no change to the general plan designation at this site simply fails to acknowledge the property's existing affordable housing, the deeds restriction that limits future uses to affordable housing, and the fact that the site is bordered by other housing uses and community-serving retail. These neighbors actually enhance the property's value as an affordable housing site by providing great access to services and employment opportunities in an appropriate buffer to traditional industrial uses elsewhere in the community. Further benefits are

derived from the site's proximity to public transit, public schools, medical clinic and a pharmacy, providing convenient access to the services by the low income residents of the project. Markham Terrace site has been and will continue to be a great site for affordable housing. This general plan amendment is critical to the revitalization of affordable housing on the site, to EHC's continued provision of homeless services in the area and protecting over \$8 million in public investment in the site to date. We would ask that you recommend its approval. Thank you for your time, and I'll be here to answer any questions.

COMMISSIONER ZITO: Thank you, Mr. Noble. There are no questions at this time. There are two speaker cards. Jennifer Nicholas and Carey Ann Crittenden.

SPEAKER: Good evening, my name Jenny Nicholas, and I'm the CEO for EHC life builders. And I'm here this evening to urge you to approve this general plan amendment. For those of you who are familiar with EHC life builders or not, we serve over 10,000 homeless in this community every year. EHC has taken considerable steps in the last several years to move to a place of being more financially stable. The forbearance agreement that was approved by the city is a part of that and the sale of this property to housing is forbearance agreement would be that we would not be in compliance with that agreement and would not allow us to pay off our debts. The other thing that EHC has done in compliance with this forbearance agreement is to remove all of the revenue sources from the property through the tenants and the restaurant owner that was on that property. So we have, by November 3rd we'll have no revenue streams coming into the property to continue to allow us to pay the monthly debt repayment that we have been making on that property and we do that in goodwill in connection with the forbearance plan to redevelop the property. The other thing, it has been a very successful affordable housing development with great access to bus et cetera and transit and lots of other services, including being very close to both our reception center where there is medical staff on site, as well as Sacred Heart Community Service, which is right down the road, which provides a lot of service to the families that access that kind of development. At this point I'm really urging you to allow us to move forward with as we intended, and the good faith that we move forward to make this happen and to allow us to continue to provide the very crucial lifesaving services that we provide and to honor the forbearance agreement as it stands. Thank you for your time.

COMMISSIONER ZITO: Thank you, Ms. Nicholas. There is a question from Planning Commission. Please come back. Commissioner Kamkar.

COMMISSIONER KAMKAR: Thank you, Mr. Chair. I wanted to be sure I heard you correctly, you said by November 3rd there would be no income from this investment?

SPEAKER: Not on our end. We have relocated all the tenants that were currently with the property through our process in the City of San José. We have two tenants that are still there but we expect that they will be gone by the end of this week. So the intention was to have them done by November 3rd but we just needed to wait to get their leases going on their other properties, so until such time they've been in the building. But we expect that they'll be out very quickly and so that means that we will no longer be collecting rent on the property either from the restaurant owner because they've already moved off or from the tenants that were there.

COMMISSIONER KAMKAR: Okay, thank you.

COMMISSIONER ZITO: Ms. Nicholas, I have a question. The applicant mentioned two aspects of the project one is for lack of a better word, the somewhat run down state of the fast right now? Can you answer that one please? In terms of the restrictions that are currently in place until the year 2049 based on the development of this property through the money that was given to create the original development through HUD there is restriction on that property. It can only be used for affordable housing and that restriction cannot be lifted until the year 2049. If there is such a time that you don't use it in that way, it forces a massive repayment to HUD of I believe close to \$7 million. We don't have the ability to do that and which means the city would want to do that. That is obviously not something we would want to have happen. In terms of the current state of the property that unfortunately was part of the challenge that EHC had and I will say I have been in this role for about nine months so these were things that were happening prior to my time. When EHC looked to solve the affordable housing crisis by becoming a developer, so they were able to develop buildings but not create the revenue streams that were necessary to sustain them at that time, and what EHC says is that there are great agencies like charities housing and making this.

COMMISSIONER ZITO: Any concern is if we've got deed restriction until 2049 but what I'm hearing from you is it's possible the buildings won't last until 2049, is that a realistic scenario?

SPEAKER: Well they're not going to fall down tomorrow but they're in desperate need of repair and maintain. And at this point we don't see them being viable, moving forward. Which is why charities has put forward the proposal, and it's a beautiful development. It will really be so much better for the families that are looking for that and needing that kind of support. They won't be sort of this standout low income housing, it will be a very nice high quality development.

