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>> GOOD EVENING. MY NAME IS COMMISSIONER THANG DO AND I'M THE CHAIR OF THE COMMISSION. ON BEHALF OF THE COMMISSION, I WOULD LIKE TO WELCOME YOU TO THE HEARING FOR WEDNESDAY, JANUARY 27TH, 2010. PLEASE REMEMBER TO TURN OFF YOUR CELLPHONES AND THE PARKING VALIDATION IS IN THE REAR OF THE ROOM. AND IF YOU WANT TO ADDRESS THE COMMISSION, FILL OUT A SPEAKER CARD LOCATED ON THE TABLE BY THE DOOR AT THE BACK AND AT THE BOTTOM OF THE STAIRS, NEAR THE AUDIO VISUAL TECHNICIAN. FILL OUT A CARD, DROP THE CARD NEAR THE PLANNING TECHNICIAN AND INCLUDE THE AGENDA NUMBER. FOR EXAMPLE, AGENDA ITEM 4A AND NOT 3D-06, ET CETERA. THE PROCEDURE FOR THIS HEARING IS AS FOLLOWS. AFTER THE STAFF REPORT, APPLICANTS AND APPELLATES MAKE A FIVE MINUTE PRESENTATION. THE CHAIR MAY CALL OUT NAMES IN THE ORDER THAT THEY WERE RECEIVED. AS YOUR NAME IS CALLED, LINE UP IN FRONT OF THE MICROPHONE AT THE FRONT OF THE CHAMBER. EACH SPEAKER WILL HAVE UP TO TWO MINUTES. AFTER THE TESTIMONY, THE APPLICANT AND APPELLATE MAY MAKE ADDITIONAL CLOSING REMARKS. THE RESPONSE OF COMMISSIONERS AND QUESTIONS WILL NOT REDUCE THE SPEAKER'S TIME ALLOWANCE. THE PUBLIC HEARING WILL BE CLOSED AND THE COMMISSION WILL TAKE ACTION ON THE ITEM AND RESPOND TO THE PUBLIC TESTIMONY AND DISCUSS THE ITEM. IF YOU CHALLENGE THESE LAND-USES' AGENDA IN COURT, YOU MAY RAISE SOMETHING IN WRITTEN CORRESPONDENCE DELIVERED TO THE CITY AT OR PRIOR TO THE PUBLIC HEARING. THE PLANNING ACTION OF REZONING AND GENERAL PLAN AMENDMENTS IS ON ADVISORY TO THE CITY COUNCIL. THE CITY COUNCIL WILL HOLD PUBLIC HEARINGS ON THESE ITEMS. FIRST ORDER OF BUSINESS IS ROLL CALL. FOR THE RECORD TO REFLECT AT THIS POINT, ALL COMMISSIONERS ARE PRESENT EXCEPT FOR COMMISSIONER KAMKAR. - AND AND COMMISSIONER JIM ZITO. MATTER OF DEFERRAL. STAFF WILL PROVIDE AN UPDATE ON THE ITEMS FOR WHICH DEFERRAL HAS BEEN REQUESTED. IF YOU WANT TO CHANGE ANY DEFERRAL DATES REQUESTED 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 HEARINGS, THE PLANNING COMMISSION MAY DETERMINE EITHER TO PROCEED WITH ITEMS PAST 11:00 P.M. OR TO 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 BE PROCEEDING WILL BE HEARD BY THE PLANNING COMMISSION NO LATER THAN 11:00 P.M.

>> THANK YOU. THE ONE APPLICANT FOR DEFERRAL IS REPORT ON SECONDARY UNITS PROGRAM WITH REQUEST DEFERRAL TO MARCH OF 2008. FOR CONSTRUCTION OF A 4600 SQUARE FOOT RETAIL AND COMMERCIAL BUILDING. THAT'S BEING REQUESTED BY THE APPLICANT TO BE DEFERRED TO FEBRUARY TENTH. THAT'S IT FOR DEFERRALS.

>> THANK YOU. ANY DISCUSSION FROM THE COMMISSION - OR IS THERE A MOTION TO APPROVE DEFERRAL? ALL IN FAVOR? SO THE DEFERRALS HAVE BEEN APPROVED AND NEXT ITEM IS CONSENT CALENDAR. THERE ARE NO ITEMS ON THIS CONSENT CALENDAR. NEXT ITEM IS PUBLIC HEARING. GENERALLY - NOTICE TO THE PUBLIC: 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 TO FACILITATE THE AGENDA, SUCH AS TO ACCOMMODATE SIGNIFICANT PUBLIC TESTIMONY, OR MAY DEFER DISCUSSION OF ITEMS TO LATER AGENDAS OF PUBLIC HEARING TIME MANAGEMENT PURPOSES. IF IT'S ACCEPTABLE, I WOULD LIKE TO MOVE 3C TO THE BEGINNING SINCE THAT'S A CONTINUATION OF LAST MEETING. ALL IN FAVOR? OKAY. SO WE WILL FIRST TAKE THAT ITEM, 3C, H08-007. H08-007. APPEAL OF THE PLANNING DIRECTOR'S DECISION TO APPROVE A SITE DEVELOPMENT PERMIT TO DEMOLISH AN EXISTING STRUCTURES AND TO CONSTRUCT A NEW 5,950 SQUARE FOOT RETAIL BUILDING ON A 0.38 GROSS ACRE SITE, IN THE CP PEDESTRIAN COMMERCIAL ZONING DISTRICT, LOCATED AT THE SOUTHEAST CORNER OF RACE STREET AND GARLAND AVENUE. COUNCIL DISTRICT 6. LET'S SEE. STAFF?

>> THANK YOU MR. CHAIR. THIS ITEM WAS HEARD AT THE PLANNING COMMISSION MEETING TWO WEEKS AGO. THE ITEM WAS DEFERRED BECAUSE THE COMMISSION WAS UNABLE TO REACH A DECISION TO MOVE THE PROJECT FORWARD. IT HAD A VOTE OF 3-3-1, INITIALLY TO UPHOLD THE DIRECTOR'S DECISION. THAT MOTION FAILED AND SO A SECOND MOTION WAS MOVED FORWARD TO RECOMMEND THE APPROVAL OF THE APPEAL AND DENIAL OF THE DIRECTOR'S DECISION AND THAT

FAILED ALSO ON A 3-3-3 VOTE AND THE ITEM WAS DEFERRED TO THIS MEETING. THERE WERE A NUMBER OF TESTIMONIES PROVIDED ABOUT THE PROJECT. SINCE THAT TIME AND AFTER THE CLOSURE OF THE PUBLIC HEARING, STAFF DID PROVIDE A SUPPLEMENTAL MEMO TO FURTHER CLARIFY SOME OF THE ISSUES RELATED TO THE MANNER OF THE FINDINGS SINCE THAT WAS OBVIOUSLY IN THE INTEREST OF THE COMMISSION AT THE TIME OF THE MEETING WITH THAT, STAFF HAS NOTHING TO ADD AT THIS TIME.

>> THANK YOU. THERE'S NO SPEAKER COMMENTS AND THE LAST TIME WE HAD CLOSED PUBLIC HEARING WE WERE ALREADY. THE PURPOSE OF THE TAKING ON THE ITEM TONIGHT IS FOR THE COMMISSION TO CONTINUE THE DISCUSSION AND SEE IF WE CAN REACH A DECISION ON THAT. I GUESS I JUST WANT TO SAY THAT THE STAFF SUPPLEMENTAL MEMO ADDRESSING THE ISSUE, I THINK IT TRIES TO SUMMARIZE WHAT THE ISSUE IS AT HAND, AND SO THE KEY ISSUE HAVING TO DO WITH - THAT IT'S NOT ABOUT WHETHER THE SIDE IS CURRENTLY OR SITE IS ZONED AT GENERAL COMMERCIAL AND PROPOSED USE IS ALLOWED UNDER THAT ZONING. ANYWAY, ANY DISCUSSION ON WITH THE COMMISSION? ANY COMMISSIONER? COMMISSIONER JENSEN, PLEASE?

>> THANK YOU. I VISITED THE SITE AGAIN TAKING SUPPLEMENTAL MEMO IN MIND, AND WENT AND LOOKED BECAUSE THERE HAD BEEN SOME DISCUSSION ABOUT THE MASKING AND ARCHITECTURE AS IT RELATED TO THE - OTHER BUSINESS UNITS ALONG RAY STREET AND WHAT I NOTICE WAS THAT THE MAJORITY OF THE BUSINESS DISTRICT IN THE AREA WHERE THIS PARTICULAR PROJECT PROPOSAL WAS, WAS CLOSER TO THE ALAMEDA AND ALL OF THOSE BUSINESS UNITS ARE - I DON'T KNOW - VINTAGE TYPES OF BUILDINGS WITH PARTICULAR ARCHITECTURAL STYLES FROM THE 20'S AND 30'S AND VERY INTERESTING. I STILL THINK AND BELIEVE THE SAME THINGS I BELIEVED BEFORE. THAT THIS IS NOT AN APPROPRIATE LOCATION FOR THIS ITEM, THAT A VIBRANT BUSINESS DISTRICT REQUIRES A DIVERSITY OF BUSINESSES AND I STILL INTEND NOT TO SUPPORT THE DIRECTOR'S DECISION. THANK YOU.

>> THANK YOU. THANK YOU, COMMISSIONER JENSEN. ANY OTHER REMARKS OR IS THERE A MOTION? COMMISSIONER PLATTEN?

>> I MOVE WE UPHOLD THE DIRECTOR'S DECISION TO CONSTRUCT A NEW RETAIL BUILDING ON A 0.03 ACRE SITE IN ZONING DISTRICT AS RECOMMENDED BY STAFF?

>> IS THERE A SECOND? MOTION AND A SECOND. NO OTHER SPEAKER? ACTUALLY. YES, COMMISSIONER KAMKAR IS HERE AND YOU DID RECONSTITUTE YOURSELF. SO THERE'S A MOTION TO UPHOLD THE DIRECTOR'S DECISION AND THERE'S A SECOND. LET'S VOTE. SO THE MOTION IS PASSED WITH COMMISSIONER JENSEN AND COMMISSIONER CAHAN OPPOSED. SO MOVING ON, BACK TO ITEM 3A. GP09-07-02. GENERAL PLAN AMENDMENT REQUEST TO CHANGE THE LAND USE/TRANSPORTATION DIAGRAM DESIGNATION TO ADD MIXED INDUSTRIAL OVERLAY TO AN EXISTING HEAVY INDUSTRIAL LAND USE DESIGNATION ON A 3.95 GROSS-ACRE SITE, LOCATED AT 2159 SOUTH 10TH STREET. COUNCIL DISTRICT 7. STAFF?

>> THANK YOU, MR. CHAIR. THIS GENERAL PLAN AMENDMENT ON SOUTH 10TH STREET. STAFF RECOMMENDS NO CHANGE TO THE GENERAL PLAN LAND-USE, DESIGNATION FOR THIS SITE FOR THE FOLLOWING REASONS. THE PROPOSED GENERAL PLAN AMENDMENT TO THE MIXED INDUSTRIAL OVERLAY IS NOT CONSISTENT WITH THE MAJOR STRATEGY AT THE GENERAL PLAN. THE PROPOSED GENERAL PLAN AMENDMENT IS NOT CONSISTENT WITH THE CITIES FRAMEWORK FOR CONVERSIONS OF LAND TO OTHER USES AND IT WILL COMPROMISE THE INDUSTRIAL LAND TO SURROUNDING PROPERTY. GIVEN THIS IS IN EARLY CONSIDERATION OF A GENERAL PLAN AMENDMENT THAT HAS NO CLEARANCE WITH CEQA, THE PLANNING COMMISSION HAS THE FOLLOWING OPTIONS TO RECOMMEND TO CITY COUNCIL. THE PLANNING COMMISSION RECOMMENDS DENIAL OR MAY DIRECT STAFF TO CONTINUE PROCESSING THE APPLICATION AND COMPLETE IT AT A LATER GENERAL PLANNED HEARING IN THE REGULAR GENERAL PLANNED HEARING CYCLE. THANK YOU.

>> THANK YOU. IS THE APPLICANT HERE? PLEASE? PLEASE COME DOWN TO THE PODIUM AND YOU HAVE UP TO FIVE MINUTES TO ADDRESS THE COMMISSION.

>> GOOD EVENING. MR. CHAIR, PLANNING COMMISSION, MEMBERS, THE AREA, AN INDUSTRIAL AREA TO THE EAST ARE SUFFERING THE SAME ECONOMIC RECESSION AS THE REST OF THE ECONOMY - AS COMMUNITY ECONOMIC BASE. THERE ARE SIGNIFICANT NUMBERS OF EITHER PARTIAL OR COMPLETELY VACANT INDUSTRIAL BUILDING IN THE AREA. THESE VACANT BUILDINGS ARE NOT PRODUCING JOBS, THEY'RE NOT CONTRIBUTING TO THE CITY ECONOMIC BASE. I REQUEST A MIX THE INDUSTRIAL DESIGNATION AS WHAT I WOULD DEFINE AS A TEMPORARY MEASURE TO ALLOW MY VOTING TO BE UTILIZED DURING THIS DIFFICULT ECONOMIC TIMES TO CREATE JOBS AND SERVE THE BROADER NEEDS OF THE COMMUNITY. ABSENT APPROVAL OF THIS REQUEST, THIS BUILDING WILL SIT VACANT LIKE MANY OTHERS IN THE AREA. AT SOME POINT, ONE COULD SUGGEST THE AREA WILL BE BLIGHTED AS IT WAS FROM 1999 TO 2005. AS A BUILDING OWNER, CAN TELL YOU THAT WHEN THE ECONOMY REBOUNDS AND THERE IS A SIGNIFICANT STRONGER DEMAND FOR INDUSTRIAL SPACE IN THE AREA, THE TEMPORARY USE OF THE SITE WILL VANISH AS IT WILL NO LONGER BE ECONOMICALLY VIABLE FOR ME TO CONTINUE THE USE. THESE ARE COLD HEART ECONOMIC REALITIES. TODAY THE CITY NEEDS TO BE WILLING TO ACKNOWLEDGE. IF I CAN JUST BE A LITTLE BIT PERSONAL AT THIS TIME, IN 1995, MY WIFE AND I DECIDED TO RELOCATE TO DISTRICT SEVEN WITH OUR COMPANY. WE HAVE A PACKAGING COMPANY. WE WERE THE FIRST VIETNAMESE BUSINESS TO OCCUPY NEAR STORY ROAD. MY WIFE AT THAT TIME, WOULDN'T EVEN WANT TO TRY TO WORK BECAUSE THE AREA WAS SO RUN DOWN BUT WE MADE A HOME THERE AND FOR 8 YEARS, WE CONTINUED TO PROSPER AND WE HIRE OVER 3,000 EMPLOYEES. - AND YOU KNOW, WE SAW THE ECONOMIC VITALITY OF THE AREA TRANSFORMING AT THAT PARTICULAR TIME. THE SAME DISCUSSION WAS HOLD TRUE NOW. DO WE KEEP A STATUS QUO OR MOVE FORWARD? THERE WAS DISCUSSION ABOUT KEEPING THE IBM PLANT THE SAME RATHER THAN REZONING AND NOW, 10 YEARS LATER, 15 YEARS LATER YOU HAVE A VIBRANT VIETNAMESE COMMUNITY AT PLAY RIGHT THERE IN 2004, I SAW THE SAME OPPORTUNITY AT THIS SITE. IT WAS RUN DOWN. IT'S BEEN SITTING EMPTY SINCE 1998 AND WAS A HOMELESS ENCAMPMENT WITH CRIME, DRUGS AND WHAT HAVE YOU. I TOOK THE CHANCE TO MAKE IT A SECOND HOME IN DISTRICT SEVEN, OVER THE YEARS, BECAUSE OF WHAT WE DID, WEED MONEY AND OUR HEARTS AND WORKED HARD TO TRANSFORM THE AREA. WE NOTICED MORE USERS STARTED TO OCCUPY THE EMPTY BUILDINGS BECAUSE OF OUR WORK. THOSE OCCUPANTS, HAD THEY NOT MOVED IN, WE WOULD STILL BE HAVING A HUGE - AND I MEAN AT LEAST 20%-30% VACANCY ON THAT SIX BLOCKS OF TENTH STREET. CONTEXT RALLY MY SITE IS ADJACENT TO THE VTA YARD SOUTH. AS YOU CAN SEE FROM THE PLAN AMENDMENT MAP ON PAGE THREE, WITHIN 500 TO 1500 FEET. THERE ARE APPROVED HOUSING DEVELOPMENT ON 7TH STREET. AFFORDABLE HOUSING AND SENIOR ON TOLLEY AND PROPOSED SENIOR HOUSING ON FAIRGROUND PARKING LOT THAT'S IN THE PIPELINE. MEDICAL FACILITY, RETAIL FACILITY ON PARET AND BOURKE. IF YOU DRIVE OFTEN ON THE SIXTH BLOCK, YOU WILL BE HARD TO FIND A TRUE HEAVY INDUSTRIAL USERS, TO NAME A FEW; COMCAST, VIKING DOORS. LACKAME REALTY. CENTURY 21, RAINBOW BEAUTY SUPPLY. TNT RADIO STATION. SAIGON TAXES. ALBERT AND KITCHEN. FURNITURE AND MB LACER. THE VIETNAMESE-AMERICAN ACADEMY. COMMUNITY SERVICES AND NEW LIFE MEDIA. 60-70% OF THE USERS ARE USING IT FOR ANYTHING BUT HEAVY INDUSTRIAL USE. THIS IS NOT A PRISTINE AREA WHERE THERE ARE REAL HEAVY INDUSTRIAL USE WITH SIGNIFICANT USES OF CHEMICALS. I WOULD INTEND TO USE FOR THE BUILDING IS LARGELY CONDUCTED IN THE EVENING AND ON THE WEEKEND. NOT A TRADITIONAL TIME OF ACTIVE USE FOR INDUSTRIAL SITES. SO NEAR THE TERM POTENTIAL OF OVERLAY DESIGNATION TO LET THE AREA ATTRACT ECONOMIC INVESTMENT.

>> YOUR TIME IS UP. I'D LIKE TO ASK YOU A QUESTION, THOUGH. WHEN YOU PURCHASED A PROPERTY, YOU WERE AWARE THE USES - THAT SOME OF THE USES THAT ARE BEING USED OR THAT YOU HAVE BEEN USING IN RECENT MONTHS WERE NOT ALLOWED UNDER THE ZONING?

>> WHEN I FIRST PURCHASED THE BUILDING I DID HAVE AN OPPORTUNITY TO WORK WITH THE VICE-MAYOR, PAT AND CURRENT COUCILMEMBER, TERRY GREGORY. WHEN WE WERE IN CONTRACT, THERE WAS SEVERAL PROPOSALS OFFERED FOR REZONING AND ALSO A TEN PERCENT DESIGNATION FOR A COMMUNITY CENTER. THAT WAS ON THE TABLE. AT THAT PARTICULAR TIME THE POSITION WAS TO GET THE BUILDING PERMITS AND START REMODELLING FIRST AND ZONING WOULD COME LATER.

>> OKAY. THANK YOU. THERE ARE A NUMBER OF SPEAKER CARDS. ONE OF WHOM DID NOT FILL OUT HIS OR HER NAME. SO IF YOU ARE THE ONE THAT FILLED OUT THE SPEAKER CARD AND DID NOT PUT YOUR NAME, PLEASE DO SO IF YOU'D LIKE TO SPEAK. I'LL START CALLING THE NAMES. THREE AT A TIME, SO PLEASE COME DOWN AND LINE-UP AT THE BOTTOM OF THE STAIRS. THE FIRST NAME IS MICHAEL ROBINSON AND MATHEW MOUNTFORD AND CAROL COMBS. PLEASE STATE YOUR NAME.

>> MICHAEL ROBINSON. GOOD EVENING TO ALL. BASICALLY, WHAT WE'RE HERE FOR IS TO LET YOU KNOW ABOUT THE BUILDING SITUATION ITSELF. THIS BUILDING HAS BEEN A GREAT THING THAT'S BEEN GOING ON IN THE COMMUNITY AND WE'VE BEEN DOING A LOT OF THINGS WITH THE YOUTH AS WELL AS CHURCHES. HE'S BEEN GIVEN BACK TO THE COMMUNITY AND WITH THE WAY THE ECONOMY IS NOW, WE WOULD THINK THAT WE WOULD HOPE THAT WE - YOU KNOW THE UNDERSTANDING THAT THIS IS SOMETHING WE DEFINITELY NEED IN THE COMMUNITY FOR THE YOUTH, AS WELL AS PEOPLE TRYING TO DO THINGS FOR THEIR FAMILIES. AND THAT'S PRETTY MUCH ALL I HAVE TO SAY.

>> THANK YOU.

>> THANK YOU.

>> HI. GOOD EVENING I'M CAROL COMBS AND I'M HERE IS A A TENANT AND ALSO TO KIND OF COUNTERPART TO WHAT MICHAEL SAID. WE'RE ACTUALLY TENANTS THERE AND WORK A LOT WITH THE YOUTH IN THE COMMUNITY. A LOT OF THE SAN JOSE POLICE DEPARTMENT AS WELCOME BY AND ACTUALLY SEEN OUR SERVICES. WE OFFER SERVICES TO ALL YOUTH AND LEADERSHIP SKILLS ALONG WITH DEVELOPING THEM TO BECOME ENTREPRENEURS AND ONE DAY TO BECOME BUSINESS OWNERS IN THE COMMUNITY. IF THE BUILDING IS TAKEN AWAY FROM THEM, THAT PUTS THE KIDS BACK OUT ON THE STREET. SO WITH THAT SAID, I THINK THAT IT NEEDS TO BE LOOKED MORE ON THE BROADER SENSE AS FAR AS IT'S NOT JUST A BUILDING BUT A PLACE TO THINGS TO HAPPEN, ESPECIALLY IN THIS COMMUNITY FOR NOT JUST THE YOUTH BUT THAT'S OPENING UP OPPORTUNITIES AGAIN FOR JOBS AND THINGS OF THAT NATURE. SO - THAT'S PRETTY MUCH ALL I HAVE TO SAY.

>> THANK YOU VERY MUCH. THANK YOU. AND I WILL ALSO CALL THE NEXT THREE SPEAKERS. VALENTINO SMITH. MR. CHEN AND PAUL LEE.

>> I'M MATHEW AND EDITOR OF A MAGAZINE. I'M 23 YEARS OLD AND LAST YEAR, I GRADUATED FROM SAN JOSE STATE. I'VE HAD FIVE PUBLICATIONS FOR A LONG TIME AND HELIUM MAGAZINE IS A NEW PUBLICATION I STARTED - A FASHION MAGAZINE. WE'RE TRYING TO PULL TOGETHER ALL THE LOCAL DESIGNERS AND PROMOTE THEM KIND OF PUT THEM ON THE MAP FOR FASHION AND WE FILL A LOT OF FASHION SHOWS AND LAUNCHED A PUBLICATION AND DO IT ALL FOR CHARITY ALSO. THE STUDIO HAS BEEN A HUGE BREEDING GROUND AND A HUGE OPPORTUNITY. - UNBELIEVABLE OPPORTUNITY FOR ME. I'M A YOUNG PERSON TO COME INTO AND IT'S LEGITIMIZED ME IN WAYS I NEVER THOUGHT I WOULD HAVE BEEN ABLE TO HAVE GOTTEN TO. I REALLY NEED THE STUDIO AND TO HAVE FREE ACCESS TO THAT AND THE BALLROOMS THERE AND HAVE EVENTS TO SUCCEED. WHAT I WAGED IS, I ACTUALLY TOLD MY FAMILY THAT IF I CAN'T MAKE IT WORK I WILL ACTUALLY MOVE TO OREGON AND WORK IN A FACTORY WITH MY GRANDFATHER, SO I NEED THE STUDIO AND I NEED IT NOW. ALL THE DESIGNERS AND MY 32 STAFF MEMBERS THAT DONATE THEIR TIME. THEY NEED IT TO GO NOW AND THEY ARE SAYING IT'S THE LARGEST IN SAN JOSE AND KNOWING I HAVE THE MOST MAGNIFICENT BALLROOMS. THEY'RE ABSOLUTELY MAGNIFICENT AND CAN BE COMPARED TO THE BELLAGIO AND I DON'T THINK THIS IS A TIME TO BE RESTRICTING BUSINESS. I THINK THAT WOULD BE A HUGE MISTAKE. ME, AS A 22-YEAR-OLD ENTREPRENEUR TRYING START A BUSINESS, I HOPE YOU WILL HELP US OUT AND HELP ME PROSPER. THANK YOU.

>> THANK YOU.

>> GOOD AFTERNOON I'M VALENTINO SMITH. I'M A YOUTH PASTOR AT A CHURCH AT BETHESDA COMMUNITY CHURCH. THIS BUILDING HAS REALLY HELPED US A LOT. I DEAL WITH A LOT OF GROUP HOMES, AND DEALING WITH GROUP HOMES, BASICALLY THE KIDS, THEY COME TO THIS BUILDING AND I TEACH THEM LEADERSHIP SKILLS. I TEACH THEM HOW TO GET JOBS. HOW TO GO OUT IN THE REAL WORLD SO THEY'RE NOT BREAKING INTO SOMEBODY'S HOUSE OR THEY'VE BEEN LEFT BEHIND. THIS BUILDING AS MICHAEL, HE HAS OPENED UP THE DOORS FOR ME, OUR CHURCH AND EVERYTHING FOR ANYTHING WE NEED AND SO WHEN I CAME TO THE CITY TEAM I BASICALLY, CAN BRING THESE KIDS TO THIS WAREHOUSE AND HAVE CLOTHES AND FOOD AND DIFFERENT THINGS AND DON'T CHARGE THEM SO. MY THING IS, HERE IS A COMMUNITY, HERE IS A PLACE THAT ME BEING YOUTH PASTOR, THAT CAN GO TO AND GET THESE KIDS OFF THE STREETS. PUT THEM SOMEWHERE AND TEACH THEM LEADERSHIP SKILLS AND TEACH THEM HOW TO GET A JOB AND ABOUT DEVELOPING AND MUSIC AND THINGS KIDS DO AT THIS PLACE AND SEND THEM BACK OUT THERE WITH SKILLS. JUST RECENTLY WE GOT SOMETHING WITH THE YOUTH ON THE YMCA AND HANDIS POINT. THEY'RE LOOKING AT THE PROGRAM WE'VE BEEN DOING. OAKLAND. RICHMOND. ALL THESE PLACES ARE LOOKING AT IT, BUT IT STARTS WITH SAN JOSE IF THE YMCA'S CAN TAKE ON OUR PROGRAM OF GETTING KIDS A TOUGH STREET, PUTTING THEM SOMEWHERE SO THEY'RE NOT KEEP GOING IN JAIL AND WE HAVE THIS CIRCLE OF KIDS, OF ME BEING YOUTH PASTOR AND MICHAEL LOU HAS OPENED UP THE DOOR SO THAT WE CAN GO IN THERE AND TEACH THESE KIDS SOMETHING AND SAN FRANCISCO AND OAKLAND AND ALL OF THEM HAVE OPENED UP THEIR DOORS, SAN JOSE CAN DO THE SAME. THANK YOU.

>> THANK YOU.

>> HI. MY NAME IS PAUL LEE AND I'M SAN JOSE RESIDENT AND ALSO A VICE PRESIDENT OF THE VIETNAM VOTERS OF NORTHERN CALIFORNIA. I'M HERE TO SPEAK ON BEHALF OF OVER 5,000 MEMBERS IN OUR ORGANIZATION. LAST YEAR, MR. LOU WAS GENEROUS ENOUGH TO GIVE US BUILDING SO WE CAN ORGANIZE A COMMUNITY DAY WHILE WE GATHER OVER SEVERAL THOUSAND PEOPLE COME IN TO HELP WITH A FREE HEALTH CHECK UP. HAVE MUSIC, FOOD. SO THIS BUILDING HAS BEEN USED FOR MANY ACTIVITIES FOR. THE ELDERLY TO COME AND TO BOND DURING THE DAY AND DURING THE WEEKENDS. UNFORTUNATELY, IN THE LAST COUPLE OF MONTHS, I LEARNED THAT THERE WAS AN EFFORT FROM CITY OFFICIAL - TRY TO SHUT DOWN THE WHOLE ACTIVITY ON THIS COMMUNITY. THE ONLY COMMUNITY CENTER THAT WAS SELF-FUNDED AND SELF-OPERATED. IT JUST BECAUSE WE DON'T SUPPORT A PARTICULAR CITY COUNCIL. I PERSONALLY, READ SOME OF THE E-MAIL AND I'M ASHAMED. I'M ASHAMED THERE WAS AN EFFORT BETWEEN CITY OFFICIALS USE THE OFFICE TO PERSECUTE THOSE THAT HAVE A DIFFERENT OPINION. I'M ASKING YOU TO DO HONORABLE THING. TO DO THE RIGHT THING FOR THE COMMUNITY. THANK YOU.

>> THANK YOU.

>> NEXT THE SPEAKER PLEASE? SORRY. MR. LEE, COULD YOU COME BACK TO THE PODIUM? THERE'S A QUESTION FROM COMMISSIONER JENSEN?

>> YOU MADE A FAIRLY BROAD ACCUSATION ABOUT CITY OFFICIALS. DO YOU HAVE COPIES OF THOSE E-MAILS THAT YOU CAN PUT INTO EVIDENCE?

>> I REALLY BELIEVE THAT MR. MICHAEL LOU OBTAINED SOME OF THE COPIES AND I BELIEVE HE CAN PROVIDE THEM WITH YOU AND I BELIEVE THERE A PENDING LAWSUIT RIGHT NOW TO THE CITY.

>> OKAY. THANK YOU.

>> THANK YOU. THE NEXT THREE SPEAKERS ARE [CALLING SPEAKERS] EVAN LAYE? PLEASE APPROACH THE PODIUM AND YOU HAVE UP TO TWO MINUTES. PLEASE STATE YOUR NAME. PLEASE PROCEED.

>> GOOD EVENING I'M MR. VAN LEE. ON THE WEEKEND WE GOT AROUND 2000 PEOPLE TO HELP US AND I COME NOW TO SPEAK FOR MICHAEL LOU. HE HELP MY GROUP A LOT TO THE MEET. IN THIS AREA. THANK YOU VERY MUCH.

>> THANK YOU.

>> PLEASE STATE YOUR NAME.

>> MEMBER OF THE COMMISSION. I'M HERE IN A VERY TYPICAL ROLE, JUST A PUBLIC CITIZEN TODAY. I COME WITH ABOUT 30-YEARS OF PLANNING PRESENCE AND I WANT TO SHARE A COUPLE OF THOUGHTS ON THIS PARTICULAR PLAN AMENDMENT. I THINK OVER THE YEARS THERE'S BEEN REALLY DETERMINED BY A SERIES OF PROJECTS THAT HAVE BEEN BROUGHT FORWARD. SOME OF WHICH I'VE REPRESENTED. CHURCHES AND ASSEMBLIES THAT HAVE IDENTIFIED ACQUIRED PROPERTIES AND STARTED CARRY ON THEIR ACTIVITIES THERE. I THINK IT'S BECOME VERY POINTED FACT THAT THE CITY DOESN'T DO AN ADEQUATE JOB OF PROVIDING ADEQUATE GUIDANCE TO ASSEMBLY FACILITIES AND CHURCHES AND DOESN'T REALLY PROACTIVELY DESIGNATE MIXED USE INDUSTRIAL THROUGHOUT THE CITY. THIS STARTED UNDER A PREVIOUS MAYOR. CHURCHES AND OTHER FAITH-BASED COMMUNITIES WENT TO THE MAYOR AND SAID WE REALLY NEED HELP AND CITY AT THAT TIME DID A FAIRLY PROACTIVE ANALYSIS WHERE THESE COULD BE LOCATED. UNDERSTANDING WHY THEY SOUGHT THE LOCATIONS THEY DID. ESSENTIALLY THEY'RE CENTRAL TO THE COMMUNITIES THEY SERVE AND PROBABLY MORE IMPORTANTLY, THEY'RE FACILITIES THEY CAN AFFORD TO OCCUPY. SO I THINK THAT RIGHT NOW, CHURCHES ASSEMBLY USES COME FORWARD ON A PIECE-MILL BASIS AND STAND BEFORE YOU AND PROBABLY MANY OF THEM STAND BEFORE YOU HAVING ILLEGALLY OCCUPIED BUILDINGS, BUT THEY HAVE NO CHOICE. - AS THEY VIEW IT. SO, THEY COME AND HAVE TO DEFEND THEMSELVES AND I THINK THE CITY REALLY NEEDS TO WORK TO PROACTIVELY IDENTIFY PLACES FOR THESE TYPES OF FACILITIES. I MAKE A RECOMMENDATION. THAT'S NOT MY RECOMMENDATION BUT I KNOW IT'S BEEN BROUGHT FORWARD THAT THE GENERAL TASK FORCE DEAL WITH THIS ISSUE. I KNOW THE COUNCIL HAS MADE SOME COMMENTS. LET ME QUICKLY MAKE ONE OTHER COMMENT. THAT IS THAT THIS ALSO ALWAYS COMES WITH THE CONCEPT NOW OF NO, NOT LOSS OF INDUSTRIAL'S FACE. I ASKED THE PLANNING STAFF ONCE IN A COMMUNITY DEVELOPMENT ROUNDTABLE ABILITY WHETHER OR NOT THERE HAD BEEN SMALL GENERAL PLAN AMENDMENTS MADE OVER THE LAST SEVERAL YEARS WHERE IN FACT, SOMEBODY SAID I WANT TO TAKE MY PROPERTY INTO INDUSTRIAL, AND IF THAT'S CASE, IT SEEMS THERE SHOULD BE A BANK. THE CHURCHES AND ASSEMBLY USES COULD COME AND SAY, MY NET OFFSETTING THING IS IN FACT, SOMEBODY ELSE'S PROPOSAL TO DO SOMETHING. I WOULD ASK YOU TO ASK THAT QUESTION TO THE STAFF AND SEE IF IN FACT PROJECTS LIKE THIS COULD TAKE -

>> THERE'S A QUESTION FROM COMMISSIONER KAMKAR, PLEASE?

>> THANK YOU MR. CHAIR AND I HIGHLY RESPECT YOUR OPINION. YOUR EXPERIENCE IN THE FIELD. SO I WOULD LIKE TO PUT THE QUESTION TO YOU. IF YOU WERE IN OUR SHOES AND YOU WERE FACED WITH THIS QUESTION AS TO AN OVERLAY AND TO ME, I'M NOT AS EXPERT AS YOU IN THIS FIELD. AN OVERLAY TO ME DOESN'T TAKE AWAY THE HEAVY INDUSTRIAL USE. THAT CAN STILL OCCUR IF AND WHEN, IT IS APPROPRIATE. BUT IT JUST ADDS OPTIONS TO IT. WHAT WOULD YOU HAVE DONE IN THIS CASE STRICTLY LOOK AT THE EVIDENCE.

>> I THINK THAT'S A VERY COGENT POINT. I THINK ALSO COMBINED THAT IN TODAY'S ECONOMIC CONDITIONS AND WAITING FOR SOME FORM OF RECOVERY I THINK THE CITY HAS TO ACKNOWLEDGE THERE MAY BE TEMPORARY USES THAT CAN OCCUPY INDUSTRIAL BUILDINGS AND I THINK AS MR. LOU INDICATED, WHEN THE ECONOMY TURNS AROUND THE ECONOMIC VALUE OF WHAT HE'S GETTING OUT OF THIS TYPE OF USE WILL PROBABLY BE TRANSCENDED BY A STRONG PUSH FOR HEAVY INDUSTRIAL USES AND ECONOMY WILL CURRENT THE TEMPORARY NATURE OF THESE KINDS OF THINGS SO IT DOESN'T ERASE THE UNDERLYING LAND-USE TO THE EXTENT THE MARKET IS OUT THERE. I THINK THE OTHER VALID POINT. I REALIZE IT'S DIFFICULT TO CONSIDER THIS BUT I THINK IT COULD BE A CONSIDERATION IN THE CITY OF SAN JOSE AND I KNOW THE

CHAMBER OF COMMERCE IS INTERESTING IN THIS. IT'S ABOUT CREATING JOBS IF WE CONTINUE TO ALLOW BUILDINGS TO BE OCCUPIED AND NOT HAVING JOBS WE HAVEN'T DONE THE COMMUNITY.

>> I WOULD APPRECIATE IF YOU SPEAK TO THE ANSWER OF COMMISSIONER KAMKAR'S QUESTION.

>> ANYWAY, THANK YOU FOR YOUR POINT AND IT IS WELL TAKEN.

>> ACTUALLY, I HAVE ANOTHER QUESTION FOR YOU. YOU WERE WORKING WITH THE APPLICANT RIGHT? YOU REPRESENT THE APPLICANT?

>> NO, DO NOT HAVE THE CONTRACT WITH THE APPLICANT. I HAVE WORKED WITH THE APPLICANT IN THE PAST.

>> THANK YOU. THERE ARE TWO ADDITIONAL SPEAKERS. TIM AND BRIAN PLEASE APPROACH THE PODIUM.

>> GOOD EVENING LADIES AND GENTLEMEN, MY NAME IS JEN. THE BUILDING OFFICE THE HOUSE OF THE VIETNAMESE MEMBER COMMUNITY OF WHICH I'M A MEMBER. THIS IS A GOOD LOCATION FOR US TO GATHER FOR OUR MANY COMMUNITY ACTIVITIES AND MR. MICHAEL LOU IS VERY KIND AND HAPPEN TO OWN, THEREFORE I'M HERE TO SUPPORT HIS REQUEST AND COULD APPRECIATE A VERBAL DECISION. THANK YOU.

>> THANK YOU VERY MUCH.

>> MR. CHAIR AND MEMBERS OF THE PLANNING COMMISSION, FOR 3 1/2 DECADES THE REFUGEES FROM VIETNAM HAS VIEWED IT AS OUR NEW HOME. WE HAVE WORKED HARD TO WEAVE THE FABRIC OF THIS GREAT CITY. WE PAY TAXES AND RAISE OUR FAMILIES AND BUILD OUR COMMUNITIES FOR YEARS TO COME. ALONG WITH THE COMMUNITY LEADERS THAT HAVE SPOKEN BEFORE WE WE'RE HERE TO SUPPORT THE ZONING BUILDING TO HAVE THE MIXED INDUSTRIAL OVERLAY. WE DON'T LISTEN TO PUBLIC WORD. ALWAYS DESIGNATED SOME 30 YEARS AGO. HOWEVER, LONG WHEN IT WAS ORIGINALLY INTENDED BUT IT'S CONSTANTLY CHANGING. COMMUNITY CENTERS STRUGGLED TO FIND LOCATIONS TO CARRY OUT MISSIONS OF PUBLIC SERVICE. I'M ONE OF THE MEMBERS OF THE TASK FORCE. WITH A CURRENT BUDGET OF 2.75 MILLION DOLLARS. ALL FROM TAXPAYER. APPROXIMATELY 100,000 DOLLARS OF TAXPAYER MONEY. COUNCILMEMBERS AND CITY DECIDES TO FORWARD THE CREATION OF THE VIETNAMESE-AMERICAN CENTER UNTIL 2013. THREE OR FOUR YEARS FROM NOW. WE HAVE THESE BUILDING THAT ARE ALREADY VIETNAMESE COMMUNITY CENTERS. I THINK MOST OF YOU HAVE AT ONE TIME OR ANOTHER COME TO THE TENTH STREET TO VISIT AN EVENT THERE. RELIGIOUS, CULTURAL, POLITICAL AS WELL AS NON-PROFIT HAVE MADE THIS BUILDING AS HOME. ALLOW GOOD SERVICES AND BENEFIT THE VIETNAMESE AND ASIAN-AMERICAN COMMUNITY IMMENSELY BUT ALSO THE GREATER COMMUNITY AS A WHOLE FROM CHARITY, RELIGIOUS GALLERIES. TO EVENTS WITH BILL CLINTON.

>> YOUR TIME IS UP.

>> THANK YOU VERY MUCH. THE APPLICANT HAS UP TO FIVE MINUTES TO MAKE A REBUTTAL IF YOU SO CHOOSE.

>> JUST WANT TO MAKE SEVERAL POINTS. JUST ESSENTIALLY, I WOULD WISH THAT THE MEMBERS OF THE PLANNING COMMISSION WOULD LOOK FORWARD ON THE FUTURE USE OF THIS PARTICULAR BUILDING RATHER THAN LOOKING BACKWARD. THERE'S A LOT OF ACTIVITY THAT HAS OCCURRED FOR THE LAST SEVERAL YEARS, BUT I THINK THAT THE MOST IMPORTANT POINT I LIKE TO MAKE IS THAT THE MIX INDUSTRIAL STILL ALLOWS THE HEAVY INDUSTRIAL TO REMAIN IN TACT AND IT MIGHT BE A TEMPORARY SITUATION, RATHER THAN HAVING ANOTHER EMPTY SHELL OUT THERE ALONG WITH MILLIONS OF MILLIONS OF EMPTY SHELL BUILDINGS, SOME USE CAN OCCUR THAT CAN BENEFIT THE COMMUNITY IN THE MEANTIME. AND ALL I'M ASKING FOR YOU TODAY, IS AN OPPORTUNITY JUST AS A MEMBER OF THE DISTRICT 7, A BUSINESS MEMBER FOR THE LAST 14

YEARS. I BUILT AND MADE A LIFE IN DISTRICT SEVEN THAT WOULD SETTLE BUSINESSES AND I'M URGING YOU TO GIVE ME AN OPPORTUNITY TO MOVE FORWARD. IT DOESN'T MEAN TODAY, YOU'RE APPROVING THE PROJECT. ALL I'M ASKING FOR IS AN OPPORTUNITY FOR THE PROJECT TO BE PROCESSED. THANK YOU.

>> THANK YOU. PLEASE STAY THERE'S A QUESTION FROM COMMISSIONER JENSEN.

>> THANK YOU. MR. LOU, ONE OF YOUR SUPPORTERS MADE A VERY SERIOUS ACCUSATION ABOUT A COUCLMEMBER. DO YOU HAVE TO THE E-MAIL RECORD THEY'RE TALKING ABOUT?

>> MRS. COMMISSIONER JENSEN, I'M A MEMBER OF THE PUBLIC IS MAKING STATEMENT AND GOING IN TODAY, I REALIZE ON THE STAFF REPORT IT'S ELUDING TO OTHER ENFORCEMENT ACTION. I'VE ASKED EARLIER, WITH THE - WITH MY ATTORNEY AND HE IS ADVISING ME AT THIS PARTICULAR TIME IF I COULD REFRAIN FROM COMMENTING ON THAT. BECAUSE OF PENDING LITIGATION. AS FOR THE DISCOVERY PROCESS GOING FORTH BUT THERE ARE DOCUMENTATIONS THAT I DO HAVE INFORMATION SESSION BUT AT THIS PARTICULAR TIME, THE BEST ANSWER TO TELL YOU IS BECAUSE OF PENDING LITIGATION, I HAVE TO REFRAIN FROM ANSWERING THAT.

>> UNDERSTOOD. REGARDING SOME OF THE CODE ENFORCEMENT ACTIONS THAT HAVE BEEN TAKEN HAVE YOU TAKEN GOOD FAITH STEPS TO CORRECT SOME OF THE ISSUES?

>> ABSOLUTELY.

>> THANK YOU.

>> THANK YOU. MOTION TO CLOSE PUBLIC HEARING? ALL IN FAVOR? OKAY. STAFF? COULD YOU CLARIFY SOME OF THE POINTS IN PARTICULAR, THE HISTORY OF THE APPROVAL PROCESS OR ANY KIND OF PLANNING PROCESS IN RELATION TO THIS SITE IN TERMS OF WHETHER THERE WERE ANY COMMITMENTS, WHETHER THEY WERE VERBAL OR WRITTEN COMMITMENTS ON WHAT POSSIBLE REZONING COULD HAVE HAPPENED AT THIS SITE, AND AS WELL TO CLARIFY ON SOME OF THE CODE ENFORCEMENT VIOLATIONS? THANK YOU.

>> THANK YOU, MR. CHAIR, THE CURRENT ZONING BEING HEAVY INDUSTRIAL DOES NOT CURRENTLY ALLOW THE ASSEMBLE USES ON THE SITE. IT REQUIRES THE INDUSTRIAL TO BE IN PLACE AND THEN CONDITIONAL USE PERMIT IS REQUIRED, AS STATED IN THE STAFF REPORT, THERE HAVE BEEN MUCH COMMUNICATION BETWEEN THE CODE ENFORCEMENT DIVISION AND PROPERTY OWNER REGARDING THE USES THAT ARE ALLOW AND THOSE NOT ALLOWED AT THAT, THE SUBJECT SITE. THE ASSEMBLE USES THAT HAVE BEEN OCCURRING FOR THE LAST FEW MONTHS HAVE NOT BEEN PERMITTED. THERE'S NO ENTITLEMENT FROM THE PLANNING DEPARTMENT AND THERE'S NO OCCUPANCY ALLOWED FOR THE BUILDING CODE. AS STATED IN THE STAFF REPORT, THE PROPERTY OWNER HAS BEEN NOTIFIED THAT THE ASSEMBLE USES OF HUNDREDS OF PEOPLE AND EVEN HAD A GENTLEMEN STATE THOUSANDS OF PEOPLE HAVE ASSEMBLED AT THE SITE WITHOUT THE PROPER OCCUPANCY WITHOUT THE PROPER FIRE REGULATIONS AND EXITING AND PROPER USE OF KITCHEN TYPE APPLIANCES USED FOR INDOOR COOKING AND EFFECTIVELY HAVING HUNDREDS OF PEOPLE'S LIVES POTENTIALLY EFFECTED IN AN UNOCCUPIED BUILDING. IT'S SUPPOSED TO BE A WAREHOUSE BUILDING NOT ASSEMBLY. THERE HAS BEEN A HISTORY OF THAT CONTACT INFORM ME THAT MR. LOU, GOING BACK THROUGH ORIGINALLY, IT WAS RESPONDED IN AUGUST OF 2008 AND HE WAS INFORMED IN SEPTEMBER - SORRY. AUGUST 2009, NOTIFIED AGAIN IN SEPTEMBER OF 2009 AND THERE ENDED UP BEING RESTRAINING ORDER TO PREVENT ASSEMBLE USES AT THE SITE AND E-MAILS WERE RECEIVED AND MICHAEL LOU INFORMED ME THIS PAST WEEKEND THERE WERE USES ON THE SITE AS WELL. AND HE CAN - MIKE FROM THE CODE ENFORCEMENT DIVISION CAN ALSO TALK ABOUT THE ASSEMBLIES THAT HAVE OCCURRED.

>> THANK YOU. MIKE. MR. LOU CONTINUES TO ALLOW ASSEMBLE USES ON A PROPERTY NOT DESIGNED TO ALLOW SUCH. THIS CREATED AND IMPOSED A IMMEDIATE THREAT TO THE MEMBERS OF SAN JOSE. THE CITY HAS GIVEN WRITTEN WARNINGS THAT IT CANNOT BE USED FOR THESE USES

UNTIL THE CITY COUNCIL MAKES A CHANGE IN THE GENERAL PLANNING OF THE PROPERTY. HE CONTINUES NOT TO COMPLY WITH THE CITIES ORDER RESULTING IN A RESTRAINING ORDER AND THAT IS ISSUING COURT FOR THEIR CONSIDERATION.

>> YES. COMMISSIONER KAMKAR?

>> THANK YOU VERY MUCH, MR. CHAIR. IF THE PLANNING COMMISSION WERE TO ALLOW ADDITIONAL USE, THEN THAT TAKES YOUR CONCERN AWAY?

>> NO, SIR. IF THE PLANNING COMMISSION AND COUNCIL MAKE THE SUBSEQUENT PLAN CHANGE. MR. LOU HAS MADE SIGNIFICANT MODIFICATION TO THE STRUCTURE. IT WAS NOT DESIGNED FOR ASSEMBLY-TYPE USES. STAFF IS CONTINUALLY ADVISED MR. LOU FROM THE BEGINNING IF THE PLANNING CHANGE DESIGNATION IS IN ORDER COME IN AND GET THE NECESSARY TYPE PURPOSES PERMITS AND THEN WE'RE HAPPY TO SUPPORT THAT USE. HE CONTINUES TO USE THE PROPERTY FOR ASSEMBLE USES CONTRARY TO STAFF AND CITY RECOMMENDATIONS.

>> BUT AS FAR AS WHEN YOU SAY, I GUESS I HAVE TO HAVE SOME QUESTIONS FOR STAFF. I'LL WAIT.

>> LET ME ASK YOU A QUESTION. THANK YOU FOR SPEAKING AND FOR CLARIFYING THE ISSUE, BUT SO ARE YOU SAYING THAT NONE OF THE INTERIOR IMPROVEMENTS TO CREATE THIS LARGE ASSEMBLY SPACE WITH A STAGE AND ALL OF THAT STUFF, NONE OF THAT WENT THROUGH A PERMIT PROCESS?

>> THAT'S CORRECT. NONE OF THE INTERIOR ALTERATIONS FOR THE USES MR. LOU HAS BEEN SERVED WITH A RESTRAINING ORDER HAVE RECEIVED CITY BUILDING PERMITS OR FIRE PERMITS AND IN SOME CASES BATHROOMS HAVE BEEN REMOVED AND KITCHENS HAVE BEEN INSTALLED AND NONE OF THESE ALTERATIONS AND STRUCTURES HAVE BEEN DONE WITH BUILDING PERMITS OR SUBJECT TO BUILDING INSPECTIONS.

>> DO YOU KNOW HOW LONG THE ALLEGED ILLEGAL ACTIVITIES TOOK PLACE BEFORE THE CITY WAS NOTIFIED AND BEFORE CODE ENFORCEMENT ACTIONS TOOK PLACE?

>> I DON'T, SIR. I CAN ONLY TELL YOU THE COMPLAINT WAS THE MIDDLE TO JULY OR AUGUST OF LAST YEAR.

>> THANK YOU VERY MUCH.

>> THANK YOU.

>> STAFF WOULD LIKE TO FOLLOW UP ON ANOTHER CLARIFICATION WHEN CHAIR THANG DO ASKED IF THERE WERE ANY COMMITMENTS. THERE HAS BEEN NO PRELIMINARY REVIEWS OR REQUESTS FOR REVIEW AND HENCE, PLANNING DIVISION HAS NOT RECOMMENDED ANY PROPOSED CHANGES OR SUGGESTED ANY REZONING ON THIS SO IN ANY STATEMENT SAYING THIS IS WHAT YOU NEED TO DO IF YOU WANTED ANY OF THIS TO BE CONSIDERED SHOULD NOT BE IMPLIED AS A RECOMMENDATION FOR THE COURT OF THE CITY IN THAT PROCESS. IT'S JUST GIVING THE PROPERTY OWNER INFORMATION. IF HE WANTED TO PURSUE SOMETHING THIS IS THE STEPS HE WOULD HAVE TO GO TO. THERE'S NO COMMITMENT BEHIND THE STATEMENTS.

>> THANK YOU.

>> STAFF WOULD ALSO LIKE TO FURTHER CLARIFY THAT THE PROCESS FOR THIS APPLICATION, SHOULD THERE BE A RECOMMENDATION OF APPROVAL BY THE PLANNING COMMISSION AND FURTHER CONSIDERATION OF FOR THE PURPOSE OFFICE CEQA, THAT THERE WOULD HAVE TO BE THE FULL INITIAL - FULL ENVIRONMENTAL REVIEW TO BE DONE OF THE PROPOSED GENERAL PLAN

AMENDMENT AND IT WOULD HAVE TO BE HEARD AT THE REGULAR GENERAL MAN HEARING CYCLE AND THOSE HEARINGS ARE SCHEDULED FOR LATE APRIL, EARLY MAY POTENTIALLY, AND -

>> YEAH, PLANNING COMMISSION. EARLY APRIL COUNCIL. ALSO WHETHER OR NOT IT COULD EACH DO THAT.

>> IN WHICH CASE WE'D BE LOOKING AT THE FALL HEARING CYCLE AND EVEN ONCE THE MIXED INDUSTRIAL OVERLAYS BE APPROVED THE APPLICANT COULD THEN APPLY FOR A USE OF ASSEMBLE USES AT THIS SITE SO THE MIXED INDUSTRIAL OVERLAY IS NOT AN AUTOMATIC ENTITLEMENT SO THE PROCESS WILL STILL TAKE A WHILE AND ANY POTENTIAL TENANTS SHOULD KNOW THIS WILL NOT BE RESOLVED IN THE NEXT FEW WEEKS OR MAYBE MONTHS.

>> THE ISSUE TONIGHT IS WHERE MIXTURE OVERLAY IS APPROPRIATE DESIGNATION FOR THE SITE IN A SENSE, IT'S NOT ABOUT CODE ENFORCEMENT ISSUES AND SO ON AND SO FORTH. COULD YOU TALK A LITTLE BIT ABOUT THE AREA APPEARS TO BE SCATTERED WITH USES THAT ARE NOT STRICTLY INDUSTRIAL. SO COULD YOU CLARIFY AS TO WHY IT IS IMPORTANT TO MAINTAIN THE HEAVY INDUSTRIAL ZONING FOR THE SITE AND WITHOUT A MIXED USE OVERLAY?

>> THANK YOU MR. CHAIR. THE HEAVY INDUSTRIAL ZONING DISTRICT ALLOWS, DOES ALLOW A MULTITUDE THE OF USES SOME OF WHICH JUST REQUIRE YOUTH PERMITS AND OTHERS ARE PERMITTED SUCH AS ASSEMBLY USES AND WAREHOUSE USES. GIVEN THE ECONOMY, INDUSTRIAL LANDS ARE TRADITION MUCH LESS EXPENSIVE THAN COMMERCIAL LANDS. SO THEY LOOK TO GO TO OTHER IS WHERE RENT IS CHEAPER. BUT HOWEVER WHEN INDUSTRIAL LANDS ARE THE DRIVING FORCE OF THE ECONOMY AND THEY'RE NEEDED TO SUPPORT THE REST OF THE CITY AND WHEN WE TALK ABOUT OUR JOBS, HOUSING BALANCE, WHEN WE TALK ABOUT SERVICES THAT SUPPORT EVERYTHING ELSE THAT WE NEED AS PART OF THE GENERAL FUND IN THE CITY OF SAN JOSE A LOT OF THAT COMES FROM INDUSTRIAL EMPLOYMENT AND WHEN WE HAVE THE USES THAT MAYBE ALLOWED SUCH AS ASSEMBLE USE IS WHERE PEOPLE ARE GATHERING AND CHILDREN MIGHT BE OUTSIDE PLAYING THEN INDUSTRIAL USERS AREN'T GOING TO WANT TO GO INTO THOSE AREAS BECAUSE THEY'VE BEEN MODIFIED. THEY'RE NOT - THEY'VE NOW SENSITIVE - THANK YOU. SENSOR RECEPTORS SUCH AS CHILDREN, LARGER GROUPS OF PEOPLE THAT COULD EFFECT IF THEY COULD GO THERE IF I HAVE A MANUFACTURING USE, I WANT TO GET AS FAR AS WAY FROM THOSE PEOPLE WITH ANY SORT OF NEEDS AS POSSIBLE.

>> THANK YOU VERY MUCH. COMMISSIONER KAMKAR?

>> THANK YOU, MR. CHAIR. THANK YOU FOR THE ANALYSIS. YOU KNOW, I HAVE A SLIGHTLY DIFFERENT OPINION THAN WHAT YOU SAID. WHEN YOU TALK ABOUT JOBS AND HOUSING BALANCE, TO ME, THERE'S AN ELEMENT MISSING IN THAT ANALYSIS IN THE SENSE THAT IT'S NOT JUST THIS PROVIDING JUST INDUSTRIAL LAND AND JOBS WILL MAGICALLY APPEAR. YOU HAVE TO PROVIDE THE LAND AND THEN IT'S TAKE THE ENTREPRENEUR LIKE THAT GENTLEMEN TO MAKE JOB AS APPEAR AND WHETHER OR NOT WE REALIZE IT, WE'RE PUTTING SO MANY ADDITIONAL BURDEN ON HIM, MAYBE NOT INTENTLY BUT HE CAN'T DO WHAT HE NEEDS TO DO TO BRING THE JOB NUMBERS UP AND HELP US FIX THE JOB NUMBERS. SO TO ME, ANALYSIS LACK THE QUOTIENT IT TAKES FOR EQUITY AND SOMEBODY WILLING TO PUT THEIR MONEY WHERE THEY'RE MOUTH IS TO MAKE THIS EQUATION WORK IN OUR FAVOR. YOU KNOW, THAT'S ONE THING I WANTED TO SAY. THE SECOND, WHEN WE SAY THOSE USES ARE NOT SAFE, IF I UNDERSTAND CORRECTLY, WE NEVER INSPECTED THEM SO WE DON'T KNOW IF THEY'RE SAFE OR NOT. ALL WE'RE SAYING IS BECAUSE WE HAVEN'T INSPECTED THEM, WE DON'T KNOW. IS THAT CORRECT?

>> THEY HAVE NOT BEEN INSPECTED BY A BUILDING INSPECTOR BUT THE CODE ENFORCEMENT INSPECTION HAS DOCUMENTED AND THE VIOLATION CODES.

>> BUT THAT COULD BE BECAUSE HE DID APPLY FOR A PERMIT.