COMMISSIONER ZITO: So given the current state, your -- would that be your assessment of it being able to last another 40 years given --

SPEAKER: I don't see it lasting 40 years.

COMMISSIONER ZITO: Okay, that's what I needed to hear, thank you, sir -- ma'am, sorry.

SPEAKER: Okay, were there any other questions?

COMMISSIONER ZITO: None, there are no other questions.

SPEAKER: Thank you.

SPEAKER: Commissioner Zito: Carey Andrew Critenden.

SPEAKER: I think you commission members. My name is Carey Andrew Critenden, and I just came to say that as a neighbor of this site, I'm very supportive of this project, and most of the neighbors that I've spoken with are very enthusiastic about it. We think it will be a fantastic addition to the neighborhood, and will also help to reinforce over you know activities in the faint,

you know with the planned shopping center it will bring a lot of help with the plan and also, help with the county fairgrounds project as well. And we're urging you to go forward. Thank you very much.

SPEAKER: Mayor Reed: Thank you, sir. Mr. Noble, you can have another five minutes if you would like. (inaudible).

COMMISSIONER ZITO: Does the commission have any questions for Mr. Noble, motion and second. All those in favor, opposed, none. Staff.

SPEAKER: Thank you, Mr. Chair. Although the EHC will be an important partner in the fight against homelessness with the City of San José, and that affordable housing will help us achieve the goal of affordable housing in the city under the general plan, that planning doesn't think this is an appropriate place for family housing in an employment area and the land should be retained for employment and increased job capacity.

COMMISSIONER ZITO: Thank you, staff. Director.

SPEAKER: Laurel Prevetti: Yes, and let me just also add, that clearly this is a very unusual case, and so we have invited our assistant director of our housing department to join us, Jackie Morales Ferrand. We do want to acknowledge that should the commission recommend approval of the housing moving forward in this particular site, we would appreciate it if you could acknowledge those circumstances and this is not intended to be an action that would somehow communicate again an opening up of industrial land conversion citywide or in particular, Monterey corridor beyond this particular site and situation. Thank you.

COMMISSIONER ZITO: Thank you, director. Would you like to address us?

SPEAKER: I'm Jackie Morales Ferrand, I'm the assistant director for the Housing Department. And as we've clearly stated in our memo, the city council's actually taken significant action to move this development along through the EHC proposals. And in terms of the comments regarding whether this is an appropriate site for a family development, one of the reasons why we looked at the site for something other than an SRO development is because it does sit next to a 300 unit SRO, 30% AMI affordable unit development and that it didn't make a good defense in terms of creating vibrant neighborhoods that we would put yet another 100 units of affordable SRO development right next to it. So we were really thinking about what was best for the neighborhood and the community regarding what type of housing really fits within that spectrum. Knowing that we have to keep housing in and located on the land because of the deed restrictions that require it to be used as housing or as the numerous speakers have stated. It creates a financial burden and cost to the city to convert it back to employment lands at this point. So when the decision was made to make it an affordable housing site, we created a use restriction that makes it difficult now to go back to employment lands. So the housing department is urging the planning board to move forward, Planning Commission to move forward with this request because of, again, actions taken by city council, to move it forward and because we feel like family housing makes the best sense for this neighborhood.

COMMISSIONER ZITO: So just to be crystal clear, what I'm hearing you say is you support the applicant's request?

SPEAKER: We do, yes, thank you.

COMMISSIONER ZITO: Just wanted to be sure. Yes, thank you. We have a couple of questions here, Commissioner Platten.

COMMISSIONER PLATTEN: I'm prepared with a.

COMMISSIONER ZITO: Plea approximates.

COMMISSIONER PLATTEN: I move that we recommend-k and that this recommendation is limited to the sole reason of the prior city financial commitments as is more fully outlined in the memorandum to the Planning Commission by director of housing Leslye Krutko and for no other reason.

COMMISSIONER ZITO: I here a motion and second acknowledge Commissioner Platten, would you like to speak briefly?

COMMISSIONER PLATTEN: Very briefly, between yourself myself and Commissioner Campos, we have been a zealot, but this is an exception. For all of the reasons stated on the record that is a I did speak with Mr. Noble for about 60 seconds in a telephone conversation approximately ten days ago when he called to alert me this matter would be on for hearing and that was the extent of our conversation.

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

COMMISSIONER CAHAN: Thank you, Mr. Chair. I also met with Mr. Noble and the information we discussed is everything that is documented leer and has been discussed so no additional information. I also support the applicant's request, the fiscal impact on the city I think is too severe for us not to. And additionally, the impact on EHC would be, I think, a great detriment to the city. Thank you.