>> CODE ENFORCEMENT IS EMPOWERED AND DOES KNOW THE BUILDING CODE AND DOES KNOW THE APPLICABLE CODES AND THEY CAN SITE VIOLATIONS SO THEY HAVE BEEN INSPECTED BY OUR CODE ENFORCEMENT INSPECTORS THAT ARE VERY KNOWLEDGEABLE IN ALL THE CODES THEY ENFORCE AND HAVE IDENTIFIED VIOLATIONS OF THOSE CODES. BUILDING PERMIT OR NOT. SO I THINK THE ANSWER TO YOUR QUESTION, IS YES, THEY HAVE BEEN INSPECTED BY PEOPLE WHO HAVE THE AUTHORITY AND THE KNOWLEDGE RELATIVE TO THE CODES THAT THEY ENFORCE AND THEY HAVE CITED VIOLATIONS OF CODES. NOT ONLY BUILDINGS BUT ZONING.

>> SORRY, THAT'S NOT CHEER FOR ME. LET ME ASK APPOINTED QUESTION. WAS THAT SUBSTANDARD CONSTRUCTION?

>> THE QUALITY OF CONSTRUCTION, MIKE CAN ON CAN ANSWER TO BUT THE STAFF REPORT DOES DOCUMENT THE LACK OF FIRE EXITING REQUIREMENTS AND OTHER NECESSITIES.

>> THERE WAS SUBSTANDARD CONSTRUCTION FROM THE STANDPOINT OF THE CITY, BUT THE INITIAL INSPECTION TO YOUR POINT GENERALLY. SOME OF THE USE WHERE IS USED FOR THE ASSEMBLY OF SEVERAL HUNDRED PEOPLE. MOST OF THE UNITS DIDN'T EVEN HAVE THE REQUIRED SECONDARY E CONGRESS SO SHOULD THERE BE A TRAGEDY OF FIRE OR SOMETHING THAT OCCURS ON-SITE, WE IN THE CITY ARE CONCERNED THOSE OCCUPANTS WOULD NOT FIND SAFE A SAME OUT OF THE STRUCTURE.

>> SO, FOR MAINLY IT'S A SAFETY ISSUE AND MAINLY, IT'S HAD HE APPLIED FOR PERMIT THEN ALL THOSE REQUIREMENTS WOULD HAVE BEEN POINTED OUT AND WOULD NOT HAVE BEEN ABLE TO RECEIVE THE PERMIT UNTIL THE IMPROVEMENTS HAD BEEN VERIFIED?

>> THAT'S CORRECT. THE CITY, AS WE LOOK AT THE PERMITTING PROCESS, IT DOES START HERE WITH THIS COMMISSION AND LAND-USE. DOES THE LAND-USE SUPPORT THE IDEA, THE CONCEPT THE BUSINESS OWNER HAS MOVING FORWARD? ASSUMING THAT YOU MEET THAT STANDARD, THEN OF COURSE WE HAVE THE PERMITTING PROCESS FROM THE BUILDING AND FIRE DEPARTMENT TO MAKE SURE THE CONSTRUCTION THAT YOU DO MEETS CURRENT BUILDING CODE STANDARDS NOT JUST FOR YOUR OWN SAFETY BUT FOR THE SAFETY OF THE TENANTS AND OCCUPANTS.

>> - AND ALL OF THAT ALL OF THOSE PROCESSES WERE BY PASSED. WE HAVE A SITUATION WITH AWARE HOUSE THAT WAS AN EMPTY SHELL CONVERTED TO ASSEMBLY USES USED TO ACCOMMODATE HUNDREDS OF PEOPLE, CREATING REAL SAFETY ISSUE FOR THE OCCUPANTS. OUR MAIN CONCERN IS FOR THE OCCUPANTS.

>> WHICH TO ME, MAKES SENSE AND THAT NEEDS TO BE CORRECTED. AT THE SAME TIME, HOW CAN WE WORK WITH HIM SO SAFETY IS NOT COMPROMISED. PROGRESS AND ALSO ENTREPRENEURSHIP IS NOT HAMPERED IS MY CONCERN.

>> IF I MAY ADD TO HIS COMMENTS. THAT IT MAY NOT BE AS SIMPLE AS JUST HAVE THE APPLICANT FILING FOR A PERMIT. HE WOULD HAVE RECEIVED AND ADD ALL THESE ISSUES. THE BUILDING MAY NOT HAVE BEEN APPROVABLE FOR THAT USE ASSEMBLY USE REQUIRES MANY CODE RESTRICTIONS. EXITING, FIRE-RATING, STAGE CONSTRUCTION AND ET CETERA SO, IT MAY OR NOT. IT MAY NOT BE CLEAR THEY COULD GET A PERMIT. BUT ANY WAY, COMMISSIONER JENSEN, PLEASE?

>> ONE OTHER POINT IF I MAY MAKE AND THE BUILDING OFFICIAL AND HE'S RESPONSE TO BELIEVE MAKE SURE OUR BUILDINGS ARE SAFE. WE HAVE SIGNIFICANT CONCERNS ABOUT THE SEISMIC ACTIVITY OF THAT STRUCTURE. WE HAD A 4.0 EARTHQUAKE AND THE BUILDING INSPECTOR WAS CONCERNED BECAUSE IT THE DID NOT MEET SEISMIC STANDARDS FOR A CONSTRUCTION OF THIS STANDARD. WHEN YOU PUT HUNDREDS OF FOLKS IN A BUILDING IT DOESN'T TAKE MUCH TIME FOR AN INCIDENT TO OCCUR TO THE EFFECT THOSE FOLK'S LIVES. AND WE'VE READ ABOUT THESE BACK EAST WHERE FOLKS FIND THEMSELVES NIGHT CLUB SITUATIONS WHERE SOMETHING OR PLACE WASN'T INTENDED FOR A NIGHT CLUB. WORK WITH THE CITY. THERE'S A PROCESS TO GO

THROUGH, AND MR. LOU HAS IGNORED THE CITIES REQUEST AND CONTINUED TO OPERATE IN A FASHION THAT CREATES SAFETY ISSUE FOR THE OCCUPANTS.

>> THEY'VE A QUESTION FOR YOU AS WELL. IF, GIVEN THAT IT'S HEAVY INDUSTRIAL AND IF THE COMMISSION WERE TO SUPPORT THE PLANNING RECOMMENDATION AND IT REMAINED HEAVY INDUSTRIAL AND TENANTS HAD TO MOVE OUT, IF MR. LOU WERE TO GO BACK AND TRY AND MAKE CORRECTIVE ACTIONS, BUILD THE DOORWAYS AND SECONDARY ACCESS NEEDED AND GET PERMITS FOR THE KITCHEN AREAS THAT ARE NEEDED AND MAKE THE CORRECTIVE ISSUES REGARDING BATHROOMS AND SO FORTH, WOULD THE HEAVY INDUSTRIAL USE PERMIT THOSE SORT OF ITEMS AND COULD HE DO THAT - I'M SEEING A HEAD SHAKING, NO.

>> NO DISRESPECT MEANT. AGAIN, THE CURRENT ZONING IN GENERAL PLANS DESIGNATION, HEAVY INDUSTRIAL, BOTH. REALLY IS WHAT PRESCRIBES THE LAND-USE FOR SITE. REGARDLESS OF THE CORRECTIVE ACTIONS THAT ARE NEEDED THE ASSEMBLY USES, HE MAY NEED TO THE PUT THE BUILDING BACK IF YOU - IF HE WANTS TO DO IT TO AWARE HOUSE. NOW HE DOESN'T HAVE SUFFICIENT WAREHOUSE USE. AT THIS POINT IT'S AN OPPORTUNITY TO BRING IT BACK TO THE REAL LAND-USE QUESTION. IT'S NOT ABOUT WHAT HE CAN DO TO MAKE IT TO HAVE THOSE USES, AT THE MINIMUM, THE LAND-USE DESIGNATION HAS TO BE SET SO IT CAN BE EVEN CONSIDERED AND THAT WOULD BE UNDER THE HEAVY INDUSTRIAL ZONING AND HEAVY INDUSTRIAL PLAN. CURRENTLY, IT CANNOT. THE ONLY OPPORTUNITY, MAY BE IF HE WERE TO GET, IN THIS CASE HE'S ASKING FOR A MIXED INDUSTRIAL OVERLAY DESIGNATION WHICH IF YOU WERE TO LOOK IN THE ZONING CODE UNDER HEAVY INDUSTRIAL, WOULD THEN ALLOW US TO CONSIDER THINGS LIKE CHURCHES, OR RELIGIOUS ASSEMBLY. I JUST HAVE MY LITTLE ZONING THINGS IN HERE. BUT OTHER - IF YOU LOOK UP UNDER THE HEAVY INDUSTRIAL LAND-USES THERE WOULD BE CONDITIONAL IF THEY HAVE THE GENERAL PLAN OF MIXED INDUSTRIAL OVERLAY. AND THEY'RE VERY LIMITED EVEN AT THAT. I'M NOT SURE THEY WOULD NECESSARILY ALLOW EVEN THAT MIX OF TENANTS THAT CAME BEFORE YOU. YOU CAN CONSIDER SOCIAL SERVICES AGENCIES WITHOUT A MIXED INDUSTRIAL OVERLAY. CHURCHES AND ASSEMBLIES DO HAVE TO HAVE A MIXED INDUSTRIAL OVERLAY.

>> BRING IT BACK TO THE LAND-USE QUESTION. IT REALLY IS, AND TO KIND OF TALK TO ANOTHER PERSON'S POINT, WE HAVE OVER THE YEARS TAKEN AWAY AND PUT BACK, OR PUT NEW MIXED INDUSTRIAL OVERLAY SO IT'S NOT THAT WE DID THE IT BACK IN THE LAST ECONOMIC DOWN TURN AND HAVEN'T DEALT WITH IT SINCE. WE HAVE MADE MO MODIFICATIONS AND REVISITED THOSE AREAS WE ORIGINALLY IDENTIFIED AS PRIME INDUSTRIAL AND EVEN WITH THE MOST RECENT EMPLOYMENT TRADE WORK. INDUSTRIAL LAND FRAMEWORK WE REVISITED THAT WHOLE LAND-USE QUESTION AND EVEN AS A RESULT OF THAT WE CREATED A NEW ZONING OF DESIGNING COMMERCIAL. WE HAVE BEEN LOOKING AT THE LARGER THINGS OVERTIME, AND I THINK IT'S REALLY NOT A FAIR STATEMENT TO SAY WE JUST DID IT ONCE AND HAVE NEVER TOUCH THE ADDED IT SINCE.

>> THAT'S NOT WHAT I'M ASKING. I'M ASKING IF UNDER HEAVY INDUSTRIAL, IF HE WOULD BE ABLE TO PUT IN SECONDARY ACCESS AND A KITCHEN AND THE REMOVE OR BATHROOMS AND DO THOSE SORTS OF THING AS A HEAVY INDUSTRIAL. AS A SECOND WE QUESTION, I BELIEVE THIS IS A 2-STORY IF IT WERE A VACANT WAREHOUSE DOES THAT MEAN THE SECOND STORY NEVER EXISTED. I CAN'T IMAGINE YOU WOULD WANT TO MANUFACTURE ANYTHING ON THE SECOND FLOOR.

>> IT WOULD BE LOOKED AT AND AT SOME POINT IT WOULD SUGGEST THAT IT WOULD GO ON BEYOND ANY INDUSTRIAL USER THE BUILDING OWNER MAY CONSULT BUT BUT THERE ARE INDUSTRIAL USES THAT REQUIRE A CERTAIN NUMBER OF BATHROOMS IF YOU WANTED TO PUT IN MORE EXITS THAN HE NEEDED, I DON'T THINK HE WOULD BE PRECLUDED FROM DOING THAT, BUT IT'S REALLY KIND OF GOING TO SUGGEST, WHY IS HE PUTTING IN A LITTLE KITCHEN, MAYBE IT NEEDS TO BE AN INDUSTRIAL SIZED KITCHEN. AGAIN THEY DO LOOK AT TENANT APPROVEMENT AND TRY TO ALIGN THEM APPROPRIATELY WITH THE ZONING DISTRICT AND IF SOMETHING IS GOING ON SUGGESTING IT'S NOT GOING TO BE UP TO WHAT'S REQUIRED FOR THAT INDUSTRIAL USE, THE BUILDING DIVISION MAY CONSULT THAT IT'S NOT LIKE HE CAN MAKE ANY IMPROVEMENTS PER SE

BECAUSE WE DON'T WANT TO AGAIN, ALLOW SOMETHING THAT'S - IF IT'S SUPPOSED TO BE INDUSTRIAL CATERING OR KITCHEN AND IT DOESN'T MEET THAT - THAT WOULD BE QUESTIONED.

>> I'VE WORKED IN MANY, MANY MANUFACTURING BUILDINGS AND EVERY EMPLOYER PROVIDED A KITCHEN JUST AS A PROVISION TO EMPLOYEES AS A PLACE TO GO AND COOK AND CLEAN UP TO NOT HAVE TO GO OFF-SITE.

>> TERM KITCHEN AGAIN YOU'RE GOING TO BE DOING LARGE-SCALE COOKING, WHAT -

>> I UNDERSTAND. SO THE QUESTION ABOUT THE SECOND FLOOR. WAS THE SECOND FLOOR PART OF THE ORIGINAL STRUCTURE? OR WAS THAT ALSO AN UN-PERMITTED ADDITION?

>> USES THAT WOULD TYPICALLY BE ALLOWED IN THE HEAVY INDUSTRIAL ZONE IF THERE WAS CODE ENFORCEMENTS INTENTION TO TAKE AWAY OR DEPRIVE MR. LOU FROM THE HEAVY INDUSTRIAL LAND-USE REGULATIONS. WE'VE TOLD HIM FROM THE BEGINNING THAT THE ASSEMBLY USES ARE NOT PERMITTED BUT YOU CERTAINLY CAN USE THE PROPERTY ASSUMING ANY ALTERATIONS ARE DONE WITH BUILDING PERMITS AND FIRE PERMITS THAT HE CAN USE WITH IT HEAVY INDUSTRIAL. WE'RE NOT TRYING TAKE AWAY HIS USE OF THE PROPERTY BUT WE WANT TO MAKE SURE HE'S USING IT FOR WHAT'S ALLOWED THE CURRENT ZONING DISTRICT. SOME OF THE UNITS HAVE STAIRWAY ACCESS UP TO THE SECOND FLOOR. WE HAVE INSPECTED EVERYONE, WE'VE ONLY FOCUSED ON THE UNITS USED FOR ASSEMBLY-TYPE PURPOSES. THAT MAY BE INVESTIGATED DOWN THE LINE AFTER LITIGATION ISSUES ARE RESOLVED.

>> APPRECIATE YOU BRINGING THE ATTENTION TO SOME OF THE TRAGIC CONSEQUENCES SEEN AROUND THE WORLD WHERE UN-PERMITTED USES WERE TAKING PLACE AND HUNDREDS OF PEOPLE HAVE DIED. CAN YOU TELL ME, DO YOU THINK REGARDING SEISMIC STANDARDS THAT BUILDING COULD BE RETROFITTED AND AGAIN, I HAVE SEEN A NUMBER OF - AFTER THE 1989 EARTHQUAKE, STANDARDS MODIFIED AND IS THIS A BUILDING WITH THE OPPORTUNITY TO RETRO-FIT TO BECOME SEISMICALLY SAFE?

>> WE THINK SO.

>> GREAT.

>> THANK YOU VERY MUCH. I WOULD LIKE TO REMIND THE COMMISSION THAT THE ITEM BEFORE YOU TONIGHT IS A LAND-USE ISSUE. AND I WOULD DIRECT YOUR ATTENTION TO PAGE TWO OF YOUR STAFF REPORT WHERE I'M HOPING YOU HAVE A COLORED COPY. THEY'VE A BLACK AND WHITE, BUT YOU CAN SEE THE PREDOMINANT PATTERN OF THE PLAN IS HEAVY INDUSTRIAL AND WHILE THERE'S SOME LIGHT INDUSTRIAL AND THEN OLDER MOBILE HOME PARK IN THE VICINITY, THE PRIMARY CHARACTER IS HEAVY INDUSTRIAL AND AS WE GO THROUGH OUR GENERAL PLAN UPDATE PROCESS, SOME OF YOU KNOW, THERE'S A LOT OF DISCUSSION ABOUT WHERE ARE WE GOING TO PUT THE JOBS? MONTEREY CORRIDOR HAS BEEN A KEY EMPLOYMENT AREA AND IS ONE OF THE FEW PLACES WHERE YOU HAVE THE POTENTIAL OF PUTTING MUCH MORE DENSITY OF JOBS, SUCH AS HEAVY INDUSTRIAL AND AT THIS HEAVY INDUSTRIAL AREA, QUITE HONESTLY IS HELPING US ATTRACT THE CLEAN TECH BUSINESSES AND SOLAR COMPANIES AND SOLAR MANUFACTURING COMPANIES TO SAN JOSE, SO THE ISSUE BEFORE YOU IS REALLY ONE OF LAND-USE. THERE ARE SOME SPECIFIC FACTS ASSOCIATED WITH THE CODE CASE. THE DECISION BEFORE YOU TONIGHT IS DO YOU WANT TO RECOMMEND TO THE CITY COUNCIL THAT THIS APPLICATION BE DENIED OR THAT IT SHOULD CONTINUE IT'S PROCESSING SO THAT WAY, THE DECISION ON THE LAND-USE CAN OCCUR AT A LATER TIME. THANK YOU.

>> THANK YOU DIRECTOR. COMMISSIONER JIM ZITO?

>> THANK YOU MR. CHAIR. I'M DEBATING IF I SHOULD RECUSE ONLY BECAUSE I CAME IN LATE AND DIDN'T HEAR MOST OF THE PUBLIC COMMENT THOUGH IT SEEMS TO BOIL DOWN TO WHAT STAFF SAID, THIS IS A LAND-USE ISSUE. THE ONE QUESTION I POST TO THE COMMISSION IS, IF A MIXED USE

OVERLAY IS GRANTED FOR THIS THE PROPERTY, WILL IT PRECLUDE THE USES SURROUNDED FOR ANYTHING LIKE ANY LENGTH OF TIME OR INDEFINITELY AND THAT'S ONE QUESTION I WOULD WANT ANSWERED, IS IT SOMETHING THAT YOU CAN DO - SEEMS TO ME ONCE YOU MAKE A GENERAL PLAN CHANGE, IT'S THERE. SO TURN AROUND AND SAY, THREE YEARS WE'RE NOT GOING TO ALLOW CERTAIN USES WHEN A MIXED USE OVERLAY IS AN APPLIED WOULD BE VERY DIFFICULT TO DO.

>> THANK YOU. DIRECTOR?

>> THAT'S AN EXCELLENT QUESTION. AS ONE OF THE SPEAKERS MENTIONED, THERE ARE NOT AS MANY MIXED INDUSTRIAL OVERLAY SITES WITHIN SAN JOSE SO THE ONES WE HAVE ARE VERY PRECIOUS TO US. SO TO CONSIDER A GENERAL PLAN AMENDMENT AS A TEMPORARY TYPE OF SITUATION IS REALLY NOT A REALISTIC OPTION. ONCE THAT LAND-USE CHANGES AND THE USE IS REALLY ESTABLISHED, IT WILL BE VERY DIFFICULT TO REVERT IT BACK TO CLEAN TECH OR SOME OTHER BUSINESS.

>> THANK YOU DIRECTOR. COMMISSIONER JIM ZITO, WERE YOU DONE WITH YOUR COMMENT?

>> YES. ESSENTIALLY, I WILL NOW BE RECUSED.

>> COMMISSIONER CAHAN?

>> THANK YOU, MR. CHAIR. THE ISSUE BEFORE US TONIGHT - IT'S MY UNDERSTANDING WHAT WE'RE TRYING DO IS SAY WHETHER THEY CAN GO ON TO GET THE ENVIRONMENTAL REVIEW OR NOT SO. IT'S NOT THAT WE WOULDN'T ACTUALLY BE MAKING CHANGE RIGHT NOW. WE WOULD JUST ALLOW THEM TO CONTINUE THE PROCESS?

>> THAT'S ONE OPTION. WHAT USUALLY WE BRING APPLICATIONS FOR EARLY CONSIDERATION, WHEN THEY RAISE SERIOUS POLICY CONCERNS. SO IT'S REALLY ONE WAY OF LETTING THE APPLICANT KNOW AND PUBLIC THAT THIS RAISES SO MANY SERIOUS POLICY CONCERNS. IS IT REALLY WORTH ALL THE APPLICANT'S TIME AND MONEY TO CONTINUE TO INVEST IN THIS OR SHOULD WE JUST CALL THE QUESTION NOW. STAFF'S RECOMMENDATION FOR DENIAL WILL BE THE SAME TONIGHT AS IT WILL BE DOWN IN SEPTEMBER IF THE COUNCIL DECIDES TO CONTINUE PROCESSING. SO FOR THE BENEFIT OF THE APPLICANT WE WANT THAT DECISION TO BE MADE EARLY SO IF THIS IS TONIGHT, EVERYONE SAVES A LOT OF TIME AND MONEY. THE PLANNING STAFF RECOMMENDATION IS NOT GOING TO CHANGE. TO CONTINUE TO ALLOW ADDITIONAL INFORMATION TO COME FORWARD AND THEN THE COUNCIL THAT IS BENEFIT OF THAT CLEARANCE TO THEN MAKE THE CHOICE. FROM THE PLANNING DEPARTMENT'S PERSPECTIVE, THE FACTS BEFORE YOU TONIGHT ARE UNCHANGED FROM A POLICY STANDPOINT.

>> AND WHATEVER WE DECIDE THIS EVENING, IT WILL GO TO THE CITY COUNCIL?

>> THAT IS CORRECT.

>> THANK YOU.

>> COMMISSIONER JENSEN?

>> THANK YOU, MR. CHAIR. I FIRST WOULD LIKE TO RECOGNIZE AN APPRECIATE EVERYBODY WHO IS USING THIS FACILITY AND DOING SUCH TREMENDOUS WORK AND FOR OUR 22-YEAR-OLD MAGAZINE EDITOR, KUDOS TO YOU AND I HOPE THAT REGARDLESS OF THE OUTCOME HERE, YOU FIND A WAY TO HAVE YOUR 35 EMPLOYEES AND ALL THE PEOPLE THAT YOUR PUTTING TO WORK HOUSE SOME PLACE AND I DON'T THINK A SPECIFIC LOCATION IS THE ONLY THING YOU'RE GOING TO NEED AND I BET THERE'S A LOT OF ARTISTIC ENTREPRENEURS THAT WOULD LOVE TO HELP YOU IN THE AREA. THE QUESTION OF BALANCING JOBS. WHETHER HEAVY INDUSTRIAL OR IN EXCESS OF 35 PEOPLE CURRENTLY BEING EMPLOYED ON-SITE I HAVE A STRUGGLE BALANCING WHETHER A FACILITY OF THIS SIZE - IF IT WERE ENGAGED IN MANUFACTURING OR SOME OTHER HEAVY

INDUSTRIAL, WOULD THEY IN FACT EMPLOY MORE PEOPLE, WOULD THOSE PEOPLE BE EMPLOYED AT HIGHER WAGES THAN ARE CURRENTLY THERE - THAT'S KIND OF A JUDGEMENT DECISION THAT I DON'T INTEND TO MAKE. THAT'S NOT A LAND-USE ISSUE AND I DON'T PLAN TO PLACE A VALUE ON THE JOBS AND PEOPLE CURRENTLY EMPLOYED THERE, IF THEY'RE CURRENTLY MORE VALUABLE JOBS THAN THOSE THAT MIGHT BE PROVIDED WITH THE HEAVY INDUSTRIAL USE. THIS IS A REALLY CHALLENGING ITEM AND FOR THE SAKE OF FULL DISCLOSURE, I DID SPEAK TO MR. LOU ABOUT THIS ITEM THE, AND I'M VERY SORRY TO HEAR ABOUT SOME OF THE ISSUES THAT HAVE CROPPED UP AND I'M SORRY TO HEAR ABOUT SOME OF THE CODE ENFORCEMENT ISSUES THAT HAVE COME UP. I THINK WHAT IS MOVING ME IS THE SERIOUS DISCUSSION ABOUT THE PERSONAL SAFETY ISSUES FOR THOSE CODE ENFORCEMENT ITEMS THAT NEED TO BE CORRECTED. - AND I CERTAINLY DO NOT WANT TO HEAR ABOUT ANYBODY GETTING IN TROUBLE, HURT OR INJURED AND SO I WILL ACTUALLY BE VOTING IN SUPPORT OF THE DENIAL. THANK YOU.

>> THANK YOU COMMISSIONER JENSEN. COMMISSIONER KAMKAR?

>> THANK YOU, MR. CHAIR. YOU KNOW, I SEE IT THAT ACTUALLY A LITTLE BIT MORE STRAIGHT FORWARD. I SEE IT'S A AND I'M GOING BACK TO WHAT THE DIRECTOR SAID. SAFETY BASIS SO WHEN LIKE A HI-TECH OR SOLAR OR CLEAN TECH INDUSTRY MOVES IN. WHILE I WHOLEHEARTEDLY AGREE AND I PUT MYSELF IN LANDOWNERS AND BUILDING OWNERS SHOES, YOU KNOW, I WOULD NEVER - YOU KNOW GETTING TO CONTRACT WITH ANYBODY THAT MIGHT TAKE AWAY THAT OPTION FROM ME. SO I THINK THAT WOULD BE IN HIS MIND TOO. AND WHOEVER HE WORKS WITH, HE ALWAYS LEAVES THAT POSSIBILITY OPEN THAT PRODUCER, MANUFACTURER, HEAVY INDUSTRIAL WOULD MOVE IN AND TAKE PROPER USE OF THIS PLAN, SO I DON'T SEE THAT BEING AN ISSUE FOR US. I THINK HE WILL BE MINDFUL OF THAT. I THINK WE WOULD ALL BE SUPPORTIVE OF THAT IF THAT HAPPENS. I'M LOOKING AT THE MEANWHILE. DO WE WANT ANOTHER BUILDING TO BE EMPTY? DO WE WANT SO MANY GOOD WORK TO HAVE TO FIND A NEW PLACES. I HAVE TO GO THE OTHER WAY. I GUESS I DON'T SUPPORT THE DENIAL. I WOULD SUPPORT THE CHANGE, BECAUSE I FEEL THIS WOULD BE BENEFICIAL TO PROVIDE AN OPTION. IT DOESN'T TAKE AWAY THE HEAVY INDUSTRIAL POSSIBILITY BUT GIVES YOU FLEXIBILITY AND THAT'S WHAT WE NEED TO DO.

>> EITHER YOU OR COMMISSIONER JENSEN BE WILLING TO ATTEND A MOTION?

>> I WOULD LIKE TO MAKE A MOTION IF THAT'S OKAY. I WOULD LIKE TO SAY APPROVE THE GENERAL PLAN AMENDMENT REQUEST TO CHANGE THE LAND-USE DIAGRAM DESIGNATION TO MIXED INDUSTRIAL OVERLAY TO AN EXISTING HEAVY INDUSTRIAL LAND-USE DESIGNATION ON A 3.59 GROSS-ACRE SITE. THAT'S IT.

>> IS THERE A SECOND? YES.

>> THE ITEM BEFORE YOU IS A GENERAL PLAN APPLICATION THAT'S FOR CONSIDERATION AS TO EARLY DENIAL OR SHOULD IT CONTINUE TO BE PROCESSED WITH THE EXPENDITURE WITH THE TIME AND MONEY BY APPLICANT AND STAFF SO IT'S TECHNICALLY NOT BEFORE YOU FOR APPROVAL BUT FOR A DECISION WHETHER IT'S SO CONTRARY TO EXISTING CITY POLICIES IT SHOULD BE DENIED AT THE OUT SET TO AVOID THE EXPENDITURE OF TIME AND MONEY OR SHOULD IT BE CONTINUED TO BE PROCESSED A TIME COMPANY REVIEW.

>> YOU WANT ME TO RESTATE MY MOTION TO APPROVE TO SAY NOT DENYING?

>> CONTINUE TO PROCESS.

>> CONTINUE TO PROCESS.

>> ONLY A RECOMMENDATION OF COUNCIL.

>> MOTION AND A SECOND. SO MOTION IS PASSED. WITH COMMISSIONERS CHAIR THANG DO AND COMMISSIONER PLATTEN OPPOSED. MOVING ON, ITEM 3B. PDC08-010. PLANNED DEVELOPMENT

REZONING FROM LI LIGHT INDUSTRIAL ZONING DISTRICT TO ALLOW UP TO 75 AFFORDABLE SENIOR HOUSING UNITS ON A 0.55 ACRE SITE, LOCATED ON THE WEST SIDE OF NORTH 6TH STREET, APPROXIMATELY 200 FEET SOUTH OF TAYLOR STREET. COUNCIL DISTRICT 3. STAFF?

>> THANK YOU, MR. CHAIR. THE PROPOSED PLAN DEVELOPMENT FOR THE SENIOR UNITS WOULD BE LOCATED IN A 6-STORY BUILDING, AND L-SHAPE BUILDING SIT AS TOP A GROUND FLOOR PARKING LEVEL AND HAS A COMMUNITY SPACE AND LOBBY ARRANGED AROUND A LANDSCAPED PODIUM LEVEL. THE SUBJECT SITE IS LOCATED IN JAPANTOWN BUSINESS DISTRICT AND CAN BE FOUND TO BE THE IN CONFORMING WITH UTILIZING DISCRETIONARY USE POLICY FOR AFFORDING HOUSING. THAT POLICY STATES BASICALLY THAT IN ORDER TO ENCOURAGE THE LOW AND MODERATE HOUSING INCOME, PROPERTIES DESIGNATED FOR RESIDENTIAL-USE CAN BE DEVELOPED FOR ANY DENSITY UNDER DEVELOPMENT REZONING SUCH AS THIS. THE AFFORDABLE SENIOR TRANSIT AUTHORITY RENTAL PROJECT IS JUST NORTH OF THE DOWNTOWN CORE AND WOULD PROVIDE AFFORDABLE RENTAL HOUSING AND BE COMPATIBLE WITH SURROUNDING NEIGHBORHOODS AND IN BY THAT, IT WOULD MEAN IT MIRRORS THE EXISTING RESIDENTIAL PROJECT AND RESPONDS TO THE POTENTIAL YARD ACROSS THE STREET AND MAINTAINS A 20-FOOT SET-BACK FROM MEDIUM RESIDENT THELE AND SETS DOWN FROM THE FISH MARKET BUILDING. AND PROBABLY WORTH NOTING ALSO WITH A MAXIMUM HEIGHT OF 72 FEET BUT A 65 HEIGHT LEVEL IT'S LOCATED IN THE DOWNTOWN FRAME AREA AND THAT HAS A HEIGHT EXCEPTION OF UP TO 20-FEET AND THE PROJECT WOULD BE CONSISTENT WITH THAT URBAN DESIGN POLICY. SO AS NOTED BEFORE, THIS REZONING WOULD ALLOW RESIDENTIAL AND COMMUNITY USES WITHIN WALKING DISTANCE OF THAT DISTRICT. OF LOCAL DISTRICTS AND EVENTS THAT STRENGTH THEN THE BUSINESS DISTRICT. WHILE PLAN DESIGN DETAILS WOULD BE EFFECTUATED THROUGH THE DEVELOPMENT PERMIT PROCESS, IT MAY BE WORTH NOTING THAT THE DEVELOPMENT STANDARDS DO ALLOW FOR THIS PROJECT THAT THE HAS A MODERN ARCHITECTURE VOCABULARY, INCLUDING SOPHISTICATED DETAIL, PROJECTING SUN SCREEN APPEARS. CONCRETE PIERS AND REGARDING PARKING THERE'S A PARKING AN ANALYSIS IN THE EIR FOR THOSE JAPANTOWN CORPORATION PROJECTS THAT ANALYZE THE AFFORDABLE SENIOR PROJECTS PARKING. AS NOTED THE ENVIRONMENTAL PROJECT WHERE IS ADDRESSED FOR THE JAPANTOWN COURTYARD REDEVELOPMENT AND FINDING WERE ADOPTED BY COUNCIL FOR THAT. REGARDING PUBLIC OUTREACH THERE WAS EXTENSIVE DURING THE PROJECT. EIR PROCESS. WHOLE SERIES OF MEETINGS THAT INCLUDED THIS PROJECT AND A SPECIFIC COMMUNITY MEETING HELD IN 2008 AS WELL. SO, PLANNING STAFF IS RECOMMENDING THE COMMISSION RECOMMEND APPROVAL OF THIS REZONING BECAUSE IT WOULD ALLOW RESIDENTIAL DEVELOPMENT TO STREP THEN THE BUSINESS DISTRICT AND FURTHERS AFFORDABLE HOUSING GOALS AND POLICIES AND MEET AS THE PROVISIONS OF THE RESIDENTIAL DESIGN GUIDELINES SAND COMPATIBLE WITH THE PATTERN OF THE NEIGHBORHOOD. THIS CONCLUDES STAFF REPORT.

>> THANK YOU. IS THE APPLICANT HERE? UP TO FIVE MINUTES TO ADDRESS THE COMMISSION. PLEASE COME TO THE PODIUM. PLEASE STATE YOUR NAME.

>> GOOD EVENING. I'M JEFF AND STAFF DID A GREAT JOB WITH THE STAFF REPORT SO I'LL NOT GO OVER DETAILS THERE. I WOULD LIKE TO ADDITIONAL INFORMATION IN HISTORIC CONTEXT AND ABOUT THE SUSTAINABILITY OF THE PROJECT. THE PEOPLE OF THE JAPANTOWN COMMUNITY HAVE BEEN WORKING FOR 15 YEARS MINIMALLY TO TRY AND GET A CULTURAL AND RETAIL CORE IN THE JAPANTOWN CORE. MANY OF YOU ALREADY PROBABLY KNOW THIS. IN 2005, THE REDEVELOPMENT AGENCY RELEASED A REQUEST FOR PROPOSALS FOR DEVELOPERS TO TAKE A LOOK AT THREE SITES IN JAPANTOWN. THE SIX ACRE CORPORATION YARD ACROSS THE STREET, THIS HALF ACRE SITE AND THE BOYS AND GIRLS CLUB SITE. YOU COULD RESPOND TO ANY THREE OR ALL THREE. FIRST COMMUNITY HOUSING SUBMITTED A PROPOSE FOR 85 SENIOR UNITS ON THIS SITE WITH THE AGREEMENT THAT WE WOULD PROVIDE THOSE 85 UNITS AS THE INCLUSIONARY REQUIREMENT AND IN THIS RESPECT WE WERE APPROVED GUY JAPANTOWN COMMUNITY ON THE RFP COMMITTEE AND PARTNERED THE OLSEN COMPANY PROVIDING THEM WITH ALL THE AFFORDABLE INCLUSIONARY UNIT AS A STAND ALONE PRODUCT ACROSS THE STREET. LATER ON WHEN THE OLD SON COMPANY DROPPED OUT AND A NEW DEVELOPER CAME FROM PORTLAND. WILLIAMS AND DANE THEY ALSO EMBRACED THIS AS AN INCLUSIONARY PROJECT. AS

THE ECONOMY FALTERED WILLIAMS AND DANE DROPPED OUT THOUGH THEY MAY COME BACK AT SOME NURTURE TIME. WE HAVE TEN PARKING SPACE AS CROSS THE SPACE AS PART OF OUR AGREEMENT WITH THEM. BECAUSE WE LOST THOSE WE HAD TO CUT DOWN THE PROJECT TO 75 SENIOR UNITS. SO THAT'S HOW WE WOUND UP WITH 75. THIS PROJECT STILL COULD BE USED AS INCLUSIONARY FOR ANY NEW DEVELOPER THAT CAME IN ON A CORPORATION YARD. WE CANNOT APPLY FOR ANY KIND OF FUNDING FROM ANY STATE AGENCIES UNTIL WE GET OUR PD ZONING PERMIT SO WE'RE HERE TO MOVE THE PROJECT FORWARD WHETHER WE GO IT ALONE OR PARTNER IN THE FUTURE WITH THE DEVELOPER ACROSS THE STREET, REMAINS TO BE SEEN. THIS PROJECT IS ALSO A PILOT PROJECT IN THE NEW LEAD FOR HOMES MID-RISE PILOT FOR HOUSING. THE ORIGINAL LOOK AT THE PROJECT, WERE IN THE HIGH LEAD FOR GOLDS WITH POSSIBLE A PLATINUM RATING FOR THIS PROJECT. WE HAVE A GREEN ACCESSIBLE VEGETATIVE ROOF. PASSIVE HOT WATER ON THE ROOFTOP FOR HOT WATER HEATING AND ALL THE TRADITIONAL FIRST COMMUNITY HOUSING NONTOTOXIC MATERIALS INSIDE THE BUILDING. WE ALSO GIVE FREE ANNUAL ECO-PASSES TO ALL OUR TENANTS WHICH IS ONE OF THE REASONS WE HAVE SOME OF THE REDUCED PARKING I TALKED ABOUT IN THE STAFF REPORT. THE PROJECT WILL BE A RENTAL FOR INCOMES FROM 30% TO 50% AMI AND 35% OF THE TENANTS WILL BE SPECIAL NEEDS POPULATION. AND WITH THAT, I'D BE HAPPY TO ANSWER ANY QUESTIONS THE COMMISSION MAY HAVE NOW OR AFTER OTHER TESTIMONY.

>> THANK YOU, I AM VERY EXCITED ABOUT THE GREEN THINGS YOU HAVE PUT INTO THIS PROJECT AND I THANK YOU FOR GOING AS FAR AS YOU POSSIBLY CAN ON THOSE. MY ONE CONCERN IS IT'S A SENIOR PROJECT, AND ALTHOUGH IT'S A HALF MILE FROM THE LIGHT RAIL, WHICH IS SOMETHING I WOULD DEFINITELY WALK. I'M SURE THE SENIORS MIGHT NOT BE ABLE TO WALK ACCESSIBLY AND MARKET IS ALWAYS AWAY AS WELL. I WONDER IF THERE'S AN IDEA TO HAVE A SHUTTLE SERVICE?

>> WE'VE TALKED TO A NUMBER OF DIFFERENT SOCIAL SERVICES INCLUDING UAKY AS PART OF THE CORPORATION PLAN ACROSS THE STREET WHEN IT HAPPENS, THERE WILL BE A LARGE RETAIL COMPONENT AT LEAST IN THE LAST PLANNING STAGE. ALSO THE SENIORS HERE ARE 55 YEARS AND OLDER SO WE'RE NOT TALKING ABOUT PEOPLE WHO CANNOT GET AROUND NECESSARILY. 35% OF THE POPULATION ARE SPECIAL NEEDS WHO DON'T DRIVE AT ALL. SO THEY'RE REALLY DEPENDENT ON THE ECO PASSES BUT YOU'RE RIGHT, IT IS TWO BLOCKS AWAY.

>> SO YOU'RE LOOKING?

>> WE'RE LOOKING FOR SHUTTLE SERVICES AND OTHER SOCIAL SERVICES.

>> THANK YOU. THANK YOU COMMISSIONER CAHAN. YOUR PROJECT IS VERY EXCITING.

>> OKAY. THERE ARE NO SPEAKER CARDS SO - ACTUALLY THERE ARE SPEAKER CARDS. I'M SORRY. THERE'S TWO SPEAKERS. [CALLING SPEAKERS] PLEASE COME DOWN TO THE PODIUM. YOU EACH HAVE UP TO TWO MINUTES. PLEASE STATE YOUR NAME.

>> HELLO COMMISSIONERS I'M TOMMY KYOTO. RELIGIOUS ORGANIZATIONS AND NON-PROFITS AND PROPERTY OWNERS OF JAPANTOWN. WE WORK TO PRESERVE AND DEVELOP THE JAPANTOWN. ONE OF ONLY THREE REMAINING IN THE UNITED STATES FOR FUTURE GENERATIONS I'M HERE TO EXPRESS SUPPORT FOR THE REZONE TOGETHER DEVELOP UP TO 75 AFFORDABLE SENIOR DEVELOPMENT IN JAPANTOWN. WE'VE WANTED THIS FOR 20 YEARS. YOU SAID 15 YEARS, BUT THAT WAS FIVE YEARS AGO. THIS DREAM STARTED BECOME A REALITY WHEN THE CITY MOVED THE MAIN NANCY TO DISTRICT SEVEN A LAW FOR REAL CONSERVATIONS TO BEGIN ON DEVELOPMENTS ON THE SITE. CHANGING REAL ESTATE ENVIRONMENTS LET TO THE COLLAPSE OF TWO POTENTIAL DEVELOPERS. HOWEVER OVER THE COURSE OF HUNDREDS OF COMMUNITY MEETINGS, AND I DO NOT EXAGGERATE, THERE HAS BEEN AN OVERWHELMING CONSTANT IN WHAT THE COMMUNITY WANTS AND THIS A MORE AFFORDABLE SENIOR HOUSING. FROM A COMMUNITY BUILDING PERSPECTIVE THIS MAKES SENSE IN THE DOWNTOWN AREA. BECAUSE OF THE LANGUAGE BARRIER AND DISCRIMINATION. BECAUSE THIS ONE HAS HIGH DENSE DIVERSE MIX USED A SMALL GEOGRAPHICAL AREA. THIS MAKES FOR A GREAT INTER-GENERATIONAL COMMUNITY. AS MORE

BECOME HOLD OLDER IT'S IMPORTANT TO BUILD A PLACE WHERE THEY CAN HAVE ACCESS TO GREAT RETAIL, RESTAURANTS AND PLACES OF WORSHIP, ALL IN WALKING DISTANCE. NOT ONLY THEY ARE RECOGNIZED LEADER IN GREEN BUILDING, BUT THEY HAVE WORKED HARD WITH THE COMMUNITY TO MAKE SURE OUR NEEDS ARE MET. THEY HAVE THE LARGER CORPORATION YARD PROJECT WILL BE A MILESTONE FOR SAN JOSE FOR NOT ONLY SATISFIED THE ZONING REQUIREMENT BUT AS A STAND ALONE DEVELOPMENT.

>> THANK YOU, SIR. YOUR TIME IS UP. THERE'S A QUESTION FROM COMMISSIONER CAHAN.

>> THANKS FOR EXPRESSING YOUR SUPPORT. IT'S IMPORTANT HOW WE SEE HOW YOUR ORGANIZATION FEELS ABOUT THIS PROJECT SO THANK YOU.

>> THANK YOU.

>> JOYCE DELGADO, ARE YOU HERE? THE APPLICANT YOU HAVE UP TO FIVE MINUTES TO MAKE ANY ADDITIONAL POINTS OR A REBUTTAL IF YOU SO CHOOSE? THANK YOU VERY MUCH. MOTION TO CLOSE PUBLIC HEARING? ALL IN FAVOR? OKAY. STAFF IS ANYTHING FURTHER TO ADD? ANY QUESTIONS FROM COMMISSIONERS OR MOTION? COMMISSIONER XAVIER CAMPOS?

>> THANK YOU, MR. CHAIR. I MOVE WE CONSIDER THE USE OF THE JAPANTOWN CORPORATION DEVELOPMENT IN ACCORDANCE WITH SEE REQUEST AND RECOMMENDED APPROVAL FROM THE REZONING TO A PD PLANNED DEVELOPMENT ZONING DISTRICT TO ALLOW UP TO 75 AFFORDABLE SENIOR HOUSING UNITS ON A POINT 55 ACRE SITE AS RECOMMENDED BY STAFF.

>> SECOND. COMMISSIONER JENSEN? COMMISSIONER XAVIER CAMPOS WOULD YOU LIKE TO SAY ANYTHING ELSE? OKAY. COMMISSIONER JENSEN?

>> THANK YOU, MR. CHAIR. THANK YOU SO MUCH FOR BRINGING THE MEMBERS OF THE LEADERSHIP OF JAPANTOWN. I KNOW THE THREE OF YOU HAVE BEEN WORKING ON THIS FOR A LONG TIME. YOU, FROM THE AGENCY SIDE, OF COURSE AND IT'S NICE TO SEE THAT SOME OF THIS IS STARTING TO MOVE FORWARD AND I KNOW THAT IT'S A LITTLE DISAPPOINTING IT CAN'T BE AS BIG AS YOU HOPED AND REST OF THE COURTYARD IS NOT MOVING AT THE SPEED YOU WANT, BUT I REALLY APPRECIATE YOUR BEING HERE AND CONTINUING TO BRING THE VOICE OF THE COMMUNITY AND I REALLY APPRECIATE THE DEVELOPMENT OF WHAT I BELIEVE IS GOING TO BE A REALLY NICE FACILITY FOR SENIORS AND, YOU KNOW, I'M NOT SO FAR FROM 55 MYSELF SO I DON'T REALLY WANT TO HEAR THAT, BUT I APPRECIATE IT AND I HAVE THE PLEASURE OF SPENDING A FAIR AMOUNT OF TIME OUT IN JAPANTOWN, AND TO MY KNOWLEDGE, EVERY SINGLE SENIOR OUT THERE CAN PROBABLY OUT DO MOST OF US HERE IN TERMS OF WALKING, SO I HAVE NO DOUBT THAT THEY'LL BE MAKING IT OVER TO THE LIGHT RAIL. THANK YOU VERY MUCH FOR YOUR PROPOSAL.

>> THANK YOU. COMMISSIONER JENSEN? OKAY. THE MOTION IS APPROVED UNANIMOUSLY. BEFORE WE MOVE ON, THERE MAY HAVE BEEN A VOTING IRREGULARITY SO I'LL INVITE COMMISSIONER JENSEN TO MAKE A MOTION.

>> THANK YOU. I BELIEVE IT WOULD BE CALLED AMISS TAKE AND NOT AN IRREGULARITY.

>> OUT OF POLITENESS.

>> I INDICATED I PLANNED TO VOTE IN FAVOR OF A DENIAL ON ITEM 4A AND I MISUNDERSTOOD WHAT MY FELLOW COMMISSIONER IS MAKING AND I WOULD LIKE TO MAKE A MOTION FOR RECONSIDERATION OF THAT ITEM.

>> NEED CLARIFICATION FROM THE COUNCIL OR THE DIRECTOR ON THE PROCEDURE OF THIS. WOULD THE APPLICANT NOT BEING HERE AND ALL OF THAT. IS THAT A RELEVANT FACT?

>> SO A MOTION FOR RECONSIDERATION IS APPROPRIATE AT THE VERY SAME MEETING. IT IS APPROPRIATE MOTION TO UTILIZE WHEN SOMEBODY ON THE PREVAILING SIDE BELIEVES THERE HAS BEEN A MISTAKE OR HAS MADE MISTAKES IN THE VOTING SO IF COMMISSIONER JIM ZITO WILL RECUSE HIMSELF, AND THE REASON FOR THE MOTION FOR RECONSIDERATION IS TO ALLOW COMMISSIONER JENSEN TO VOTE IN THE MANNER SHE HAD INTENDED, MATERIALLY, IT'S NOT GOING TO CHANGE THE RECOMMENDATION OF THE COMMISSION SO IN THAT INSTANCE, AGAIN SHE IS ON THE PREVAILING SIDE IF IT HAS A SECOND, SHE CAN MAKE THE MOTION IF THERE'S A SECOND THEN YOU CAN RETAKE THAT VOTE.

>> MATERIALLY IT WILL CHANGE THE DECISION OF THE COMMISSION.

>> I BELIEVE THAT THE - THAT IT WAS A 4-2.

>> RIGHT. IT WOULD BE 3-3.

>> RIGHT. THERE WON'T BE A QUORUM. IN THAT CASE, AGAIN IT IS THE APPROPRIATE MOTION TO MAKE AND IT CAN BE MADE AT THE SAME HEARING. SHE IS ON THE PREVAILING SIDE SO SHE MAY MAKE THE MOTION, BUT THEN WE WOULD BRING IT BACK BEFORE THE COMMISSION AS WE HAVE IN THE PAST.

>> TONIGHT, RIGHT NOW?

>> NO IT WOULD BE AGENDIZED SO THAT THE PERSONS WHO ARE AFFECTED BY THE VOTE HAVE AN OPPORTUNITY TO BE AT THE HEARING.

>> SO THERE'S A MOTION ALREADY BY COMMISSIONER JENSEN?

>> IS THERE A SECOND?

>> I'LL SECOND IT.

>> THERE'S A SECOND AND COMMISSIONER JIM ZITO, YOU'D LIKE TO SPEAK?

>> UM... THIS IS NOT TOO TYPICAL THAT A COMMISSIONER MISTAKES THE INTENT OF THE MOTION BUT IT HAPPENS EVERY ONCE IN A WHILE AND I THINK UNDER THE CIRCUMSTANCES IF COMMISSIONER JENSEN WANTS TO CORRECT HER VOTING ON THIS, I THINK IT'S ONLY APPROPRIATE TO DO SO.

>> THANK YOU. COMMISSIONER KAMKAR?

>> YOU KNOW, I WOULD LIKE TO PLEAD TODAY, TO MY FELLOW COMMISSIONERS WHAT WE VOTED ON WAS NOT FOR THE APPLICANT TO HAVE A FREE PASS BUT FOR HIM TO CONTINUE TO GO THROUGH THE PROCESSING, SO I DON'T UNDERSTAND THE URGE FOR A REVOTE OR MORE DELIBERATION WHEN ALL WE SAID IS IF HE WANTS TO PROVE TO MAKE THE PLACE SAFE AND ABIDE BY THE REGULATION THAT HE NEEDS TO ABIDE BY, WE GIVE HIM A CHANCE. SO IT'S - IN MY FOUR YEARS OR 3 1/2 YEARS ON THE COMMISSION, I DON'T BELIEVE WE EVER DID THIS BEFORE WHERE ABLE TO - WRONG VOTE AFTER THE APPLICANT WAS LEFT THE PLACE, WE ASK A REVOTE. SO-

>> THANK YOU COMMISSIONER KAMKAR, IT'S NOT MY INTENTION THE OR THE INTENTION OF ANYONE.

>> COMMISSIONER JENSEN MADE IT CLEAR WHAT HER OPINION WAS AND I WAS VERY SURPRISED THAT HER VOTE SO. I ABSOLUTELY THINK SHE SHOULD HAVE THE OPPORTUNITY TO VOTE THE WAY SHE WANTED TO ESPECIALLY IN THE MEETING WHERE THE VOTE TOOK PLACE INITIALLY.

>> THANK YOU COMMISSIONER CAHAN. SO, WITH THAT, AND LET'S VOTE.

>> VOTE.

>> JUST TO CLARIFY SO, THIS THE MOTION FOR RECONSIDERATION AND DECISION THE COMMISSION IS MAKING IS, SHOULD THE ITEM COME BACK BEFORE THE COMMISSION TO ALLOWED THE COMMISSION TO RETAKE IT'S VOTE ON THAT ITEM? IT'S NOT YOUR VOTE ON THE ACTUAL ITEM?

>> COMMISSIONER CAHAN HAS A QUESTION.

>> STAFF, WILL THIS DELAY.

>> COMMISSIONER XAVIER CAMPOS?

>> SOUNDS LIKE THIS IS ALSO TO BE HEARD BY THE COUNCIL ON THE COMMISSION'S DECISION. WILL IT DELAY IT FROM WHEN IT'S SCHEDULED IT'S NEXT SCHEDULED TO GO BEFORE COUNCIL?

>> ITEM IS SCHEDULED ON FEBRUARY 23RD BEFORE THE CITY COUNCIL. IF THE MOTION FOR RECONSIDERATION WOULD PASS THAT WOULD BRING US BACK TO THE PLANNING COMMISSION ON FEBRUARY 24 AND WE WOULD BRING IT BACK TO THE COUNCIL'S ATTENTION IN MARCH.

>> SO THIS IS A MOTION TO RECONSIDER AND LAY ON THE TABLE?

>> AND LAY ON THE TABLE.

>> THAT'S WHAT WE'RE SAYING WE'RE GOING TO TABLE IT AGAIN. THAT'S APPROPRIATE MOTION.

>> RECONSIDER AND TABLE.

>> COMMISSIONER JIM ZITO WHO HAS FAR MORE EXPERIENCE THAN I.

>> AND IT'S SIMPLE MAJORITY GUYS.

>> SO WE'VE NOT TAKEN A VOTE. COMMISSIONER JENSEN WOULD YOU LIKE TO ADD A COMMENT?

>> I APPRECIATE THE SUPPORT FOR MY WANTING TO CORRECT MY MISTAKES. THE DIRECTOR, OUR NEXT MEETING IS FEBRUARY TENTH. I'M SORRY, I WILL LEARN TO READ. IT WILL COME BEFORE US NEXT ON FEBRUARY 10TH PRIOR TO THE CITY COUNCIL MEETING? WHICH WOULD NOT THEN DELAY THE PROCESS OF GETTING IT TO CITY COUNCIL?

>> YEAH, THAT WOULD BE A QUICK TURN. WE WILL COMMUNICATE THAT TO THE CITY MANAGER'S OFFICE SO THEY UNDERSTAND HOW QUICKLY THIS WILL BE COMING BACK BEFORE THEM.

>> BUT IT WOULD BE A RECONSIDERATION OF THE TESTIMONY.

>> BUT TYPICALLY STAFF REPAIR AS MEMORANDUM TO THE FULL COUNCIL DOCUMENTING YOUR DISCUSSION AND IF THE REVOTE OCCURS ON FEBRUARY TENTH, THAT MIGHT MATERIALLY CHANGE YOUR RECOMMENDATION FOR THE CITY COUNCIL AND WE WOULD WANT TO MAKE SURE WE HAD ADEQUATE TIME TO CAPTURE THE ESSENCE OF ANY ADDITIONAL COMMENTARY BEYOND WHAT YOU'RE MAKING TONIGHT ON THAT MATTER AND FOR THAT, IT'S, WE'VE GOT SUNSHINE AND A FEW OTHER REQUIREMENTS THAT MAKE THE TIMING CHALLENGING, SO WE MAY NOT, THE COUNCIL MAY NOT BE ABLE TO HEAR IT ON THE 23RD, BUT WE WOULD WORK WITH THE CITY MANAGER'S OFFICE TO BRING IT TO COUNCIL AS EARLY IN MARCH AS POSSIBLE.

>> GOOD. THANK YOU.

>> AGAIN, LET'S VOTE. MOTION IS PASSED WITH COMMISSIONER KAMKAR DESCENDING. MOVING ON TO ITEM 3D. PDA88-068-04. APPEAL OF THE PLANNING DIRECTOR'S DECISION TO APPROVE A PLANNED DEVELOPMENT PERMIT AMENDMENT TO ALLOW OFF-SALE OF ALCOHOLIC BEVERAGES AT AN EXISTING RETAIL STORE ON A 1.72 GROSS ACRE SITE IN THE A(PD) PLANNED DEVELOPMENT ZONING DISTRICT LOCATED ON THE NORTHWEST CORNER OF CAPITOL AVENUE AND CAPITOL EXPRESSWAY. COUNCIL DISTRICT 5. STAFF?

>> THANK YOU. THIS IS BEFORE YOU AS AN APPEAL OF THE DIRECTORS DECISION. THE PROJECT IS REALLY APART OF THE AMENDMENT TO SERVE BEER AND WINE AT AN EXISTING MARKET. THE DIRECTOR'S DECISION WAS TO APPROVE IT AS STATED IN THE STAFF REPORT, WE'RE ABLE TO MAKE THE NECESSARY FINDINGS, THIS IS LOCATED AT BASICALLY THE CORNER OF SOUTH CAPITOL AVENUE AND CAPITOL EXPRESSWAY. SEPARATED FROM THE RESIDENTIAL BY BOTH STREETS AND RESIDENTIAL BY 6 FOOT WALL AND DOES NOT HAVE DIRECT ACCESS ALONG THE - EXCEPT ALONG THE CAPITOL SIDEWALK. THAT'S HOW YOU GET TO IT. AND AS YOU CAN SEE, IN OUR STAFF REPORT, THIS IS INTENDED TO BE A FULL SERVICE MARKET WHICH DOES SELL MEAT AND PRODUCE AND IS CONDITIONED AS SUCH AND AGAIN. WITH THE ATTACHED MAP IN THE STAFF REPORT. IT SHOWS YOU THAT THERE ARE NO EXISTING OR PENDING LICENSES WITHIN A THOUSAND FEET OF THE PROPOSED USE, SO IF STAFF IS STILL STANDING BY IT'S RECOMMENDATION OF APPROVAL, GIVEN IT'S LOCATION AS WELL AS MIX OF THE TENANTS IN THE SMALL NEIGHBORHOOD SERVING SHOPPING CENTER AND FACT THAT THERE ARE ONLY TWO EXISTING SELLING ESTABLISHMENTS OF SELLING ALCOHOL IN A THOUSAND FEET. I'M PREPARED TO ANSWER ANY QUESTIONS.

>> THANK YOU. COMMISSIONERS ANY QUESTIONS OR IS THERE A MOTION? COMMISSIONER JIM ZITO?

>> THANK YOU, MR. CHAIR. I GUESS WHAT I DON'T UNDERSTAND IS THERE AN APPELLATE?

>> YES. I DIDN'T SEE ANYBODY. BUT IS THE APPELLATE HERE? THERE'S NO PUBLIC HEARING. COMMISSIONER JIM ZITO?

>> OKAY. SEEING AS THE APPELLATE IS NOT HERE, I'LL MAKE A MOTION. NOT MUCH TO CONSIDER. I'LL UPLOAD HOLD THE DIRECTOR'S DECISION TO ALLOWED THE OFF-SALE OF ALCOHOLIC BEVERAGES IN THE APD PLANNED DEVELOPMENT ZONING DISTRICT AS RECOMMENDED BY STAFF.