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

COMMISSIONER KAMKAR: Thank you, Mr. Chair. I also want to, for the benefit of disclosure, say that I have met with Mr. Noble and I have also spoken to him on the site. In visiting the site, one of the reasons I'm supporting the applicant and the motion is because of the plant being right across the street, you know, and it just makes sense in this case, of course the \$7 million issue and the deed restriction you know is a major factor, too. But there's just -- this seems to be the case, where it makes sense to, you know, provide the exception and not many other cases. Thank you.

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

COMMISSIONER CAMPOS: Thank you, Mr. Chair. I also met with Mr. Noble. But I did want to add that along with all the other comments, my fellow commissioners made, this is next to an existing high density affordable housing development, that seems, and looks, like it's working pretty well. It's across the street from a retail establishment, or a retail center, and I think this is the exception to the rule. This, I don't see driving industry moving onto this site, and it can't without a significant fiscal impact either to the agency or to the city. So again, I agree this is the exception to the rule and that's why I'm supporting the motion.

COMMISSIONER ZITO: Thank you, Commissioner Campos. Let's make it unanimous. I also spoke with Mr. Noble for about ten minutes on the phone. And again as stated, nothing different than what was already put into the public record. My concern was, the 40-year deed restriction. While myself and several if not all other commissioners are very sensitive to the need for affordable housing, there's always that concern, that something of a financial matter would occur, making it unviable. And so we are concerned when EHC runs into the financial problems that they run into. But I have to say that we have to look at this as a real gift to have somebody like Charities Housing or another to come in and be able to rescue this site. And I think that given the deed restriction there's nothing much else you can do with the land. And considering you know 40 years is a really long time so I don't think making this general plan change is going to really change anything in the long or short -- the short or long run. And again, as been stated before, this is more or less a real outlier. And we do not want to see flipping of industrial lands. But this is a unique situation. Commissioner Campos.

COMMISSIONER CAMPOS: Thank you, Mr. Chair. I also just wanted to make sure, for the record, that it's understood that deed restrictions are put on affordable developments, more so for the protection of the end users. That the properties don't, in five years or ten years, convert to market rate. So really it's a protection to the end users and it's a protection to the investment that government makes into providing this resource to the end users. Thank you.

COMMISSIONER ZITO: All right, okay. Seeing no other comments let's vote by light. So that motion passes unanimously. With commissioner Thang Do absent and Commissioner Jensen recused. That concludes the item the general plan public hearing for this meeting. And may I ask the vice chair to come back, and take over for item 7.

COMMISSIONER JENSEN: Thank you. And now, item numbersen, continue the Planning Commission hearing for fall 2009 general plan amendments to November 18th, 2009. Do I have a motion?

COMMISSIONER ZITO: So moved.

COMMISSIONER JENSEN: There's been a motion and second. All in favor? That passes unanimously. 8, petitions and communications. Public comments to the Planning Commission on nonagendized items. Please fill out a speaker's card and give it to the technician. Each member of the public may address the commission for up to three minutes. The commission may not take any formal action without the item being properly noticed or placed on the agenda. Responding to statements made or questions posed by the members of the public, requesting staff to report back to a matter at a subsequent meeting or directing staff to place the item on a

future agenda. Are there any comment cards for -- seeing none, moving on to item number 9, referrals from city council, boards, commissions or other agencies?

SPEAKER: Laurel Prevetti: None.

COMMISSIONER JENSEN: This is very easy. 10, good and welfare. Reports from city council?

SPEAKER: Laurel Prevetti: Not today, thank you.

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

COMMISSIONER CAMPOS: Thank you, Madam Chair. We will meet next quarter.

SPEAKER: Commissioner Jensen: Thank you. Envision 2040 general plan update process, Commissioner Kamkar.

COMMISSIONER KAMKAR: No meeting since our last meeting.

COMMISSIONER JENSEN: Thank you. Review synopsis from 10-28-09? Did we receive a synopsis? I don't think I got it. Did any commissioners receive it as part of their packet?

COMMISSIONER ZITO: Madam Chair, we'll to defer that to the next meeting.

COMMISSIONER JENSEN: Motion to defer is there a second? All those in favor, thank you. That will be deferred 'til the next meeting. Subcommittee reports and outstanding business. Seeing none, moving on.

COMMISSIONER ZITO: Motion to adjourn.

COMMISSIONER JENSEN: There is a motion to adjourn and a second. All those in favor? Thank you. This meeting of the Planning Commission is officially adjourned.