>> MOTION AND SECOND. COMMISSIONER XAVIER CAMPOS WOULD YOU LIKE TO SPEAK?

>> THANK YOU, MR. CHAIR. I'M ACTUALLY SURPRISED THAT SHE'S NOT HERE. SHE'S THE PRESIDENT OF THE SIERRA NEIGHBORHOOD ASSOCIATION THE NEIGHBORHOOD BEHIND THIS MARKET AND YOU KNOW, AT SEVERAL 680 MEETINGS SHE HAS EXPRESSED HER CONCERN ABOUT THIS, SO I'M JUST - I'M ACTUALLY WONDERING WHAT HAPPENED AS TO WHY SHE IS NOT HERE. YOU KNOW, IT'S NOT LIKE HER AND I THINK THAT ALTHOUGH I'M NOT SPEAKING ON HER BEHALF BUT KNOWING ALOFA. SHE WOULD BE HERE. THERE'S TWO OTHER OUTLETS THAT ARE BEYOND A THOUSAND FEET, BUT IF YOU KNOW THIS NEIGHBORHOOD THEY'RE RIGHT THERE AND TO ME THAT'S OVER CONCENTRATION OR IS LEADING TO OVER CONCENTRATION. I WOULD PREFER IT NOT TO GET TO THE EDGE OF OVER CONCENTRATION. I JUST THINK THAT'S BETTER THE NEIGHBORHOOD. I THINK THE OTHER POINT IS, WITH THIS WE'VE TRADITION LISTENED TO THESE AND I AGAIN, AT THE MEETING, AND SHOWING UP AND OPPOSITION AND ESPECIALLY TO FILE AN APPEAL, YOU KNOW, I DON'T KNOW WHETHER OR NOT THERE WAS A COMMUNICATION MISHAP OR SOMETHING, BUT I WILL NOT BE SUPPORTING THE MOTION BECAUSE I TEND TO SIDE RIGHT HERE ON THIS ONE WITH THOSE THAT FILED THE APPEAL. THERE'S A REASON WHY THEY FILED THE APPEAL AND THEY KNOW THEIR NEIGHBORHOOD WELL AND I WANT TO RESPECT THAT. THANK YOU.

>> THANK YOU, COMMISSIONER JENSEN?

>> THANK YOU. I'M ALSO SURPRISED THEY'RE NOT HERE AND LEGAL APPELLATE ON THIS ONE. I KNOW THEY ARE BOTH PASSIONATE ABOUT THEIR COMMUNITY AND WHEN I DID MY SITE VISIT THEY REFERENCED MULTIPLE OUTLETS WITHIN THE AREA AND I DIDN'T SEE ANY AND SO I WAS HOPING THEY WOULD HELP ME BETTER UNDERSTAND WHERE THERE MIGHT BE OTHER OUTLETS IN THE AREA. THIS IS A FULL SERVICE MARKET. VERY CLEAN, VERY NICE, VERY WELL KEPT. AND IT SERVE AS WIDE VARIETY OF FRESH FRUITS AND VEGETABLES AND MEATS ALONG WITH EVERY KIND OF GROCERY ITEM THAT ANYBODY COULD HOPE FOR. IT'S VERY SIMILAR TO THE PROPOSAL THAT WE HAD AT - I BELIEVE IT WAS CALLED EITHER THE PINK OF WHITE ELEPHANT OVER OFF SAN ANTONIO, WHERE THAT WAS ALSO A FULL SERVICE MARKET REQUESTING BEER AND WINE TO SERVE THEIR NEIGHBORHOOD COMMUNITY. THERE'S NOT A LOT OF HOUSING ISN'T DIRECTLY ATTACHED TO ANY OF THE FACILITIES. IT'S VERY CLEARLY A MALL AND I AGREE WITH ALOFA THAT THE MALL HAS BEEN RUN DOWN SOMEWHAT AND COULD USE SOME HELP FROM THE PROPERTY OWNER. I WOULD ENCOURAGE THE PROPERTY OWNER TO WORK WITH TENANTS TO MAKE SURE THOSE CHANGES HAPPEN AND GENERALLY, I WOULD AGREE WITH COMMISSIONER XAVIER CAMPOS ON THIS, BUT THIS IS NOT THE NEIGHBORHOOD GROCERY STORE MASKS - OR ONE THAT IS REALLY A LIQUOR STORE SO I WILL BE SUPPORTING AND HOPEFULLY, I'LL GET THE BUTTONS RIGHT THIS TIME THE DIRECTOR'S DECISION. THANK YOU.

>> THANK YOU. COMMISSIONER JENSEN. NOW, COMMISSIONER JIM ZITO?

>> TURNED IT OFF. THANK YOU, MR. CHAIR. I AGREE WITH COMMISSIONER XAVIER CAMPOS THAT KNOWING OLOFA. I IT'S SURPRISING. I WONDER IF SHE'S THE STATION MEETING DOWN THE HALL. IT'S IN THE INTEREST OF GETTING FULL STORY, IF YOU WILL, I WOULD CERTAINLY BE ABLE TO RETRACT MY MOTION IF SOMEBODY FELT THIS SHOULD BE DEFERRED AND WOULD LIKE TO MAKE A MOTION TO DEFER UNDER THE CIRCUMSTANCES. I DON'T KNOW IF ANYBODY WANTS TO DO THAT, BUT THAT MAYBE THE RIGHT THING TO DO IF IN FACT WE THINK THAT THE APPLICANT WOULD BE-

>> COMMISSIONER XAVIER CAMPOS?

>> THANK YOU, MR. CHAIR. YEAH. I WOULD - DO WE HAVE TO RETRACT IT?

>> NO, JUST MAKE THE MOTION.

>> I MOVE THAT WE DEFER. I MEAN, OBVIOUSLY OLOFA REALLY BEATS INVOLVED IN THE PUBLIC PROCESS AND WE ALL KNOW HER AND IT IS RATHER ODD THAT SHE IS NOT HERE TO SPEAK ON THE ITEM, SO YEAH, I WOULD MOVE TO DEFER. THANK YOU.

>> THERE'S A MOTION AND A SECONDS. THERE A PUBLIC SPEAKER? SOMEONE THAT WISHES TO ADDRESS THE COMMISSION IN THE AUDIENCE? THERE'S NO CARDS. SO THERE'S A MOTION AND THERE'S A SECOND. COMMISSIONER KAMKAR?

>> QUESTION, WOULD IT BE DEFERRAL OR A CONTINUANCE. WE DIDN'T HERE A TESTIMONY.

>> IT WOULD BE A DEFERRAL. I THINK THAT'S CORRECT. COUNCEL?

>> CORRECT.

>> LET'S VOTE.

>> SO THE MOTION APPROVED WITH COMMISSIONER JENSEN ABSTAINING. OH, ABSENT. I SEE. COMMISSIONER JENSEN ABSENT. THE ITEM IS DEFERRED HOPEFULLY TO THE NEXT MEETING. SO MOVING ON TO ITEM FOUR. PETITIONS AND COMMUNICATIONS.

>> JUST TO CONFIRM IT WILL BE DEFERRED?

>> YES.

>> TO THE NEXT MEETING?

>> YES.

>> PETITIONS AND COMMUNICATIONS AND THERE'S NO ITEMS. REFERRALS FROM CITY COUNCIL, BOARDS AND COMMISSION'S OR OTHER AGENCIES.

>> NONE.

>> GOOD AND WELFARE.

>> THANK YOU MR. DIRECTOR. LAST NIGHT THE CITY COUNCIL APPROVED THE LINCOLN AND WILLOW ZONING UNANIMOUSLY. THE MIXED USE PROJECT YOU CONSIDERED AT YOUR PRIOR MEETING. THE CAT WALDER PROJECT IS BEING CONTINUED TO FEBRUARY 9TH, SO IF YOUR FOLLOWING THAT ONE, THAT WILL BE COMING BACK TO THE COUNCIL IN FEBRUARY AND THEN THE ALMADEN ROAD WAS APPROVED UNANIMOUSLY LAST NIGHT. THAT CONCLUDES STAFF'S REPORT.

>> THANK YOU. COMMISSIONERS REPORT FROM COMMITTEES AND NORMAN Y. MINETA.

>> THANK YOU, MR. CHAIR.

>> ENVISION SAN JOSE 20406789 GENERAL PLAN UPDATE PROCESS. COMMISSIONER KAMKAR?

>> I MISSED THAT MEETING AND WONDERED IF COMMISSIONER JENSEN MIGHT BE ABLE TO REPORT ON THAT.

>> YES. THANK YOU, COMMISSIONER KAMKAR. OUR MONDAY - ON THE PAST MONDAY EVENING, WE DISCUSSED HOUSING AND NEIGHBORHOODS. HAD A WONDERFUL PRESENTATION FROM LESLEY CRETCO AND MICHAEL QUIN ABOUT ECONOMIC GROWTH AND GROWTH GOING ON IN SAN JOSE. THERE'S GOING TO BE A LOT OF AGEING IN PLACE IN SAN JOSE, WE'RE GOING TO BE TOP HEAVY ON THE OVER 65 CLIENTELE. AND SO THERE WAS A LOT OF DISCUSSION OVER THE TYPES OF HOUSING, HOW MUCH HOUSING AND CONTINUED DISCUSSION ON WHAT MIGHT BE THE PREFERRED CHOICE TO EXPLORE BY THE TASK FORCE IN TERMS OF JOBS HOUSING BALANCE AND A LOT OF DISCUSSION ABOUT WHAT WAS AN APPROPRIATE BALANCE. OUR NEXT MEETING IS MONDAY, FEBRUARY 8TH AT 6:30 AND I STRONGLY ENCOURAGE ANYBODY INTERESTED TO JOIN US THERE. THANK YOU.

>> THANK YOU. COMMISSIONER CAHAN?

>> THANK YOU, MR. CHAIR. WE HAD A VERY GOOD POINT RAISED EARLIER IN THE MEETING ABOUT THE LACK OF, A WAY FOR RELIGIOUS ORGANIZATIONS TO HAVE A BUILDING THAT THEY CAN CALL THEIR OWN LEGALLY AND I'M WONDERING THE TASK FORCE IS WORKING ON THAT.

>> THEY WILL BE. RIGHT NOW WE'RE FOCUSING ON A VILLAGE CONCEPT SO WE HAVE COMPLETE IN ALL NEIGHBORHOODS IN SAN JOSE AND FAITH-BASED USES ARE PART OF A COMPLETE COMMUNITY. ONCE WE GET THROUGH THE SELECTION OF A PREFERRED SCENARIO WE'LL LOOK AT THE DETAILED LAND-USE DESIGNATION AND MIGHT EVEN RECONFIGURE THE LAND-USE DESIGNATION SO THERE'S CLARITY IN TERMS OF WHERE PLACES OF WORSHIP SHOULD BE LOCATED IN THE COMMUNITY. IS IT IN THE WORK PLAN OF THE TASK FORCE? WE JUST HAVEN'T GOTTEN TO IT YET.

>> THANK YOU, DIRECTOR. COMMISSIONER CAHAN? THANK YOU. OKAY. LET'S SEE, THE REVIEW AND SYNOPSIS FROM THE LAST MEETING? ANY COMMENTS? IS THERE A MOTION TO APPROVE? SECOND? OKAY. ALL IN FAVOR? I'M SORRY, STAFF HAS COMMENT?

>> YOU CAN VOTE ON THIS BUT I NEED TO BRING SOMETHING UP AFTERWARDS.

>> ALL IN FAVOR. THANK YOU. THERE'S SYNOPSIS IS APPROVED. PLEASE?

>> YOU BLEW PAST THE COMMISSIONER REFERRAL THING AND I GOT A CALL FROM THE SECRETARY FOR THE PARKS COMMISSION TODAY AND THEY WOULD LIKE TO CONSIDER A DATE TO HAVE A JOINT SESSION NOT THAT YOU NEED TO VOTE ON ONE BUT I WANTED ME TO ASK YOU GUYS IF YOU HAD A PREFERENCE OF THE MARCH MEETING? I KIND OF FENDING THEM OFF FOR APRIL BECAUSE THAT'S WHEN WE'RE HAVING GENERAL PLAN STUFF, BUT THEY WERE THINKING MAYBE IN MARCH, SO I DON'T KNOW IF THERE'S ANYTHING GOING ON. IF THERE'S A PREFERENCE. THEY'RE GOING TO, AT THEIR NEXT MEETING TAKE A VOTE AS TO WHAT THEY LIKE AND THEN I THINK IT COMES BACK TO YOU FOR FORMAL CONSIDERATION. SO IF THERE IS A PREFERENCE OR NOT. OTHERWISE, WE CAN JUST TELL THEM THAT MARCH MIGHT BE A GOOD MONTH TO CONSIDER ONE.

>> WE'RE TALKING ABOUT STUDY SESSION. ANY COMMENTS FROM COMMISSIONERS? COMMISSIONER JENSEN?

>> THANK YOU FOR RAISING THAT. ONE QUESTION ABOUT MARCH WAS COMMISSIONER CAHAN REMINDED ME WE MAY HAVE HAD A DISCUSSION CANCELLING THE MARCH 24TH MEETING AND I SEE IT'S STILL ON THE CALENDAR. I THINK MEETING WITH THE PARKS COMMISSION WOULD BE GREAT BUT IF WE'RE CANCELLING THE MARCH 24TH MEETING, MAYBE APRIL?

>> THAT IS CORRECT, COMMISSIONER JENSEN. I ALSO RECALL THAT THE COMMISSION DID CANCEL THE MARCH 24TH MEETING BECAUSE OF THE PLANNERS INSTITUTE.

>> IS IT CANCELING OR MOVING IT?

>> I THINK WE WERE UNABLE TO FIND A SATISFACTORY DATE BUT STAFF CAN GO BACK THROUGH THE SYNOPSIS TO CHECK.

>> COMMISSIONER KAMKAR?

>> I WAS GOING TO RECOMMEND TO MOVE IT TO MAY SO WE MISSED THE GENERAL PLANS SO BECAUSE APRIL WILL BE PLAN MONTH, YOU KNOW?

>> MOST LIKELY APRIL 7TH WILL BE THE GENERAL PLAN HEARING FOR YOU, SO IT'S POSSIBLE THAT APRIL 21ST MIGHT WORK. FOR THE JOINT SESSION WITH THE PARKS COMMISSION, IF THAT'S OF INTEREST.

>> OKAY. SO INPUT ON THAT ISSUE. MOVING ON TO SUBCOMMITTEE REPORT AND OUTSTANDING BUSINESS? ANYTHING?

>> YES BEING DISTRIBUTED IS PLANNERS INSTITUTE COMING UP IN LATE MARCH. WE CERTAINLY ENCOURAGE THE COMMISSIONERS TO ATTEND THE CONFERENCE, HOWEVER GIVEN OUR BUDGET CIRCUMSTANCES, UNFORTUNATELY THE DEPARTMENT CANNOT AFFORD REGISTRATION FEES OR HOTEL ACCOMODATIONS FOR THE COMMISSION. FORTUNATELY, THIS ONE IS NOT TOO FAR AWAY. IT'S JUST IN MONTEREY AND IF YOU CAN ATTEND, WE WOULD - IT WOULD BE OF GREAT VALUE TO YOU. I WAS PART OF A COMMITTEE THIS TIME TO PUT TOGETHER THE SECTIONS AND THERE'S SOME VERY EXCITING THINGS, SO I APOLOGIZE WE'RE NOT ABLE TO PROVIDE FINANCIAL SUPPORT TO THE COMMISSION. THANK YOU.

>> THANK YOU, DIRECTOR. NO OTHER ITEMS SO THE MEETING IS ADJOURNED. YOU CAN GO HOME AND LISTEN TO OBAMA SPEAKING. [ADJOURNED] SAN JOSE PLANNING COMMISSION MEETING 1/27/2010

>> GOOD EVENING. MY NAME IS COMMISSIONER THANG DO AND I'M THE CHAIR OF THE COMMISSION. ON BEHALF OF THE COMMISSION, I WOULD LIKE TO WELCOME YOU TO THE HEARING FOR WEDNESDAY, JANUARY 27TH, 2010. PLEASE REMEMBER TO TURN OFF YOUR CELLPHONES AND THE PARKING VALIDATION IS IN THE REAR OF THE ROOM. AND IF YOU WANT TO ADDRESS THE COMMISSION, FILL OUT A SPEAKER CARD LOCATED ON THE TABLE BY THE DOOR AT THE BACK AND AT THE BOTTOM OF THE STAIRS, NEAR THE AUDIO VISUAL TECHNICIAN. FILL OUT A CARD, DROP THE CARD NEAR THE PLANNING TECHNICIAN AND INCLUDE THE AGENDA NUMBER. FOR EXAMPLE, AGENDA ITEM 4A AND NOT 3D-06, ET CETERA. THE PROCEDURE FOR THIS HEARING IS AS FOLLOWS. AFTER THE STAFF REPORT, APPLICANTS AND APPELLATES MAKE A FIVE MINUTE PRESENTATION. THE CHAIR MAY CALL OUT NAMES IN THE ORDER THAT THEY WERE RECEIVED. AS YOUR NAME IS CALLED, LINE UP IN FRONT OF THE MICROPHONE AT THE FRONT OF THE CHAMBER. EACH SPEAKER WILL HAVE UP TO TWO MINUTES. AFTER THE TESTIMONY, THE APPLICANT AND APPELLATE MAY MAKE ADDITIONAL CLOSING REMARKS. THE RESPONSE OF COMMISSIONERS AND QUESTIONS WILL NOT REDUCE THE SPEAKER'S TIME ALLOWANCE. THE PUBLIC HEARING WILL BE CLOSED AND THE COMMISSION WILL TAKE ACTION ON THE ITEM AND RESPOND TO THE PUBLIC TESTIMONY AND DISCUSS THE ITEM. IF YOU CHALLENGE THESE LAND-USES' AGENDA IN COURT, YOU MAY RAISE SOMETHING IN WRITTEN CORRESPONDENCE DELIVERED TO THE CITY AT OR PRIOR TO THE PUBLIC HEARING. THE PLANNING ACTION OF REZONING AND GENERAL PLAN AMENDMENTS IS ON ADVISORY TO THE CITY COUNCIL. THE CITY COUNCIL WILL HOLD PUBLIC HEARINGS ON THESE ITEMS. FIRST ORDER OF BUSINESS IS ROLL CALL. FOR THE RECORD TO REFLECT AT THIS POINT, ALL COMMISSIONERS ARE PRESENT EXCEPT FOR COMMISSIONER KAMKAR. - AND AND COMMISSIONER JIM ZITO. MATTER OF DEFERRAL. STAFF WILL PROVIDE AN UPDATE ON THE ITEMS FOR WHICH DEFERRAL HAS BEEN REQUESTED. IF YOU WANT TO CHANGE ANY DEFERRAL DATES REQUESTED 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 HEARINGS, THE PLANNING COMMISSION MAY DETERMINE EITHER TO PROCEED WITH ITEMS PAST 11:00 P.M. OR TO 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 BE PROCEEDING WILL BE HEARD BY THE PLANNING COMMISSION NO LATER THAN 11:00 P.M.

>> THANK YOU. THE ONE APPLICANT FOR DEFERRAL IS REPORT ON SECONDARY UNITS PROGRAM WITH REQUEST DEFERRAL TO MARCH OF 2008. FOR CONSTRUCTION OF A 4600 SQUARE FOOT RETAIL AND COMMERCIAL BUILDING. THAT'S BEING REQUESTED BY THE APPLICANT TO BE DEFERRED TO FEBRUARY TENTH. THAT'S IT FOR DEFERRALS.

>> THANK YOU. ANY DISCUSSION FROM THE COMMISSION - OR IS THERE A MOTION TO APPROVE DEFERRAL? ALL IN FAVOR? SO THE DEFERRALS HAVE BEEN APPROVED AND NEXT ITEM IS CONSENT CALENDAR. THERE ARE NO ITEMS ON THIS CONSENT CALENDAR. NEXT ITEM IS PUBLIC HEARING. GENERALLY - NOTICE TO THE PUBLIC: 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 TO FACILITATE THE AGENDA, SUCH AS TO ACCOMMODATE SIGNIFICANT PUBLIC TESTIMONY, OR MAY DEFER DISCUSSION OF ITEMS TO LATER AGENDAS OF PUBLIC HEARING TIME MANAGEMENT PURPOSES. IF IT'S ACCEPTABLE, I WOULD LIKE TO MOVE 3C TO THE BEGINNING SINCE THAT'S A CONTINUATION OF LAST MEETING. ALL IN FAVOR? OKAY. SO WE WILL FIRST TAKE THAT ITEM, 3C, H08-007. H08-007. APPEAL OF THE PLANNING DIRECTOR'S DECISION TO APPROVE A SITE DEVELOPMENT PERMIT TO DEMOLISH AN EXISTING STRUCTURES AND TO CONSTRUCT A NEW 5,950 SQUARE FOOT RETAIL BUILDING ON A 0.38 GROSS ACRE SITE, IN THE CP PEDESTRIAN COMMERCIAL ZONING DISTRICT, LOCATED AT THE SOUTHEAST CORNER OF RACE STREET AND GARLAND AVENUE. COUNCIL DISTRICT 6. LET'S SEE. STAFF?

>> THANK YOU MR. CHAIR. THIS ITEM WAS HEARD AT THE PLANNING COMMISSION MEETING TWO WEEKS AGO. THE ITEM WAS DEFERRED BECAUSE THE COMMISSION WAS UNABLE TO REACH A DECISION TO MOVE THE PROJECT FORWARD. IT HAD A VOTE OF 3-3-1, INITIALLY TO UPHOLD THE DIRECTOR'S DECISION. THAT MOTION FAILED AND SO A SECOND MOTION WAS MOVED FORWARD TO RECOMMEND THE APPROVAL OF THE APPEAL AND DENIAL OF THE DIRECTOR'S DECISION AND THAT

FAILED ALSO ON A 3-3-3 VOTE AND THE ITEM WAS DEFERRED TO THIS MEETING. THERE WERE A NUMBER OF TESTIMONIES PROVIDED ABOUT THE PROJECT. SINCE THAT TIME AND AFTER THE CLOSURE OF THE PUBLIC HEARING, STAFF DID PROVIDE A SUPPLEMENTAL MEMO TO FURTHER CLARIFY SOME OF THE ISSUES RELATED TO THE MANNER OF THE FINDINGS SINCE THAT WAS OBVIOUSLY IN THE INTEREST OF THE COMMISSION AT THE TIME OF THE MEETING WITH THAT, STAFF HAS NOTHING TO ADD AT THIS TIME.

>> THANK YOU. THERE'S NO SPEAKER COMMENTS AND THE LAST TIME WE HAD CLOSED PUBLIC HEARING WE WERE ALREADY. THE PURPOSE OF THE TAKING ON THE ITEM TONIGHT IS FOR THE COMMISSION TO CONTINUE THE DISCUSSION AND SEE IF WE CAN REACH A DECISION ON THAT. I GUESS I JUST WANT TO SAY THAT THE STAFF SUPPLEMENTAL MEMO ADDRESSING THE ISSUE, I THINK IT TRIES TO SUMMARIZE WHAT THE ISSUE IS AT HAND, AND SO THE KEY ISSUE HAVING TO DO WITH - THAT IT'S NOT ABOUT WHETHER THE SIDE IS CURRENTLY OR SITE IS ZONED AT GENERAL COMMERCIAL AND PROPOSED USE IS ALLOWED UNDER THAT ZONING. ANYWAY, ANY DISCUSSION ON WITH THE COMMISSION? ANY COMMISSIONER? COMMISSIONER JENSEN, PLEASE?

>> THANK YOU. I VISITED THE SITE AGAIN TAKING SUPPLEMENTAL MEMO IN MIND, AND WENT AND LOOKED BECAUSE THERE HAD BEEN SOME DISCUSSION ABOUT THE MASKING AND ARCHITECTURE AS IT RELATED TO THE - OTHER BUSINESS UNITS ALONG RAY STREET AND WHAT I NOTICE WAS THAT THE MAJORITY OF THE BUSINESS DISTRICT IN THE AREA WHERE THIS PARTICULAR PROJECT PROPOSAL WAS, WAS CLOSER TO THE ALAMEDA AND ALL OF THOSE BUSINESS UNITS ARE - I DON'T KNOW - VINTAGE TYPES OF BUILDINGS WITH PARTICULAR ARCHITECTURAL STYLES FROM THE 20'S AND 30'S AND VERY INTERESTING. I STILL THINK AND BELIEVE THE SAME THINGS I BELIEVED BEFORE. THAT THIS IS NOT AN APPROPRIATE LOCATION FOR THIS ITEM, THAT A VIBRANT BUSINESS DISTRICT REQUIRES A DIVERSITY OF BUSINESSES AND I STILL INTEND NOT TO SUPPORT THE DIRECTOR'S DECISION. THANK YOU.

>> THANK YOU. THANK YOU, COMMISSIONER JENSEN. ANY OTHER REMARKS OR IS THERE A MOTION? COMMISSIONER PLATTEN?

>> I MOVE WE UPHOLD THE DIRECTOR'S DECISION TO CONSTRUCT A NEW RETAIL BUILDING ON A 0.03 ACRE SITE IN ZONING DISTRICT AS RECOMMENDED BY STAFF?

>> IS THERE A SECOND? MOTION AND A SECOND. NO OTHER SPEAKER? ACTUALLY. YES, COMMISSIONER KAMKAR IS HERE AND YOU DID RECONSTITUTE YOURSELF. SO THERE'S A MOTION TO UPHOLD THE DIRECTOR'S DECISION AND THERE'S A SECOND. LET'S VOTE. SO THE MOTION IS PASSED WITH COMMISSIONER JENSEN AND COMMISSIONER CAHAN OPPOSED. SO MOVING ON, BACK TO ITEM 3A. GP09-07-02. GENERAL PLAN AMENDMENT REQUEST TO CHANGE THE LAND USE/TRANSPORTATION DIAGRAM DESIGNATION TO ADD MIXED INDUSTRIAL OVERLAY TO AN EXISTING HEAVY INDUSTRIAL LAND USE DESIGNATION ON A 3.95 GROSS-ACRE SITE, LOCATED AT 2159 SOUTH 10TH STREET. COUNCIL DISTRICT 7. STAFF?

>> THANK YOU, MR. CHAIR. THIS GENERAL PLAN AMENDMENT ON SOUTH 10TH STREET. STAFF RECOMMENDS NO CHANGE TO THE GENERAL PLAN LAND-USE, DESIGNATION FOR THIS SITE FOR THE FOLLOWING REASONS. THE PROPOSED GENERAL PLAN AMENDMENT TO THE MIXED INDUSTRIAL OVERLAY IS NOT CONSISTENT WITH THE MAJOR STRATEGY AT THE GENERAL PLAN. THE PROPOSED GENERAL PLAN AMENDMENT IS NOT CONSISTENT WITH THE CITIES FRAMEWORK FOR CONVERSIONS OF LAND TO OTHER USES AND IT WILL COMPROMISE THE INDUSTRIAL LAND TO SURROUNDING PROPERTY. GIVEN THIS IS IN EARLY CONSIDERATION OF A GENERAL PLAN AMENDMENT THAT HAS NO CLEARANCE WITH CEQA, THE PLANNING COMMISSION HAS THE FOLLOWING OPTIONS TO RECOMMEND TO CITY COUNCIL. THE PLANNING COMMISSION RECOMMENDS DENIAL OR MAY DIRECT STAFF TO CONTINUE PROCESSING THE APPLICATION AND COMPLETE IT AT A LATER GENERAL PLANNED HEARING IN THE REGULAR GENERAL PLANNED HEARING CYCLE. THANK YOU.

>> THANK YOU. IS THE APPLICANT HERE? PLEASE? PLEASE COME DOWN TO THE PODIUM AND YOU HAVE UP TO FIVE MINUTES TO ADDRESS THE COMMISSION.

>> GOOD EVENING. MR. CHAIR, PLANNING COMMISSION, MEMBERS, THE AREA, AN INDUSTRIAL AREA TO THE EAST ARE SUFFERING THE SAME ECONOMIC RECESSION AS THE REST OF THE ECONOMY - AS COMMUNITY ECONOMIC BASE. THERE ARE SIGNIFICANT NUMBERS OF EITHER PARTIAL OR COMPLETELY VACANT INDUSTRIAL BUILDING IN THE AREA. THESE VACANT BUILDINGS ARE NOT PRODUCING JOBS, THEY'RE NOT CONTRIBUTING TO THE CITY ECONOMIC BASE. I REQUEST A MIX THE INDUSTRIAL DESIGNATION AS WHAT I WOULD DEFINE AS A TEMPORARY MEASURE TO ALLOW MY VOTING TO BE UTILIZED DURING THIS DIFFICULT ECONOMIC TIMES TO CREATE JOBS AND SERVE THE BROADER NEEDS OF THE COMMUNITY. ABSENT APPROVAL OF THIS REQUEST, THIS BUILDING WILL SIT VACANT LIKE MANY OTHERS IN THE AREA. AT SOME POINT, ONE COULD SUGGEST THE AREA WILL BE BLIGHTED AS IT WAS FROM 1999 TO 2005. AS A BUILDING OWNER, CAN TELL YOU THAT WHEN THE ECONOMY REBOUNDS AND THERE IS A SIGNIFICANT STRONGER DEMAND FOR INDUSTRIAL SPACE IN THE AREA, THE TEMPORARY USE OF THE SITE WILL VANISH AS IT WILL NO LONGER BE ECONOMICALLY VIABLE FOR ME TO CONTINUE THE USE. THESE ARE COLD HEART ECONOMIC REALITIES. TODAY THE CITY NEEDS TO BE WILLING TO ACKNOWLEDGE. IF I CAN JUST BE A LITTLE BIT PERSONAL AT THIS TIME, IN 1995, MY WIFE AND I DECIDED TO RELOCATE TO DISTRICT SEVEN WITH OUR COMPANY. WE HAVE A PACKAGING COMPANY. WE WERE THE FIRST VIETNAMESE BUSINESS TO OCCUPY NEAR STORY ROAD. MY WIFE AT THAT TIME, WOULDN'T EVEN WANT TO TRY TO WORK BECAUSE THE AREA WAS SO RUN DOWN BUT WE MADE A HOME THERE AND FOR 8 YEARS, WE CONTINUED TO PROSPER AND WE HIRE OVER 3,000 EMPLOYEES. - AND YOU KNOW, WE SAW THE ECONOMIC VITALITY OF THE AREA TRANSFORMING AT THAT PARTICULAR TIME. THE SAME DISCUSSION WAS HOLD TRUE NOW. DO WE KEEP A STATUS QUO OR MOVE FORWARD? THERE WAS DISCUSSION ABOUT KEEPING THE IBM PLANT THE SAME RATHER THAN REZONING AND NOW, 10 YEARS LATER, 15 YEARS LATER YOU HAVE A VIBRANT VIETNAMESE COMMUNITY AT PLAY RIGHT THERE IN 2004, I SAW THE SAME OPPORTUNITY AT THIS SITE. IT WAS RUN DOWN. IT'S BEEN SITTING EMPTY SINCE 1998 AND WAS A HOMELESS ENCAMPMENT WITH CRIME, DRUGS AND WHAT HAVE YOU. I TOOK THE CHANCE TO MAKE IT A SECOND HOME IN DISTRICT SEVEN, OVER THE YEARS, BECAUSE OF WHAT WE DID, WEED MONEY AND OUR HEARTS AND WORKED HARD TO TRANSFORM THE AREA. WE NOTICED MORE USERS STARTED TO OCCUPY THE EMPTY BUILDINGS BECAUSE OF OUR WORK. THOSE OCCUPANTS, HAD THEY NOT MOVED IN, WE WOULD STILL BE HAVING A HUGE - AND I MEAN AT LEAST 20%-30% VACANCY ON THAT SIX BLOCKS OF TENTH STREET. CONTEXT RALLY MY SITE IS ADJACENT TO THE VTA YARD SOUTH. AS YOU CAN SEE FROM THE PLAN AMENDMENT MAP ON PAGE THREE, WITHIN 500 TO 1500 FEET. THERE ARE APPROVED HOUSING DEVELOPMENT ON 7TH STREET. AFFORDABLE HOUSING AND SENIOR ON TOLLEY AND PROPOSED SENIOR HOUSING ON FAIRGROUND PARKING LOT THAT'S IN THE PIPELINE. MEDICAL FACILITY, RETAIL FACILITY ON PARET AND BOURKE. IF YOU DRIVE OFTEN ON THE SIXTH BLOCK, YOU WILL BE HARD TO FIND A TRUE HEAVY INDUSTRIAL USERS, TO NAME A FEW; COMCAST, VIKING DOORS. LACKAME REALTY. CENTURY 21, RAINBOW BEAUTY SUPPLY. TNT RADIO STATION. SAIGON TAXES. ALBERT AND KITCHEN. FURNITURE AND MB LACER. THE VIETNAMESE-AMERICAN ACADEMY. COMMUNITY SERVICES AND NEW LIFE MEDIA. 60-70% OF THE USERS ARE USING IT FOR ANYTHING BUT HEAVY INDUSTRIAL USE. THIS IS NOT A PRISTINE AREA WHERE THERE ARE REAL HEAVY INDUSTRIAL USE WITH SIGNIFICANT USES OF CHEMICALS. I WOULD INTEND TO USE FOR THE BUILDING IS LARGELY CONDUCTED IN THE EVENING AND ON THE WEEKEND. NOT A TRADITIONAL TIME OF ACTIVE USE FOR INDUSTRIAL SITES. SO NEAR THE TERM POTENTIAL OF OVERLAY DESIGNATION TO LET THE AREA ATTRACT ECONOMIC INVESTMENT.

>> YOUR TIME IS UP. I'D LIKE TO ASK YOU A QUESTION, THOUGH. WHEN YOU PURCHASED A PROPERTY, YOU WERE AWARE THE USES - THAT SOME OF THE USES THAT ARE BEING USED OR THAT YOU HAVE BEEN USING IN RECENT MONTHS WERE NOT ALLOWED UNDER THE ZONING?

>> WHEN I FIRST PURCHASED THE BUILDING I DID HAVE AN OPPORTUNITY TO WORK WITH THE VICE-MAYOR, PAT AND CURRENT COUCILMEMBER, TERRY GREGORY. WHEN WE WERE IN CONTRACT, THERE WAS SEVERAL PROPOSALS OFFERED FOR REZONING AND ALSO A TEN PERCENT DESIGNATION FOR A COMMUNITY CENTER. THAT WAS ON THE TABLE. AT THAT PARTICULAR TIME THE POSITION WAS TO GET THE BUILDING PERMITS AND START REMODELLING FIRST AND ZONING WOULD COME LATER.

>> OKAY. THANK YOU. THERE ARE A NUMBER OF SPEAKER CARDS. ONE OF WHOM DID NOT FILL OUT HIS OR HER NAME. SO IF YOU ARE THE ONE THAT FILLED OUT THE SPEAKER CARD AND DID NOT PUT YOUR NAME, PLEASE DO SO IF YOU'D LIKE TO SPEAK. I'LL START CALLING THE NAMES. THREE AT A TIME, SO PLEASE COME DOWN AND LINE-UP AT THE BOTTOM OF THE STAIRS. THE FIRST NAME IS MICHAEL ROBINSON AND MATHEW MOUNTFORD AND CAROL COMBS. PLEASE STATE YOUR NAME.

>> MICHAEL ROBINSON. GOOD EVENING TO ALL. BASICALLY, WHAT WE'RE HERE FOR IS TO LET YOU KNOW ABOUT THE BUILDING SITUATION ITSELF. THIS BUILDING HAS BEEN A GREAT THING THAT'S BEEN GOING ON IN THE COMMUNITY AND WE'VE BEEN DOING A LOT OF THINGS WITH THE YOUTH AS WELL AS CHURCHES. HE'S BEEN GIVEN BACK TO THE COMMUNITY AND WITH THE WAY THE ECONOMY IS NOW, WE WOULD THINK THAT WE WOULD HOPE THAT WE - YOU KNOW THE UNDERSTANDING THAT THIS IS SOMETHING WE DEFINITELY NEED IN THE COMMUNITY FOR THE YOUTH, AS WELL AS PEOPLE TRYING TO DO THINGS FOR THEIR FAMILIES. AND THAT'S PRETTY MUCH ALL I HAVE TO SAY.

>> THANK YOU.

>> THANK YOU.

>> HI. GOOD EVENING I'M CAROL COMBS AND I'M HERE IS A A TENANT AND ALSO TO KIND OF COUNTERPART TO WHAT MICHAEL SAID. WE'RE ACTUALLY TENANTS THERE AND WORK A LOT WITH THE YOUTH IN THE COMMUNITY. A LOT OF THE SAN JOSE POLICE DEPARTMENT AS WELCOME BY AND ACTUALLY SEEN OUR SERVICES. WE OFFER SERVICES TO ALL YOUTH AND LEADERSHIP SKILLS ALONG WITH DEVELOPING THEM TO BECOME ENTREPRENEURS AND ONE DAY TO BECOME BUSINESS OWNERS IN THE COMMUNITY. IF THE BUILDING IS TAKEN AWAY FROM THEM, THAT PUTS THE KIDS BACK OUT ON THE STREET. SO WITH THAT SAID, I THINK THAT IT NEEDS TO BE LOOKED MORE ON THE BROADER SENSE AS FAR AS IT'S NOT JUST A BUILDING BUT A PLACE TO THINGS TO HAPPEN, ESPECIALLY IN THIS COMMUNITY FOR NOT JUST THE YOUTH BUT THAT'S OPENING UP OPPORTUNITIES AGAIN FOR JOBS AND THINGS OF THAT NATURE. SO - THAT'S PRETTY MUCH ALL I HAVE TO SAY.

>> THANK YOU VERY MUCH. THANK YOU. AND I WILL ALSO CALL THE NEXT THREE SPEAKERS. VALENTINO SMITH. MR. CHEN AND PAUL LEE.

>> I'M MATHEW AND EDITOR OF A MAGAZINE. I'M 23 YEARS OLD AND LAST YEAR, I GRADUATED FROM SAN JOSE STATE. I'VE HAD FIVE PUBLICATIONS FOR A LONG TIME AND HELIUM MAGAZINE IS A NEW PUBLICATION I STARTED - A FASHION MAGAZINE. WE'RE TRYING TO PULL TOGETHER ALL THE LOCAL DESIGNERS AND PROMOTE THEM KIND OF PUT THEM ON THE MAP FOR FASHION AND WE FILL A LOT OF FASHION SHOWS AND LAUNCHED A PUBLICATION AND DO IT ALL FOR CHARITY ALSO. THE STUDIO HAS BEEN A HUGE BREEDING GROUND AND A HUGE OPPORTUNITY. - UNBELIEVABLE OPPORTUNITY FOR ME. I'M A YOUNG PERSON TO COME INTO AND IT'S LEGITIMIZED ME IN WAYS I NEVER THOUGHT I WOULD HAVE BEEN ABLE TO HAVE GOTTEN TO. I REALLY NEED THE STUDIO AND TO HAVE FREE ACCESS TO THAT AND THE BALLROOMS THERE AND HAVE EVENTS TO SUCCEED. WHAT I WAGED IS, I ACTUALLY TOLD MY FAMILY THAT IF I CAN'T MAKE IT WORK I WILL ACTUALLY MOVE TO OREGON AND WORK IN A FACTORY WITH MY GRANDFATHER, SO I NEED THE STUDIO AND I NEED IT NOW. ALL THE DESIGNERS AND MY 32 STAFF MEMBERS THAT DONATE THEIR TIME. THEY NEED IT TO GO NOW AND THEY ARE SAYING IT'S THE LARGEST IN SAN JOSE AND KNOWING I HAVE THE MOST MAGNIFICENT BALLROOMS. THEY'RE ABSOLUTELY MAGNIFICENT AND CAN BE COMPARED TO THE BELLAGIO AND I DON'T THINK THIS IS A TIME TO BE RESTRICTING BUSINESS. I THINK THAT WOULD BE A HUGE MISTAKE. ME, AS A 22-YEAR-OLD ENTREPRENEUR TRYING START A BUSINESS, I HOPE YOU WILL HELP US OUT AND HELP ME PROSPER. THANK YOU.

>> THANK YOU.

>> GOOD AFTERNOON I'M VALENTINO SMITH. I'M A YOUTH PASTOR AT A CHURCH AT BETHESDA COMMUNITY CHURCH. THIS BUILDING HAS REALLY HELPED US A LOT. I DEAL WITH A LOT OF GROUP HOMES, AND DEALING WITH GROUP HOMES, BASICALLY THE KIDS, THEY COME TO THIS BUILDING AND I TEACH THEM LEADERSHIP SKILLS. I TEACH THEM HOW TO GET JOBS. HOW TO GO OUT IN THE REAL WORLD SO THEY'RE NOT BREAKING INTO SOMEBODY'S HOUSE OR THEY'VE BEEN LEFT BEHIND. THIS BUILDING AS MICHAEL, HE HAS OPENED UP THE DOORS FOR ME, OUR CHURCH AND EVERYTHING FOR ANYTHING WE NEED AND SO WHEN I CAME TO THE CITY TEAM I BASICALLY, CAN BRING THESE KIDS TO THIS WAREHOUSE AND HAVE CLOTHES AND FOOD AND DIFFERENT THINGS AND DON'T CHARGE THEM SO. MY THING IS, HERE IS A COMMUNITY, HERE IS A PLACE THAT ME BEING YOUTH PASTOR, THAT CAN GO TO AND GET THESE KIDS OFF THE STREETS. PUT THEM SOMEWHERE AND TEACH THEM LEADERSHIP SKILLS AND TEACH THEM HOW TO GET A JOB AND ABOUT DEVELOPING AND MUSIC AND THINGS KIDS DO AT THIS PLACE AND SEND THEM BACK OUT THERE WITH SKILLS. JUST RECENTLY WE GOT SOMETHING WITH THE YOUTH ON THE YMCA AND HANDIS POINT. THEY'RE LOOKING AT THE PROGRAM WE'VE BEEN DOING. OAKLAND. RICHMOND. ALL THESE PLACES ARE LOOKING AT IT, BUT IT STARTS WITH SAN JOSE IF THE YMCA'S CAN TAKE ON OUR PROGRAM OF GETTING KIDS A TOUGH STREET, PUTTING THEM SOMEWHERE SO THEY'RE NOT KEEP GOING IN JAIL AND WE HAVE THIS CIRCLE OF KIDS, OF ME BEING YOUTH PASTOR AND MICHAEL LOU HAS OPENED UP THE DOOR SO THAT WE CAN GO IN THERE AND TEACH THESE KIDS SOMETHING AND SAN FRANCISCO AND OAKLAND AND ALL OF THEM HAVE OPENED UP THEIR DOORS, SAN JOSE CAN DO THE SAME. THANK YOU.

>> THANK YOU.

>> HI. MY NAME IS PAUL LEE AND I'M SAN JOSE RESIDENT AND ALSO A VICE PRESIDENT OF THE VIETNAM VOTERS OF NORTHERN CALIFORNIA. I'M HERE TO SPEAK ON BEHALF OF OVER 5,000 MEMBERS IN OUR ORGANIZATION. LAST YEAR, MR. LOU WAS GENEROUS ENOUGH TO GIVE US BUILDING SO WE CAN ORGANIZE A COMMUNITY DAY WHILE WE GATHER OVER SEVERAL THOUSAND PEOPLE COME IN TO HELP WITH A FREE HEALTH CHECK UP. HAVE MUSIC, FOOD. SO THIS BUILDING HAS BEEN USED FOR MANY ACTIVITIES FOR. THE ELDERLY TO COME AND TO BOND DURING THE DAY AND DURING THE WEEKENDS. UNFORTUNATELY, IN THE LAST COUPLE OF MONTHS, I LEARNED THAT THERE WAS AN EFFORT FROM CITY OFFICIAL - TRY TO SHUT DOWN THE WHOLE ACTIVITY ON THIS COMMUNITY. THE ONLY COMMUNITY CENTER THAT WAS SELF-FUNDED AND SELF-OPERATED. IT JUST BECAUSE WE DON'T SUPPORT A PARTICULAR CITY COUNCIL. I PERSONALLY, READ SOME OF THE E-MAIL AND I'M ASHAMED. I'M ASHAMED THERE WAS AN EFFORT BETWEEN CITY OFFICIALS USE THE OFFICE TO PERSECUTE THOSE THAT HAVE A DIFFERENT OPINION. I'M ASKING YOU TO DO HONORABLE THING. TO DO THE RIGHT THING FOR THE COMMUNITY. THANK YOU.

>> THANK YOU.

>> NEXT THE SPEAKER PLEASE? SORRY. MR. LEE, COULD YOU COME BACK TO THE PODIUM? THERE'S A QUESTION FROM COMMISSIONER JENSEN?

>> YOU MADE A FAIRLY BROAD ACCUSATION ABOUT CITY OFFICIALS. DO YOU HAVE COPIES OF THOSE E-MAILS THAT YOU CAN PUT INTO EVIDENCE?

>> I REALLY BELIEVE THAT MR. MICHAEL LOU OBTAINED SOME OF THE COPIES AND I BELIEVE HE CAN PROVIDE THEM WITH YOU AND I BELIEVE THERE A PENDING LAWSUIT RIGHT NOW TO THE CITY.

>> OKAY. THANK YOU.

>> THANK YOU. THE NEXT THREE SPEAKERS ARE [CALLING SPEAKERS] EVAN LAYE? PLEASE APPROACH THE PODIUM AND YOU HAVE UP TO TWO MINUTES. PLEASE STATE YOUR NAME. PLEASE PROCEED.

>> GOOD EVENING I'M MR. VAN LEE. ON THE WEEKEND WE GOT AROUND 2000 PEOPLE TO HELP US AND I COME NOW TO SPEAK FOR MICHAEL LOU. HE HELP MY GROUP A LOT TO THE MEET. IN THIS AREA. THANK YOU VERY MUCH.

>> THANK YOU.

>> PLEASE STATE YOUR NAME.

>> MEMBER OF THE COMMISSION. I'M HERE IN A VERY TYPICAL ROLE, JUST A PUBLIC CITIZEN TODAY. I COME WITH ABOUT 30-YEARS OF PLANNING PRESENCE AND I WANT TO SHARE A COUPLE OF THOUGHTS ON THIS PARTICULAR PLAN AMENDMENT. I THINK OVER THE YEARS THERE'S BEEN REALLY DETERMINED BY A SERIES OF PROJECTS THAT HAVE BEEN BROUGHT FORWARD. SOME OF WHICH I'VE REPRESENTED. CHURCHES AND ASSEMBLIES THAT HAVE IDENTIFIED ACQUIRED PROPERTIES AND STARTED CARRY ON THEIR ACTIVITIES THERE. I THINK IT'S BECOME VERY POINTED FACT THAT THE CITY DOESN'T DO AN ADEQUATE JOB OF PROVIDING ADEQUATE GUIDANCE TO ASSEMBLY FACILITIES AND CHURCHES AND DOESN'T REALLY PROACTIVELY DESIGNATE MIXED USE INDUSTRIAL THROUGHOUT THE CITY. THIS STARTED UNDER A PREVIOUS MAYOR. CHURCHES AND OTHER FAITH-BASED COMMUNITIES WENT TO THE MAYOR AND SAID WE REALLY NEED HELP AND CITY AT THAT TIME DID A FAIRLY PROACTIVE ANALYSIS WHERE THESE COULD BE LOCATED. UNDERSTANDING WHY THEY SOUGHT THE LOCATIONS THEY DID. ESSENTIALLY THEY'RE CENTRAL TO THE COMMUNITIES THEY SERVE AND PROBABLY MORE IMPORTANTLY, THEY'RE FACILITIES THEY CAN AFFORD TO OCCUPY. SO I THINK THAT RIGHT NOW, CHURCHES ASSEMBLY USES COME FORWARD ON A PIECE-MILL BASIS AND STAND BEFORE YOU AND PROBABLY MANY OF THEM STAND BEFORE YOU HAVING ILLEGALLY OCCUPIED BUILDINGS, BUT THEY HAVE NO CHOICE. - AS THEY VIEW IT. SO, THEY COME AND HAVE TO DEFEND THEMSELVES AND I THINK THE CITY REALLY NEEDS TO WORK TO PROACTIVELY IDENTIFY PLACES FOR THESE TYPES OF FACILITIES. I MAKE A RECOMMENDATION. THAT'S NOT MY RECOMMENDATION BUT I KNOW IT'S BEEN BROUGHT FORWARD THAT THE GENERAL TASK FORCE DEAL WITH THIS ISSUE. I KNOW THE COUNCIL HAS MADE SOME COMMENTS. LET ME QUICKLY MAKE ONE OTHER COMMENT. THAT IS THAT THIS ALSO ALWAYS COMES WITH THE CONCEPT NOW OF NO, NOT LOSS OF INDUSTRIAL'S FACE. I ASKED THE PLANNING STAFF ONCE IN A COMMUNITY DEVELOPMENT ROUNDTABLE ABILITY WHETHER OR NOT THERE HAD BEEN SMALL GENERAL PLAN AMENDMENTS MADE OVER THE LAST SEVERAL YEARS WHERE IN FACT, SOMEBODY SAID I WANT TO TAKE MY PROPERTY INTO INDUSTRIAL, AND IF THAT'S CASE, IT SEEMS THERE SHOULD BE A BANK. THE CHURCHES AND ASSEMBLY USES COULD COME AND SAY, MY NET OFFSETTING THING IS IN FACT, SOMEBODY ELSE'S PROPOSAL TO DO SOMETHING. I WOULD ASK YOU TO ASK THAT QUESTION TO THE STAFF AND SEE IF IN FACT PROJECTS LIKE THIS COULD TAKE -

>> THERE'S A QUESTION FROM COMMISSIONER KAMKAR, PLEASE?

>> THANK YOU MR. CHAIR AND I HIGHLY RESPECT YOUR OPINION. YOUR EXPERIENCE IN THE FIELD. SO I WOULD LIKE TO PUT THE QUESTION TO YOU. IF YOU WERE IN OUR SHOES AND YOU WERE FACED WITH THIS QUESTION AS TO AN OVERLAY AND TO ME, I'M NOT AS EXPERT AS YOU IN THIS FIELD. AN OVERLAY TO ME DOESN'T TAKE AWAY THE HEAVY INDUSTRIAL USE. THAT CAN STILL OCCUR IF AND WHEN, IT IS APPROPRIATE. BUT IT JUST ADDS OPTIONS TO IT. WHAT WOULD YOU HAVE DONE IN THIS CASE STRICTLY LOOK AT THE EVIDENCE.

>> I THINK THAT'S A VERY COGENT POINT. I THINK ALSO COMBINED THAT IN TODAY'S ECONOMIC CONDITIONS AND WAITING FOR SOME FORM OF RECOVERY I THINK THE CITY HAS TO ACKNOWLEDGE THERE MAY BE TEMPORARY USES THAT CAN OCCUPY INDUSTRIAL BUILDINGS AND I THINK AS MR. LOU INDICATED, WHEN THE ECONOMY TURNS AROUND THE ECONOMIC VALUE OF WHAT HE'S GETTING OUT OF THIS TYPE OF USE WILL PROBABLY BE TRANSCENDED BY A STRONG PUSH FOR HEAVY INDUSTRIAL USES AND ECONOMY WILL CURRENT THE TEMPORARY NATURE OF THESE KINDS OF THINGS SO IT DOESN'T ERASE THE UNDERLYING LAND-USE TO THE EXTENT THE MARKET IS OUT THERE. I THINK THE OTHER VALID POINT. I REALIZE IT'S DIFFICULT TO CONSIDER THIS BUT I THINK IT COULD BE A CONSIDERATION IN THE CITY OF SAN JOSE AND I KNOW THE

CHAMBER OF COMMERCE IS INTERESTING IN THIS. IT'S ABOUT CREATING JOBS IF WE CONTINUE TO ALLOW BUILDINGS TO BE OCCUPIED AND NOT HAVING JOBS WE HAVEN'T DONE THE COMMUNITY.

>> I WOULD APPRECIATE IF YOU SPEAK TO THE ANSWER OF COMMISSIONER KAMKAR'S QUESTION.

>> ANYWAY, THANK YOU FOR YOUR POINT AND IT IS WELL TAKEN.

>> ACTUALLY, I HAVE ANOTHER QUESTION FOR YOU. YOU WERE WORKING WITH THE APPLICANT RIGHT? YOU REPRESENT THE APPLICANT?

>> NO, DO NOT HAVE THE CONTRACT WITH THE APPLICANT. I HAVE WORKED WITH THE APPLICANT IN THE PAST.

>> THANK YOU. THERE ARE TWO ADDITIONAL SPEAKERS. TIM AND BRIAN PLEASE APPROACH THE PODIUM.

>> GOOD EVENING LADIES AND GENTLEMEN, MY NAME IS JEN. THE BUILDING OFFICE THE HOUSE OF THE VIETNAMESE MEMBER COMMUNITY OF WHICH I'M A MEMBER. THIS IS A GOOD LOCATION FOR US TO GATHER FOR OUR MANY COMMUNITY ACTIVITIES AND MR. MICHAEL LOU IS VERY KIND AND HAPPEN TO OWN, THEREFORE I'M HERE TO SUPPORT HIS REQUEST AND COULD APPRECIATE A VERBAL DECISION. THANK YOU.

>> THANK YOU VERY MUCH.

>> MR. CHAIR AND MEMBERS OF THE PLANNING COMMISSION, FOR 3 1/2 DECADES THE REFUGEES FROM VIETNAM HAS VIEWED IT AS OUR NEW HOME. WE HAVE WORKED HARD TO WEAVE THE FABRIC OF THIS GREAT CITY. WE PAY TAXES AND RAISE OUR FAMILIES AND BUILD OUR COMMUNITIES FOR YEARS TO COME. ALONG WITH THE COMMUNITY LEADERS THAT HAVE SPOKEN BEFORE WE WE'RE HERE TO SUPPORT THE ZONING BUILDING TO HAVE THE MIXED INDUSTRIAL OVERLAY. WE DON'T LISTEN TO PUBLIC WORD. ALWAYS DESIGNATED SOME 30 YEARS AGO. HOWEVER, LONG WHEN IT WAS ORIGINALLY INTENDED BUT IT'S CONSTANTLY CHANGING. COMMUNITY CENTERS STRUGGLED TO FIND LOCATIONS TO CARRY OUT MISSIONS OF PUBLIC SERVICE. I'M ONE OF THE MEMBERS OF THE TASK FORCE. WITH A CURRENT BUDGET OF 2.75 MILLION DOLLARS. ALL FROM TAXPAYER. APPROXIMATELY 100,000 DOLLARS OF TAXPAYER MONEY. COUNCILMEMBERS AND CITY DECIDES TO FORWARD THE CREATION OF THE VIETNAMESE-AMERICAN CENTER UNTIL 2013. THREE OR FOUR YEARS FROM NOW. WE HAVE THESE BUILDING THAT ARE ALREADY VIETNAMESE COMMUNITY CENTERS. I THINK MOST OF YOU HAVE AT ONE TIME OR ANOTHER COME TO THE TENTH STREET TO VISIT AN EVENT THERE. RELIGIOUS, CULTURAL, POLITICAL AS WELL AS NON-PROFIT HAVE MADE THIS BUILDING AS HOME. ALLOW GOOD SERVICES AND BENEFIT THE VIETNAMESE AND ASIAN-AMERICAN COMMUNITY IMMENSELY BUT ALSO THE GREATER COMMUNITY AS A WHOLE FROM CHARITY, RELIGIOUS GALLERIES. TO EVENTS WITH BILL CLINTON.

>> YOUR TIME IS UP.

>> THANK YOU VERY MUCH. THE APPLICANT HAS UP TO FIVE MINUTES TO MAKE A REBUTTAL IF YOU SO CHOOSE.

>> JUST WANT TO MAKE SEVERAL POINTS. JUST ESSENTIALLY, I WOULD WISH THAT THE MEMBERS OF THE PLANNING COMMISSION WOULD LOOK FORWARD ON THE FUTURE USE OF THIS PARTICULAR BUILDING RATHER THAN LOOKING BACKWARD. THERE'S A LOT OF ACTIVITY THAT HAS OCCURRED FOR THE LAST SEVERAL YEARS, BUT I THINK THAT THE MOST IMPORTANT POINT I LIKE TO MAKE IS THAT THE MIX INDUSTRIAL STILL ALLOWS THE HEAVY INDUSTRIAL TO REMAIN IN TACT AND IT MIGHT BE A TEMPORARY SITUATION, RATHER THAN HAVING ANOTHER EMPTY SHELL OUT THERE ALONG WITH MILLIONS OF MILLIONS OF EMPTY SHELL BUILDINGS, SOME USE CAN OCCUR THAT CAN BENEFIT THE COMMUNITY IN THE MEANTIME. AND ALL I'M ASKING FOR YOU TODAY, IS AN OPPORTUNITY JUST AS A MEMBER OF THE DISTRICT 7, A BUSINESS MEMBER FOR THE LAST 14

YEARS. I BUILT AND MADE A LIFE IN DISTRICT SEVEN THAT WOULD SETTLE BUSINESSES AND I'M URGING YOU TO GIVE ME AN OPPORTUNITY TO MOVE FORWARD. IT DOESN'T MEAN TODAY, YOU'RE APPROVING THE PROJECT. ALL I'M ASKING FOR IS AN OPPORTUNITY FOR THE PROJECT TO BE PROCESSED. THANK YOU.

>> THANK YOU. PLEASE STAY THERE'S A QUESTION FROM COMMISSIONER JENSEN.

>> THANK YOU. MR. LOU, ONE OF YOUR SUPPORTERS MADE A VERY SERIOUS ACCUSATION ABOUT A COUCLIMEMBER. DO YOU HAVE TO THE E-MAIL RECORD THEY'RE TALKING ABOUT?

>> MRS. COMMISSIONER JENSEN, I'M A MEMBER OF THE PUBLIC IS MAKING STATEMENT AND GOING IN TODAY, I REALIZE ON THE STAFF REPORT IT'S ELUDING TO OTHER ENFORCEMENT ACTION. I'VE ASKED EARLIER, WITH THE - WITH MY ATTORNEY AND HE IS ADVISING ME AT THIS PARTICULAR TIME IF I COULD REFRAIN FROM COMMENTING ON THAT. BECAUSE OF PENDING LITIGATION. AS FOR THE DISCOVERY PROCESS GOING FORTH BUT THERE ARE DOCUMENTATIONS THAT I DO HAVE INFORMATION SESSION BUT AT THIS PARTICULAR TIME, THE BEST ANSWER TO TELL YOU IS BECAUSE OF PENDING LITIGATION, I HAVE TO REFRAIN FROM ANSWERING THAT.

>> UNDERSTOOD. REGARDING SOME OF THE CODE ENFORCEMENT ACTIONS THAT HAVE BEEN TAKEN HAVE YOU TAKEN GOOD FAITH STEPS TO CORRECT SOME OF THE ISSUES?

>> ABSOLUTELY.

>> THANK YOU.

>> THANK YOU. MOTION TO CLOSE PUBLIC HEARING? ALL IN FAVOR? OKAY. STAFF? COULD YOU CLARIFY SOME OF THE POINTS IN PARTICULAR, THE HISTORY OF THE APPROVAL PROCESS OR ANY KIND OF PLANNING PROCESS IN RELATION TO THIS SITE IN TERMS OF WHETHER THERE WERE ANY COMMITMENTS, WHETHER THEY WERE VERBAL OR WRITTEN COMMITMENTS ON WHAT POSSIBLE REZONING COULD HAVE HAPPENED AT THIS SITE, AND AS WELL TO CLARIFY ON SOME OF THE CODE ENFORCEMENT VIOLATIONS? THANK YOU.

>> THANK YOU, MR. CHAIR, THE CURRENT ZONING BEING HEAVY INDUSTRIAL DOES NOT CURRENTLY ALLOW THE ASSEMBLE USES ON THE SITE. IT REQUIRES THE INDUSTRIAL TO BE IN PLACE AND THEN CONDITIONAL USE PERMIT IS REQUIRED, AS STATED IN THE STAFF REPORT, THERE HAVE BEEN MUCH COMMUNICATION BETWEEN THE CODE ENFORCEMENT DIVISION AND PROPERTY OWNER REGARDING THE USES THAT ARE ALLOW AND THOSE NOT ALLOWED AT THAT, THE SUBJECT SITE. THE ASSEMBLE USES THAT HAVE BEEN OCCURRING FOR THE LAST FEW MONTHS HAVE NOT BEEN PERMITTED. THERE'S NO ENTITLEMENT FROM THE PLANNING DEPARTMENT AND THERE'S NO OCCUPANCY ALLOWED FOR THE BUILDING CODE. AS STATED IN THE STAFF REPORT, THE PROPERTY OWNER HAS BEEN NOTIFIED THAT THE ASSEMBLE USES OF HUNDREDS OF PEOPLE AND EVEN HAD A GENTLEMEN STATE THOUSANDS OF PEOPLE HAVE ASSEMBLED AT THE SITE WITHOUT THE PROPER OCCUPANCY WITHOUT THE PROPER FIRE REGULATIONS AND EXITING AND PROPER USE OF KITCHEN TYPE APPLIANCES USED FOR INDOOR COOKING AND EFFECTIVELY HAVING HUNDREDS OF PEOPLE'S LIVES POTENTIALLY EFFECTED IN AN UNOCCUPIED BUILDING. IT'S SUPPOSED TO BE A WAREHOUSE BUILDING NOT ASSEMBLY. THERE HAS BEEN A HISTORY OF THAT CONTACT INFORM ME THAT MR. LOU, GOING BACK THROUGH ORIGINALLY, IT WAS RESPONDED IN AUGUST OF 2008 AND HE WAS INFORMED IN SEPTEMBER - SORRY. AUGUST 2009, NOTIFIED AGAIN IN SEPTEMBER OF 2009 AND THERE ENDED UP BEING RESTRAINING ORDER TO PREVENT ASSEMBLE USES AT THE SITE AND E-MAILS WERE RECEIVED AND MICHAEL LOU INFORMED ME THIS PAST WEEKEND THERE WERE USES ON THE SITE AS WELL. AND HE CAN - MIKE FROM THE CODE ENFORCEMENT DIVISION CAN ALSO TALK ABOUT THE ASSEMBLIES THAT HAVE OCCURRED.

>> THANK YOU. MIKE. MR. LOU CONTINUES TO ALLOW ASSEMBLE USES ON A PROPERTY NOT DESIGNED TO ALLOW SUCH. THIS CREATED AND IMPOSED A IMMEDIATE THREAT TO THE MEMBERS OF SAN JOSE. THE CITY HAS GIVEN WRITTEN WARNINGS THAT IT CANNOT BE USED FOR THESE USES

UNTIL THE CITY COUNCIL MAKES A CHANGE IN THE GENERAL PLANNING OF THE PROPERTY. HE CONTINUES NOT TO COMPLY WITH THE CITIES ORDER RESULTING IN A RESTRAINING ORDER AND THAT IS ISSUING COURT FOR THEIR CONSIDERATION.

>> YES. COMMISSIONER KAMKAR?

>> THANK YOU VERY MUCH, MR. CHAIR. IF THE PLANNING COMMISSION WERE TO ALLOW ADDITIONAL USE, THEN THAT TAKES YOUR CONCERN AWAY?

>> NO, SIR. IF THE PLANNING COMMISSION AND COUNCIL MAKE THE SUBSEQUENT PLAN CHANGE. MR. LOU HAS MADE SIGNIFICANT MODIFICATION TO THE STRUCTURE. IT WAS NOT DESIGNED FOR ASSEMBLY-TYPE USES. STAFF IS CONTINUALLY ADVISED MR. LOU FROM THE BEGINNING IF THE PLANNING CHANGE DESIGNATION IS IN ORDER COME IN AND GET THE NECESSARY TYPE PURPOSES PERMITS AND THEN WE'RE HAPPY TO SUPPORT THAT USE. HE CONTINUES TO USE THE PROPERTY FOR ASSEMBLE USES CONTRARY TO STAFF AND CITY RECOMMENDATIONS.

>> BUT AS FAR AS WHEN YOU SAY, I GUESS I HAVE TO HAVE SOME QUESTIONS FOR STAFF. I'LL WAIT.

>> LET ME ASK YOU A QUESTION. THANK YOU FOR SPEAKING AND FOR CLARIFYING THE ISSUE, BUT SO ARE YOU SAYING THAT NONE OF THE INTERIOR IMPROVEMENTS TO CREATE THIS LARGE ASSEMBLY SPACE WITH A STAGE AND ALL OF THAT STUFF, NONE OF THAT WENT THROUGH A PERMIT PROCESS?

>> THAT'S CORRECT. NONE OF THE INTERIOR ALTERATIONS FOR THE USES MR. LOU HAS BEEN SERVED WITH A RESTRAINING ORDER HAVE RECEIVED CITY BUILDING PERMITS OR FIRE PERMITS AND IN SOME CASES BATHROOMS HAVE BEEN REMOVED AND KITCHENS HAVE BEEN INSTALLED AND NONE OF THESE ALTERATIONS AND STRUCTURES HAVE BEEN DONE WITH BUILDING PERMITS OR SUBJECT TO BUILDING INSPECTIONS.

>> DO YOU KNOW HOW LONG THE ALLEGED ILLEGAL ACTIVITIES TOOK PLACE BEFORE THE CITY WAS NOTIFIED AND BEFORE CODE ENFORCEMENT ACTIONS TOOK PLACE?

>> I DON'T, SIR. I CAN ONLY TELL YOU THE COMPLAINT WAS THE MIDDLE TO JULY OR AUGUST OF LAST YEAR.

>> THANK YOU VERY MUCH.

>> THANK YOU.

>> STAFF WOULD LIKE TO FOLLOW UP ON ANOTHER CLARIFICATION WHEN CHAIR THANG DO ASKED IF THERE WERE ANY COMMITMENTS. THERE HAS BEEN NO PRELIMINARY REVIEWS OR REQUESTS FOR REVIEW AND HENCE, PLANNING DIVISION HAS NOT RECOMMENDED ANY PROPOSED CHANGES OR SUGGESTED ANY REZONING ON THIS SO IN ANY STATEMENT SAYING THIS IS WHAT YOU NEED TO DO IF YOU WANTED ANY OF THIS TO BE CONSIDERED SHOULD NOT BE IMPLIED AS A RECOMMENDATION FOR THE COURT OF THE CITY IN THAT PROCESS. IT'S JUST GIVING THE PROPERTY OWNER INFORMATION. IF HE WANTED TO PURSUE SOMETHING THIS IS THE STEPS HE WOULD HAVE TO GO TO. THERE'S NO COMMITMENT BEHIND THE STATEMENTS.

>> THANK YOU.

>> STAFF WOULD ALSO LIKE TO FURTHER CLARIFY THAT THE PROCESS FOR THIS APPLICATION, SHOULD THERE BE A RECOMMENDATION OF APPROVAL BY THE PLANNING COMMISSION AND FURTHER CONSIDERATION OF FOR THE PURPOSE OFFICE CEQA, THAT THERE WOULD HAVE TO BE THE FULL INITIAL - FULL ENVIRONMENTAL REVIEW TO BE DONE OF THE PROPOSED GENERAL PLAN

AMENDMENT AND IT WOULD HAVE TO BE HEARD AT THE REGULAR GENERAL MAN HEARING CYCLE AND THOSE HEARINGS ARE SCHEDULED FOR LATE APRIL, EARLY MAY POTENTIALLY, AND -

>> YEAH, PLANNING COMMISSION. EARLY APRIL COUNCIL. ALSO WHETHER OR NOT IT COULD EACH DO THAT.

>> IN WHICH CASE WE'D BE LOOKING AT THE FALL HEARING CYCLE AND EVEN ONCE THE MIXED INDUSTRIAL OVERLAYS BE APPROVED THE APPLICANT COULD THEN APPLY FOR A USE OF ASSEMBLE USES AT THIS SITE SO THE MIXED INDUSTRIAL OVERLAY IS NOT AN AUTOMATIC ENTITLEMENT SO THE PROCESS WILL STILL TAKE A WHILE AND ANY POTENTIAL TENANTS SHOULD KNOW THIS WILL NOT BE RESOLVED IN THE NEXT FEW WEEKS OR MAYBE MONTHS.

>> THE ISSUE TONIGHT IS WHERE MIXTURE OVERLAY IS APPROPRIATE DESIGNATION FOR THE SITE IN A SENSE, IT'S NOT ABOUT CODE ENFORCEMENT ISSUES AND SO ON AND SO FORTH. COULD YOU TALK A LITTLE BIT ABOUT THE AREA APPEARS TO BE SCATTERED WITH USES THAT ARE NOT STRICTLY INDUSTRIAL. SO COULD YOU CLARIFY AS TO WHY IT IS IMPORTANT TO MAINTAIN THE HEAVY INDUSTRIAL ZONING FOR THE SITE AND WITHOUT A MIXED USE OVERLAY?

>> THANK YOU MR. CHAIR. THE HEAVY INDUSTRIAL ZONING DISTRICT ALLOWS, DOES ALLOW A MULTITUDE THE OF USES SOME OF WHICH JUST REQUIRE YOUTH PERMITS AND OTHERS ARE PERMITTED SUCH AS ASSEMBLY USES AND WAREHOUSE USES. GIVEN THE ECONOMY, INDUSTRIAL LANDS ARE TRADITION MUCH LESS EXPENSIVE THAN COMMERCIAL LANDS. SO THEY LOOK TO GO TO OTHER IS WHERE RENT IS CHEAPER. BUT HOWEVER WHEN INDUSTRIAL LANDS ARE THE DRIVING FORCE OF THE ECONOMY AND THEY'RE NEEDED TO SUPPORT THE REST OF THE CITY AND WHEN WE TALK ABOUT OUR JOBS, HOUSING BALANCE, WHEN WE TALK ABOUT SERVICES THAT SUPPORT EVERYTHING ELSE THAT WE NEED AS PART OF THE GENERAL FUND IN THE CITY OF SAN JOSE A LOT OF THAT COMES FROM INDUSTRIAL EMPLOYMENT AND WHEN WE HAVE THE USES THAT MAYBE ALLOWED SUCH AS ASSEMBLE USE IS WHERE PEOPLE ARE GATHERING AND CHILDREN MIGHT BE OUTSIDE PLAYING THEN INDUSTRIAL USERS AREN'T GOING TO WANT TO GO INTO THOSE AREAS BECAUSE THEY'VE BEEN MODIFIED. THEY'RE NOT - THEY'VE NOW SENSITIVE - THANK YOU. SENSOR RECEPTORS SUCH AS CHILDREN, LARGER GROUPS OF PEOPLE THAT COULD EFFECT IF THEY COULD GO THERE IF I HAVE A MANUFACTURING USE, I WANT TO GET AS FAR AS WAY FROM THOSE PEOPLE WITH ANY SORT OF NEEDS AS POSSIBLE.

>> THANK YOU VERY MUCH. COMMISSIONER KAMKAR?

>> THANK YOU, MR. CHAIR. THANK YOU FOR THE ANALYSIS. YOU KNOW, I HAVE A SLIGHTLY DIFFERENT OPINION THAN WHAT YOU SAID. WHEN YOU TALK ABOUT JOBS AND HOUSING BALANCE, TO ME, THERE'S AN ELEMENT MISSING IN THAT ANALYSIS IN THE SENSE THAT IT'S NOT JUST THIS PROVIDING JUST INDUSTRIAL LAND AND JOBS WILL MAGICALLY APPEAR. YOU HAVE TO PROVIDE THE LAND AND THEN IT'S TAKE THE ENTREPRENEUR LIKE THAT GENTLEMEN TO MAKE JOB AS APPEAR AND WHETHER OR NOT WE REALIZE IT, WE'RE PUTTING SO MANY ADDITIONAL BURDEN ON HIM, MAYBE NOT INTENTLY BUT HE CAN'T DO WHAT HE NEEDS TO DO TO BRING THE JOB NUMBERS UP AND HELP US FIX THE JOB NUMBERS. SO TO ME, ANALYSIS LACK THE QUOTIENT IT TAKES FOR EQUITY AND SOMEBODY WILLING TO PUT THEIR MONEY WHERE THEY'RE MOUTH IS TO MAKE THIS EQUATION WORK IN OUR FAVOR. YOU KNOW, THAT'S ONE THING I WANTED TO SAY. THE SECOND, WHEN WE SAY THOSE USES ARE NOT SAFE, IF I UNDERSTAND CORRECTLY, WE NEVER INSPECTED THEM SO WE DON'T KNOW IF THEY'RE SAFE OR NOT. ALL WE'RE SAYING IS BECAUSE WE HAVEN'T INSPECTED THEM, WE DON'T KNOW. IS THAT CORRECT?

>> THEY HAVE NOT BEEN INSPECTED BY A BUILDING INSPECTOR BUT THE CODE ENFORCEMENT INSPECTION HAS DOCUMENTED AND THE VIOLATION CODES.

>> BUT THAT COULD BE BECAUSE HE DID APPLY FOR A PERMIT.

>> CODE ENFORCEMENT IS EMPOWERED AND DOES KNOW THE BUILDING CODE AND DOES KNOW THE APPLICABLE CODES AND THEY CAN SITE VIOLATIONS SO THEY HAVE BEEN INSPECTED BY OUR CODE ENFORCEMENT INSPECTORS THAT ARE VERY KNOWLEDGEABLE IN ALL THE CODES THEY ENFORCE AND HAVE IDENTIFIED VIOLATIONS OF THOSE CODES. BUILDING PERMIT OR NOT. SO I THINK THE ANSWER TO YOUR QUESTION, IS YES, THEY HAVE BEEN INSPECTED BY PEOPLE WHO HAVE THE AUTHORITY AND THE KNOWLEDGE RELATIVE TO THE CODES THAT THEY ENFORCE AND THEY HAVE CITED VIOLATIONS OF CODES. NOT ONLY BUILDINGS BUT ZONING.

>> SORRY, THAT'S NOT CHEER FOR ME. LET ME ASK APPOINTED QUESTION. WAS THAT SUBSTANDARD CONSTRUCTION?

>> THE QUALITY OF CONSTRUCTION, MIKE CAN ON CAN ANSWER TO BUT THE STAFF REPORT DOES DOCUMENT THE LACK OF FIRE EXITING REQUIREMENTS AND OTHER NECESSITIES.

>> THERE WAS SUBSTANDARD CONSTRUCTION FROM THE STANDPOINT OF THE CITY, BUT THE INITIAL INSPECTION TO YOUR POINT GENERALLY. SOME OF THE USE WHERE IS USED FOR THE ASSEMBLY OF SEVERAL HUNDRED PEOPLE. MOST OF THE UNITS DIDN'T EVEN HAVE THE REQUIRED SECONDARY E CONGRESS SO SHOULD THERE BE A TRAGEDY OF FIRE OR SOMETHING THAT OCCURS ON-SITE, WE IN THE CITY ARE CONCERNED THOSE OCCUPANTS WOULD NOT FIND SAFE A SAME OUT OF THE STRUCTURE.

>> SO, FOR MAINLY IT'S A SAFETY ISSUE AND MAINLY, IT'S HAD HE APPLIED FOR PERMIT THEN ALL THOSE REQUIREMENTS WOULD HAVE BEEN POINTED OUT AND WOULD NOT HAVE BEEN ABLE TO RECEIVE THE PERMIT UNTIL THE IMPROVEMENTS HAD BEEN VERIFIED?

>> THAT'S CORRECT. THE CITY, AS WE LOOK AT THE PERMITTING PROCESS, IT DOES START HERE WITH THIS COMMISSION AND LAND-USE. DOES THE LAND-USE SUPPORT THE IDEA, THE CONCEPT THE BUSINESS OWNER HAS MOVING FORWARD? ASSUMING THAT YOU MEET THAT STANDARD, THEN OF COURSE WE HAVE THE PERMITTING PROCESS FROM THE BUILDING AND FIRE DEPARTMENT TO MAKE SURE THE CONSTRUCTION THAT YOU DO MEETS CURRENT BUILDING CODE STANDARDS NOT JUST FOR YOUR OWN SAFETY BUT FOR THE SAFETY OF THE TENANTS AND OCCUPANTS.

>> - AND ALL OF THAT ALL OF THOSE PROCESSES WERE BY PASSED. WE HAVE A SITUATION WITH AWARE HOUSE THAT WAS AN EMPTY SHELL CONVERTED TO ASSEMBLY USES USED TO ACCOMMODATE HUNDREDS OF PEOPLE, CREATING REAL SAFETY ISSUE FOR THE OCCUPANTS. OUR MAIN CONCERN IS FOR THE OCCUPANTS.

>> WHICH TO ME, MAKES SENSE AND THAT NEEDS TO BE CORRECTED. AT THE SAME TIME, HOW CAN WE WORK WITH HIM SO SAFETY IS NOT COMPROMISED. PROGRESS AND ALSO ENTREPRENEURSHIP IS NOT HAMPERED IS MY CONCERN.

>> IF I MAY ADD TO HIS COMMENTS. THAT IT MAY NOT BE AS SIMPLE AS JUST HAVE THE APPLICANT FILING FOR A PERMIT. HE WOULD HAVE RECEIVED AND ADD ALL THESE ISSUES. THE BUILDING MAY NOT HAVE BEEN APPROVABLE FOR THAT USE ASSEMBLY USE REQUIRES MANY CODE RESTRICTIONS. EXITING, FIRE-RATING, STAGE CONSTRUCTION AND ET CETERA SO, IT MAY OR NOT. IT MAY NOT BE CLEAR THEY COULD GET A PERMIT. BUT ANY WAY, COMMISSIONER JENSEN, PLEASE?

>> ONE OTHER POINT IF I MAY MAKE AND THE BUILDING OFFICIAL AND HE'S RESPONSE TO BELIEVE MAKE SURE OUR BUILDINGS ARE SAFE. WE HAVE SIGNIFICANT CONCERNS ABOUT THE SEISMIC ACTIVITY OF THAT STRUCTURE. WE HAD A 4.0 EARTHQUAKE AND THE BUILDING INSPECTOR WAS CONCERNED BECAUSE IT THE DID NOT MEET SEISMIC STANDARDS FOR A CONSTRUCTION OF THIS STANDARD. WHEN YOU PUT HUNDREDS OF FOLKS IN A BUILDING IT DOESN'T TAKE MUCH TIME FOR AN INCIDENT TO OCCUR TO THE EFFECT THOSE FOLK'S LIVES. AND WE'VE READ ABOUT THESE BACK EAST WHERE FOLKS FIND THEMSELVES NIGHT CLUB SITUATIONS WHERE SOMETHING OR PLACE WASN'T INTENDED FOR A NIGHT CLUB. WORK WITH THE CITY. THERE'S A PROCESS TO GO

THROUGH, AND MR. LOU HAS IGNORED THE CITIES REQUEST AND CONTINUED TO OPERATE IN A FASHION THAT CREATES SAFETY ISSUE FOR THE OCCUPANTS.

>> THEY'VE A QUESTION FOR YOU AS WELL. IF, GIVEN THAT IT'S HEAVY INDUSTRIAL AND IF THE COMMISSION WERE TO SUPPORT THE PLANNING RECOMMENDATION AND IT REMAINED HEAVY INDUSTRIAL AND TENANTS HAD TO MOVE OUT, IF MR. LOU WERE TO GO BACK AND TRY AND MAKE CORRECTIVE ACTIONS, BUILD THE DOORWAYS AND SECONDARY ACCESS NEEDED AND GET PERMITS FOR THE KITCHEN AREAS THAT ARE NEEDED AND MAKE THE CORRECTIVE ISSUES REGARDING BATHROOMS AND SO FORTH, WOULD THE HEAVY INDUSTRIAL USE PERMIT THOSE SORT OF ITEMS AND COULD HE DO THAT - I'M SEEING A HEAD SHAKING, NO.

>> NO DISRESPECT MEANT. AGAIN, THE CURRENT ZONING IN GENERAL PLANS DESIGNATION, HEAVY INDUSTRIAL, BOTH. REALLY IS WHAT PRESCRIBES THE LAND-USE FOR SITE. REGARDLESS OF THE CORRECTIVE ACTIONS THAT ARE NEEDED THE ASSEMBLY USES, HE MAY NEED TO THE PUT THE BUILDING BACK IF YOU - IF HE WANTS TO DO IT TO AWARE HOUSE. NOW HE DOESN'T HAVE SUFFICIENT WAREHOUSE USE. AT THIS POINT IT'S AN OPPORTUNITY TO BRING IT BACK TO THE REAL LAND-USE QUESTION. IT'S NOT ABOUT WHAT HE CAN DO TO MAKE IT TO HAVE THOSE USES, AT THE MINIMUM, THE LAND-USE DESIGNATION HAS TO BE SET SO IT CAN BE EVEN CONSIDERED AND THAT WOULD BE UNDER THE HEAVY INDUSTRIAL ZONING AND HEAVY INDUSTRIAL PLAN. CURRENTLY, IT CANNOT. THE ONLY OPPORTUNITY, MAY BE IF HE WERE TO GET, IN THIS CASE HE'S ASKING FOR A MIXED INDUSTRIAL OVERLAY DESIGNATION WHICH IF YOU WERE TO LOOK IN THE ZONING CODE UNDER HEAVY INDUSTRIAL, WOULD THEN ALLOW US TO CONSIDER THINGS LIKE CHURCHES, OR RELIGIOUS ASSEMBLY. I JUST HAVE MY LITTLE ZONING THINGS IN HERE. BUT OTHER - IF YOU LOOK UP UNDER THE HEAVY INDUSTRIAL LAND-USES THERE WOULD BE CONDITIONAL IF THEY HAVE THE GENERAL PLAN OF MIXED INDUSTRIAL OVERLAY. AND THEY'RE VERY LIMITED EVEN AT THAT. I'M NOT SURE THEY WOULD NECESSARILY ALLOW EVEN THAT MIX OF TENANTS THAT CAME BEFORE YOU. YOU CAN CONSIDER SOCIAL SERVICES AGENCIES WITHOUT A MIXED INDUSTRIAL OVERLAY. CHURCHES AND ASSEMBLIES DO HAVE TO HAVE A MIXED INDUSTRIAL OVERLAY.

>> BRING IT BACK TO THE LAND-USE QUESTION. IT REALLY IS, AND TO KIND OF TALK TO ANOTHER PERSON'S POINT, WE HAVE OVER THE YEARS TAKEN AWAY AND PUT BACK, OR PUT NEW MIXED INDUSTRIAL OVERLAY SO IT'S NOT THAT WE DID THE IT BACK IN THE LAST ECONOMIC DOWN TURN AND HAVEN'T DEALT WITH IT SINCE. WE HAVE MADE MO MODIFICATIONS AND REVISITED THOSE AREAS WE ORIGINALLY IDENTIFIED AS PRIME INDUSTRIAL AND EVEN WITH THE MOST RECENT EMPLOYMENT TRADE WORK. INDUSTRIAL LAND FRAMEWORK WE REVISITED THAT WHOLE LAND-USE QUESTION AND EVEN AS A RESULT OF THAT WE CREATED A NEW ZONING OF DESIGNING COMMERCIAL. WE HAVE BEEN LOOKING AT THE LARGER THINGS OVERTIME, AND I THINK IT'S REALLY NOT A FAIR STATEMENT TO SAY WE JUST DID IT ONCE AND HAVE NEVER TOUCH THE ADDED IT SINCE.

>> THAT'S NOT WHAT I'M ASKING. I'M ASKING IF UNDER HEAVY INDUSTRIAL, IF HE WOULD BE ABLE TO PUT IN SECONDARY ACCESS AND A KITCHEN AND THE REMOVE OR BATHROOMS AND DO THOSE SORTS OF THING AS A HEAVY INDUSTRIAL. AS A SECOND WE QUESTION, I BELIEVE THIS IS A 2-STORY IF IT WERE A VACANT WAREHOUSE DOES THAT MEAN THE SECOND STORY NEVER EXISTED. I CAN'T IMAGINE YOU WOULD WANT TO MANUFACTURE ANYTHING ON THE SECOND FLOOR.

>> IT WOULD BE LOOKED AT AND AT SOME POINT IT WOULD SUGGEST THAT IT WOULD GO ON BEYOND ANY INDUSTRIAL USER THE BUILDING OWNER MAY CONSULT BUT BUT THERE ARE INDUSTRIAL USES THAT REQUIRE A CERTAIN NUMBER OF BATHROOMS IF YOU WANTED TO PUT IN MORE EXITS THAN HE NEEDED, I DON'T THINK HE WOULD BE PRECLUDED FROM DOING THAT, BUT IT'S REALLY KIND OF GOING TO SUGGEST, WHY IS HE PUTTING IN A LITTLE KITCHEN, MAYBE IT NEEDS TO BE AN INDUSTRIAL SIZED KITCHEN. AGAIN THEY DO LOOK AT TENANT APPROVEMENT AND TRY TO ALIGN THEM APPROPRIATELY WITH THE ZONING DISTRICT AND IF SOMETHING IS GOING ON SUGGESTING IT'S NOT GOING TO BE UP TO WHAT'S REQUIRED FOR THAT INDUSTRIAL USE, THE BUILDING DIVISION MAY CONSULT THAT IT'S NOT LIKE HE CAN MAKE ANY IMPROVEMENTS PER SE

BECAUSE WE DON'T WANT TO AGAIN, ALLOW SOMETHING THAT'S - IF IT'S SUPPOSED TO BE INDUSTRIAL CATERING OR KITCHEN AND IT DOESN'T MEET THAT - THAT WOULD BE QUESTIONED.

>> I'VE WORKED IN MANY, MANY MANUFACTURING BUILDINGS AND EVERY EMPLOYER PROVIDED A KITCHEN JUST AS A PROVISION TO EMPLOYEES AS A PLACE TO GO AND COOK AND CLEAN UP TO NOT HAVE TO GO OFF-SITE.

>> TERM KITCHEN AGAIN YOU'RE GOING TO BE DOING LARGE-SCALE COOKING, WHAT -

>> I UNDERSTAND. SO THE QUESTION ABOUT THE SECOND FLOOR. WAS THE SECOND FLOOR PART OF THE ORIGINAL STRUCTURE? OR WAS THAT ALSO AN UN-PERMITTED ADDITION?

>> USES THAT WOULD TYPICALLY BE ALLOWED IN THE HEAVY INDUSTRIAL ZONE IF THERE WAS CODE ENFORCEMENTS INTENTION TO TAKE AWAY OR DEPRIVE MR. LOU FROM THE HEAVY INDUSTRIAL LAND-USE REGULATIONS. WE'VE TOLD HIM FROM THE BEGINNING THAT THE ASSEMBLY USES ARE NOT PERMITTED BUT YOU CERTAINLY CAN USE THE PROPERTY ASSUMING ANY ALTERATIONS ARE DONE WITH BUILDING PERMITS AND FIRE PERMITS THAT HE CAN USE WITH IT HEAVY INDUSTRIAL. WE'RE NOT TRYING TAKE AWAY HIS USE OF THE PROPERTY BUT WE WANT TO MAKE SURE HE'S USING IT FOR WHAT'S ALLOWED THE CURRENT ZONING DISTRICT. SOME OF THE UNITS HAVE STAIRWAY ACCESS UP TO THE SECOND FLOOR. WE HAVE INSPECTED EVERYONE, WE'VE ONLY FOCUSED ON THE UNITS USED FOR ASSEMBLY-TYPE PURPOSES. THAT MAY BE INVESTIGATED DOWN THE LINE AFTER LITIGATION ISSUES ARE RESOLVED.

>> APPRECIATE YOU BRINGING THE ATTENTION TO SOME OF THE TRAGIC CONSEQUENCES SEEN AROUND THE WORLD WHERE UN-PERMITTED USES WERE TAKING PLACE AND HUNDREDS OF PEOPLE HAVE DIED. CAN YOU TELL ME, DO YOU THINK REGARDING SEISMIC STANDARDS THAT BUILDING COULD BE RETROFITTED AND AGAIN, I HAVE SEEN A NUMBER OF - AFTER THE 1989 EARTHQUAKE, STANDARDS MODIFIED AND IS THIS A BUILDING WITH THE OPPORTUNITY TO RETRO-FIT TO BECOME SEISMICALLY SAFE?

>> WE THINK SO.

>> GREAT.

>> THANK YOU VERY MUCH. I WOULD LIKE TO REMIND THE COMMISSION THAT THE ITEM BEFORE YOU TONIGHT IS A LAND-USE ISSUE. AND I WOULD DIRECT YOUR ATTENTION TO PAGE TWO OF YOUR STAFF REPORT WHERE I'M HOPING YOU HAVE A COLORED COPY. THEY'VE A BLACK AND WHITE, BUT YOU CAN SEE THE PREDOMINANT PATTERN OF THE PLAN IS HEAVY INDUSTRIAL AND WHILE THERE'S SOME LIGHT INDUSTRIAL AND THEN OLDER MOBILE HOME PARK IN THE VICINITY, THE PRIMARY CHARACTER IS HEAVY INDUSTRIAL AND AS WE GO THROUGH OUR GENERAL PLAN UPDATE PROCESS, SOME OF YOU KNOW, THERE'S A LOT OF DISCUSSION ABOUT WHERE ARE WE GOING TO PUT THE JOBS? MONTEREY CORRIDOR HAS BEEN A KEY EMPLOYMENT AREA AND IS ONE OF THE FEW PLACES WHERE YOU HAVE THE POTENTIAL OF PUTTING MUCH MORE DENSITY OF JOBS, SUCH AS HEAVY INDUSTRIAL AND AT THIS HEAVY INDUSTRIAL AREA, QUITE HONESTLY IS HELPING US ATTRACT THE CLEAN TECH BUSINESSES AND SOLAR COMPANIES AND SOLAR MANUFACTURING COMPANIES TO SAN JOSE, SO THE ISSUE BEFORE YOU IS REALLY ONE OF LAND-USE. THERE ARE SOME SPECIFIC FACTS ASSOCIATED WITH THE CODE CASE. THE DECISION BEFORE YOU TONIGHT IS DO YOU WANT TO RECOMMEND TO THE CITY COUNCIL THAT THIS APPLICATION BE DENIED OR THAT IT SHOULD CONTINUE IT'S PROCESSING SO THAT WAY, THE DECISION ON THE LAND-USE CAN OCCUR AT A LATER TIME. THANK YOU.

>> THANK YOU DIRECTOR. COMMISSIONER JIM ZITO?

>> THANK YOU MR. CHAIR. I'M DEBATING IF I SHOULD RECUSE ONLY BECAUSE I CAME IN LATE AND DIDN'T HEAR MOST OF THE PUBLIC COMMENT THOUGH IT SEEMS TO BOIL DOWN TO WHAT STAFF SAID, THIS IS A LAND-USE ISSUE. THE ONE QUESTION I POST TO THE COMMISSION IS, IF A MIXED USE

OVERLAY IS GRANTED FOR THIS THE PROPERTY, WILL IT PRECLUDE THE USES SURROUNDED FOR ANYTHING LIKE ANY LENGTH OF TIME OR INDEFINITELY AND THAT'S ONE QUESTION I WOULD WANT ANSWERED, IS IT SOMETHING THAT YOU CAN DO - SEEMS TO ME ONCE YOU MAKE A GENERAL PLAN CHANGE, IT'S THERE. SO TURN AROUND AND SAY, THREE YEARS WE'RE NOT GOING TO ALLOW CERTAIN USES WHEN A MIXED USE OVERLAY IS AN APPLIED WOULD BE VERY DIFFICULT TO DO.

>> THANK YOU. DIRECTOR?

>> THAT'S AN EXCELLENT QUESTION. AS ONE OF THE SPEAKERS MENTIONED, THERE ARE NOT AS MANY MIXED INDUSTRIAL OVERLAY SITES WITHIN SAN JOSE SO THE ONES WE HAVE ARE VERY PRECIOUS TO US. SO TO CONSIDER A GENERAL PLAN AMENDMENT AS A TEMPORARY TYPE OF SITUATION IS REALLY NOT A REALISTIC OPTION. ONCE THAT LAND-USE CHANGES AND THE USE IS REALLY ESTABLISHED, IT WILL BE VERY DIFFICULT TO REVERT IT BACK TO CLEAN TECH OR SOME OTHER BUSINESS.

>> THANK YOU DIRECTOR. COMMISSIONER JIM ZITO, WERE YOU DONE WITH YOUR COMMENT?

>> YES. ESSENTIALLY, I WILL NOW BE RECUSED.

>> COMMISSIONER CAHAN?

>> THANK YOU, MR. CHAIR. THE ISSUE BEFORE US TONIGHT - IT'S MY UNDERSTANDING WHAT WE'RE TRYING DO IS SAY WHETHER THEY CAN GO ON TO GET THE ENVIRONMENTAL REVIEW OR NOT SO. IT'S NOT THAT WE WOULDN'T ACTUALLY BE MAKING CHANGE RIGHT NOW. WE WOULD JUST ALLOW THEM TO CONTINUE THE PROCESS?

>> THAT'S ONE OPTION. WHAT USUALLY WE BRING APPLICATIONS FOR EARLY CONSIDERATION, WHEN THEY RAISE SERIOUS POLICY CONCERNS. SO IT'S REALLY ONE WAY OF LETTING THE APPLICANT KNOW AND PUBLIC THAT THIS RAISES SO MANY SERIOUS POLICY CONCERNS. IS IT REALLY WORTH ALL THE APPLICANT'S TIME AND MONEY TO CONTINUE TO INVEST IN THIS OR SHOULD WE JUST CALL THE QUESTION NOW. STAFF'S RECOMMENDATION FOR DENIAL WILL BE THE SAME TONIGHT AS IT WILL BE DOWN IN SEPTEMBER IF THE COUNCIL DECIDES TO CONTINUE PROCESSING. SO FOR THE BENEFIT OF THE APPLICANT WE WANT THAT DECISION TO BE MADE EARLY SO IF THIS IS TONIGHT, EVERYONE SAVES A LOT OF TIME AND MONEY. THE PLANNING STAFF RECOMMENDATION IS NOT GOING TO CHANGE. TO CONTINUE TO ALLOW ADDITIONAL INFORMATION TO COME FORWARD AND THEN THE COUNCIL THAT IS BENEFIT OF THAT CLEARANCE TO THEN MAKE THE CHOICE. FROM THE PLANNING DEPARTMENT'S PERSPECTIVE, THE FACTS BEFORE YOU TONIGHT ARE UNCHANGED FROM A POLICY STANDPOINT.

>> AND WHATEVER WE DECIDE THIS EVENING, IT WILL GO TO THE CITY COUNCIL?

>> THAT IS CORRECT.

>> THANK YOU.

>> COMMISSIONER JENSEN?

>> THANK YOU, MR. CHAIR. I FIRST WOULD LIKE TO RECOGNIZE AN APPRECIATE EVERYBODY WHO IS USING THIS FACILITY AND DOING SUCH TREMENDOUS WORK AND FOR OUR 22-YEAR-OLD MAGAZINE EDITOR, KUDOS TO YOU AND I HOPE THAT REGARDLESS OF THE OUTCOME HERE, YOU FIND A WAY TO HAVE YOUR 35 EMPLOYEES AND ALL THE PEOPLE THAT YOUR PUTTING TO WORK HOUSE SOME PLACE AND I DON'T THINK A SPECIFIC LOCATION IS THE ONLY THING YOU'RE GOING TO NEED AND I BET THERE'S A LOT OF ARTISTIC ENTREPRENEURS THAT WOULD LOVE TO HELP YOU IN THE AREA. THE QUESTION OF BALANCING JOBS. WHETHER HEAVY INDUSTRIAL OR IN EXCESS OF 35 PEOPLE CURRENTLY BEING EMPLOYED ON-SITE I HAVE A STRUGGLE BALANCING WHETHER A FACILITY OF THIS SIZE - IF IT WERE ENGAGED IN MANUFACTURING OR SOME OTHER HEAVY

INDUSTRIAL, WOULD THEY IN FACT EMPLOY MORE PEOPLE, WOULD THOSE PEOPLE BE EMPLOYED AT HIGHER WAGES THAN ARE CURRENTLY THERE - THAT'S KIND OF A JUDGEMENT DECISION THAT I DON'T INTEND TO MAKE. THAT'S NOT A LAND-USE ISSUE AND I DON'T PLAN TO PLACE A VALUE ON THE JOBS AND PEOPLE CURRENTLY EMPLOYED THERE, IF THEY'RE CURRENTLY MORE VALUABLE JOBS THAN THOSE THAT MIGHT BE PROVIDED WITH THE HEAVY INDUSTRIAL USE. THIS IS A REALLY CHALLENGING ITEM AND FOR THE SAKE OF FULL DISCLOSURE, I DID SPEAK TO MR. LOU ABOUT THIS ITEM THE, AND I'M VERY SORRY TO HEAR ABOUT SOME OF THE ISSUES THAT HAVE CROPPED UP AND I'M SORRY TO HEAR ABOUT SOME OF THE CODE ENFORCEMENT ISSUES THAT HAVE COME UP. I THINK WHAT IS MOVING ME IS THE SERIOUS DISCUSSION ABOUT THE PERSONAL SAFETY ISSUES FOR THOSE CODE ENFORCEMENT ITEMS THAT NEED TO BE CORRECTED. - AND I CERTAINLY DO NOT WANT TO HEAR ABOUT ANYBODY GETTING IN TROUBLE, HURT OR INJURED AND SO I WILL ACTUALLY BE VOTING IN SUPPORT OF THE DENIAL. THANK YOU.

>> THANK YOU COMMISSIONER JENSEN. COMMISSIONER KAMKAR?

>> THANK YOU, MR. CHAIR. YOU KNOW, I SEE IT THAT ACTUALLY A LITTLE BIT MORE STRAIGHT FORWARD. I SEE IT'S A AND I'M GOING BACK TO WHAT THE DIRECTOR SAID. SAFETY BASIS SO WHEN LIKE A HI-TECH OR SOLAR OR CLEAN TECH INDUSTRY MOVES IN. WHILE I WHOLEHEARTEDLY AGREE AND I PUT MYSELF IN LANDOWNERS AND BUILDING OWNERS SHOES, YOU KNOW, I WOULD NEVER - YOU KNOW GETTING TO CONTRACT WITH ANYBODY THAT MIGHT TAKE AWAY THAT OPTION FROM ME. SO I THINK THAT WOULD BE IN HIS MIND TOO. AND WHOEVER HE WORKS WITH, HE ALWAYS LEAVES THAT POSSIBILITY OPEN THAT PRODUCER, MANUFACTURER, HEAVY INDUSTRIAL WOULD MOVE IN AND TAKE PROPER USE OF THIS PLAN, SO I DON'T SEE THAT BEING AN ISSUE FOR US. I THINK HE WILL BE MINDFUL OF THAT. I THINK WE WOULD ALL BE SUPPORTIVE OF THAT IF THAT HAPPENS. I'M LOOKING AT THE MEANWHILE. DO WE WANT ANOTHER BUILDING TO BE EMPTY? DO WE WANT SO MANY GOOD WORK TO HAVE TO FIND A NEW PLACES. I HAVE TO GO THE OTHER WAY. I GUESS I DON'T SUPPORT THE DENIAL. I WOULD SUPPORT THE CHANGE, BECAUSE I FEEL THIS WOULD BE BENEFICIAL TO PROVIDE AN OPTION. IT DOESN'T TAKE AWAY THE HEAVY INDUSTRIAL POSSIBILITY BUT GIVES YOU FLEXIBILITY AND THAT'S WHAT WE NEED TO DO.

>> EITHER YOU OR COMMISSIONER JENSEN BE WILLING TO ATTEND A MOTION?

>> I WOULD LIKE TO MAKE A MOTION IF THAT'S OKAY. I WOULD LIKE TO SAY APPROVE THE GENERAL PLAN AMENDMENT REQUEST TO CHANGE THE LAND-USE DIAGRAM DESIGNATION TO MIXED INDUSTRIAL OVERLAY TO AN EXISTING HEAVY INDUSTRIAL LAND-USE DESIGNATION ON A 3.59 GROSS-ACRE SITE. THAT'S IT.

>> IS THERE A SECOND? YES.

>> THE ITEM BEFORE YOU IS A GENERAL PLAN APPLICATION THAT'S FOR CONSIDERATION AS TO EARLY DENIAL OR SHOULD IT CONTINUE TO BE PROCESSED WITH THE EXPENDITURE WITH THE TIME AND MONEY BY APPLICANT AND STAFF SO IT'S TECHNICALLY NOT BEFORE YOU FOR APPROVAL BUT FOR A DECISION WHETHER IT'S SO CONTRARY TO EXISTING CITY POLICIES IT SHOULD BE DENIED AT THE OUT SET TO AVOID THE EXPENDITURE OF TIME AND MONEY OR SHOULD IT BE CONTINUED TO BE PROCESSED A TIME COMPANY REVIEW.

>> YOU WANT ME TO RESTATE MY MOTION TO APPROVE TO SAY NOT DENYING?

>> CONTINUE TO PROCESS.

>> CONTINUE TO PROCESS.

>> ONLY A RECOMMENDATION OF COUNCIL.

>> MOTION AND A SECOND. SO MOTION IS PASSED. WITH COMMISSIONERS CHAIR THANG DO AND COMMISSIONER PLATTEN OPPOSED. MOVING ON, ITEM 3B. PDC08-010. PLANNED DEVELOPMENT

REZONING FROM LI LIGHT INDUSTRIAL ZONING DISTRICT TO ALLOW UP TO 75 AFFORDABLE SENIOR HOUSING UNITS ON A 0.55 ACRE SITE, LOCATED ON THE WEST SIDE OF NORTH 6TH STREET, APPROXIMATELY 200 FEET SOUTH OF TAYLOR STREET. COUNCIL DISTRICT 3. STAFF?

>> THANK YOU, MR. CHAIR. THE PROPOSED PLAN DEVELOPMENT FOR THE SENIOR UNITS WOULD BE LOCATED IN A 6-STORY BUILDING, AND L-SHAPE BUILDING SIT AS TOP A GROUND FLOOR PARKING LEVEL AND HAS A COMMUNITY SPACE AND LOBBY ARRANGED AROUND A LANDSCAPED PODIUM LEVEL. THE SUBJECT SITE IS LOCATED IN JAPANTOWN BUSINESS DISTRICT AND CAN BE FOUND TO BE THE IN CONFORMING WITH UTILIZING DISCRETIONARY USE POLICY FOR AFFORDING HOUSING. THAT POLICY STATES BASICALLY THAT IN ORDER TO ENCOURAGE THE LOW AND MODERATE HOUSING INCOME, PROPERTIES DESIGNATED FOR RESIDENTIAL-USE CAN BE DEVELOPED FOR ANY DENSITY UNDER DEVELOPMENT REZONING SUCH AS THIS. THE AFFORDABLE SENIOR TRANSIT AUTHORITY RENTAL PROJECT IS JUST NORTH OF THE DOWNTOWN CORE AND WOULD PROVIDE AFFORDABLE RENTAL HOUSING AND BE COMPATIBLE WITH SURROUNDING NEIGHBORHOODS AND IN BY THAT, IT WOULD MEAN IT MIRRORS THE EXISTING RESIDENTIAL PROJECT AND RESPONDS TO THE POTENTIAL YARD ACROSS THE STREET AND MAINTAINS A 20-FOOT SET-BACK FROM MEDIUM RESIDENT THELE AND SETS DOWN FROM THE FISH MARKET BUILDING. AND PROBABLY WORTH NOTING ALSO WITH A MAXIMUM HEIGHT OF 72 FEET BUT A 65 HEIGHT LEVEL IT'S LOCATED IN THE DOWNTOWN FRAME AREA AND THAT HAS A HEIGHT EXCEPTION OF UP TO 20-FEET AND THE PROJECT WOULD BE CONSISTENT WITH THAT URBAN DESIGN POLICY. SO AS NOTED BEFORE, THIS REZONING WOULD ALLOW RESIDENTIAL AND COMMUNITY USES WITHIN WALKING DISTANCE OF THAT DISTRICT. OF LOCAL DISTRICTS AND EVENTS THAT STRENGTH THEN THE BUSINESS DISTRICT. WHILE PLAN DESIGN DETAILS WOULD BE EFFECTUATED THROUGH THE DEVELOPMENT PERMIT PROCESS, IT MAY BE WORTH NOTING THAT THE DEVELOPMENT STANDARDS DO ALLOW FOR THIS PROJECT THAT THE HAS A MODERN ARCHITECTURE VOCABULARY, INCLUDING SOPHISTICATED DETAIL, PROJECTING SUN SCREEN APPEARS. CONCRETE PIERS AND REGARDING PARKING THERE'S A PARKING AN ANALYSIS IN THE EIR FOR THOSE JAPANTOWN CORPORATION PROJECTS THAT ANALYZE THE AFFORDABLE SENIOR PROJECTS PARKING. AS NOTED THE ENVIRONMENTAL PROJECT WHERE IS ADDRESSED FOR THE JAPANTOWN COURTYARD REDEVELOPMENT AND FINDING WERE ADOPTED BY COUNCIL FOR THAT. REGARDING PUBLIC OUTREACH THERE WAS EXTENSIVE DURING THE PROJECT. EIR PROCESS. WHOLE SERIES OF MEETINGS THAT INCLUDED THIS PROJECT AND A SPECIFIC COMMUNITY MEETING HELD IN 2008 AS WELL. SO, PLANNING STAFF IS RECOMMENDING THE COMMISSION RECOMMEND APPROVAL OF THIS REZONING BECAUSE IT WOULD ALLOW RESIDENTIAL DEVELOPMENT TO STREP THEN THE BUSINESS DISTRICT AND FURTHERS AFFORDABLE HOUSING GOALS AND POLICIES AND MEET AS THE PROVISIONS OF THE RESIDENTIAL DESIGN GUIDELINES SAND COMPATIBLE WITH THE PATTERN OF THE NEIGHBORHOOD. THIS CONCLUDES STAFF REPORT.

>> THANK YOU. IS THE APPLICANT HERE? UP TO FIVE MINUTES TO ADDRESS THE COMMISSION. PLEASE COME TO THE PODIUM. PLEASE STATE YOUR NAME.

>> GOOD EVENING. I'M JEFF AND STAFF DID A GREAT JOB WITH THE STAFF REPORT SO I'LL NOT GO OVER DETAILS THERE. I WOULD LIKE TO ADDITIONAL INFORMATION IN HISTORIC CONTEXT AND ABOUT THE SUSTAINABILITY OF THE PROJECT. THE PEOPLE OF THE JAPANTOWN COMMUNITY HAVE BEEN WORKING FOR 15 YEARS MINIMALLY TO TRY AND GET A CULTURAL AND RETAIL CORE IN THE JAPANTOWN CORE. MANY OF YOU ALREADY PROBABLY KNOW THIS. IN 2005, THE REDEVELOPMENT AGENCY RELEASED A REQUEST FOR PROPOSALS FOR DEVELOPERS TO TAKE A LOOK AT THREE SITES IN JAPANTOWN. THE SIX ACRE CORPORATION YARD ACROSS THE STREET, THIS HALF ACRE SITE AND THE BOYS AND GIRLS CLUB SITE. YOU COULD RESPOND TO ANY THREE OR ALL THREE. FIRST COMMUNITY HOUSING SUBMITTED A PROPOSE FOR 85 SENIOR UNITS ON THIS SITE WITH THE AGREEMENT THAT WE WOULD PROVIDE THOSE 85 UNITS AS THE INCLUSIONARY REQUIREMENT AND IN THIS RESPECT WE WERE APPROVED GUY JAPANTOWN COMMUNITY ON THE RFP COMMITTEE AND PARTNERED THE OLSEN COMPANY PROVIDING THEM WITH ALL THE AFFORDABLE INCLUSIONARY UNIT AS A STAND ALONE PRODUCT ACROSS THE STREET. LATER ON WHEN THE OLD SON COMPANY DROPPED OUT AND A NEW DEVELOPER CAME FROM PORTLAND. WILLIAMS AND DANE THEY ALSO EMBRACED THIS AS AN INCLUSIONARY PROJECT. AS

THE ECONOMY FALTERED WILLIAMS AND DANE DROPPED OUT THOUGH THEY MAY COME BACK AT SOME NURTURE TIME. WE HAVE TEN PARKING SPACE AS CROSS THE SPACE AS PART OF OUR AGREEMENT WITH THEM. BECAUSE WE LOST THOSE WE HAD TO CUT DOWN THE PROJECT TO 75 SENIOR UNITS. SO THAT'S HOW WE WOUND UP WITH 75. THIS PROJECT STILL COULD BE USED AS INCLUSIONARY FOR ANY NEW DEVELOPER THAT CAME IN ON A CORPORATION YARD. WE CANNOT APPLY FOR ANY KIND OF FUNDING FROM ANY STATE AGENCIES UNTIL WE GET OUR PD ZONING PERMIT SO WE'RE HERE TO MOVE THE PROJECT FORWARD WHETHER WE GO IT ALONE OR PARTNER IN THE FUTURE WITH THE DEVELOPER ACROSS THE STREET, REMAINS TO BE SEEN. THIS PROJECT IS ALSO A PILOT PROJECT IN THE NEW LEAD FOR HOMES MID-RISE PILOT FOR HOUSING. THE ORIGINAL LOOK AT THE PROJECT, WERE IN THE HIGH LEAD FOR GOLDS WITH POSSIBLE A PLATINUM RATING FOR THIS PROJECT. WE HAVE A GREEN ACCESSIBLE VEGETATIVE ROOF. PASSIVE HOT WATER ON THE ROOFTOP FOR HOT WATER HEATING AND ALL THE TRADITIONAL FIRST COMMUNITY HOUSING NONTOXIC MATERIALS INSIDE THE BUILDING. WE ALSO GIVE FREE ANNUAL ECO-PASSES TO ALL OUR TENANTS WHICH IS ONE OF THE REASONS WE HAVE SOME OF THE REDUCED PARKING I TALKED ABOUT IN THE STAFF REPORT. THE PROJECT WILL BE A RENTAL FOR INCOMES FROM 30% TO 50% AMI AND 35% OF THE TENANTS WILL BE SPECIAL NEEDS POPULATION. AND WITH THAT, I'D BE HAPPY TO ANSWER ANY QUESTIONS THE COMMISSION MAY HAVE NOW OR AFTER OTHER TESTIMONY.

>> THANK YOU, I AM VERY EXCITED ABOUT THE GREEN THINGS YOU HAVE PUT INTO THIS PROJECT AND I THANK YOU FOR GOING AS FAR AS YOU POSSIBLY CAN ON THOSE. MY ONE CONCERN IS IT'S A SENIOR PROJECT, AND ALTHOUGH IT'S A HALF MILE FROM THE LIGHT RAIL, WHICH IS SOMETHING I WOULD DEFINITELY WALK. I'M SURE THE SENIORS MIGHT NOT BE ABLE TO WALK ACCESSIBLY AND MARKET IS ALWAYS AWAY AS WELL. I WONDER IF THERE'S AN IDEA TO HAVE A SHUTTLE SERVICE?

>> WE'VE TALKED TO A NUMBER OF DIFFERENT SOCIAL SERVICES INCLUDING UAKY AS PART OF THE CORPORATION PLAN ACROSS THE STREET WHEN IT HAPPENS, THERE WILL BE A LARGE RETAIL COMPONENT AT LEAST IN THE LAST PLANNING STAGE. ALSO THE SENIORS HERE ARE 55 YEARS AND OLDER SO WE'RE NOT TALKING ABOUT PEOPLE WHO CANNOT GET AROUND NECESSARILY. 35% OF THE POPULATION ARE SPECIAL NEEDS WHO DON'T DRIVE AT ALL. SO THEY'RE REALLY DEPENDENT ON THE ECO PASSES BUT YOU'RE RIGHT, IT IS TWO BLOCKS AWAY.

>> SO YOU'RE LOOKING?

>> WE'RE LOOKING FOR SHUTTLE SERVICES AND OTHER SOCIAL SERVICES.

>> THANK YOU. THANK YOU COMMISSIONER CAHAN. YOUR PROJECT IS VERY EXCITING.

>> OKAY. THERE ARE NO SPEAKER CARDS SO - ACTUALLY THERE ARE SPEAKER CARDS. I'M SORRY. THERE'S TWO SPEAKERS. [CALLING SPEAKERS] PLEASE COME DOWN TO THE PODIUM. YOU EACH HAVE UP TO TWO MINUTES. PLEASE STATE YOUR NAME.

>> HELLO COMMISSIONERS I'M TOMMY KYOTO. RELIGIOUS ORGANIZATIONS AND NON-PROFITS AND PROPERTY OWNERS OF JAPANTOWN. WE WORK TO PRESERVE AND DEVELOP THE JAPANTOWN. ONE OF ONLY THREE REMAINING IN THE UNITED STATES FOR FUTURE GENERATIONS I'M HERE TO EXPRESS SUPPORT FOR THE REZONE TOGETHER DEVELOP UP TO 75 AFFORDABLE SENIOR DEVELOPMENT IN JAPANTOWN. WE'VE WANTED THIS FOR 20 YEARS. YOU SAID 15 YEARS, BUT THAT WAS FIVE YEARS AGO. THIS DREAM STARTED BECOME A REALITY WHEN THE CITY MOVED THE MAIN NANCY TO DISTRICT SEVEN A LAW FOR REAL CONSERVATIONS TO BEGIN ON DEVELOPMENTS ON THE SITE. CHANGING REAL ESTATE ENVIRONMENTS LET TO THE COLLAPSE OF TWO POTENTIAL DEVELOPERS. HOWEVER OVER THE COURSE OF HUNDREDS OF COMMUNITY MEETINGS, AND I DO NOT EXAGGERATE, THERE HAS BEEN AN OVERWHELMING CONSTANT IN WHAT THE COMMUNITY WANTS AND THIS A MORE AFFORDABLE SENIOR HOUSING. FROM A COMMUNITY BUILDING PERSPECTIVE THIS MAKES SENSE IN THE DOWNTOWN AREA. BECAUSE OF THE LANGUAGE BARRIER AND DISCRIMINATION. BECAUSE THIS ONE HAS HIGH DENSE DIVERSE MIX USED A SMALL GEOGRAPHICAL AREA. THIS MAKES FOR A GREAT INTER-GENERATIONAL COMMUNITY. AS MORE

BECOME HOLD OLDER IT'S IMPORTANT TO BUILD A PLACE WHERE THEY CAN HAVE ACCESS TO GREAT RETAIL, RESTAURANTS AND PLACES OF WORSHIP, ALL IN WALKING DISTANCE. NOT ONLY THEY ARE RECOGNIZED LEADER IN GREEN BUILDING, BUT THEY HAVE WORKED HARD WITH THE COMMUNITY TO MAKE SURE OUR NEEDS ARE MET. THEY HAVE THE LARGER CORPORATION YARD PROJECT WILL BE A MILESTONE FOR SAN JOSE FOR NOT ONLY SATISFIED THE ZONING REQUIREMENT BUT AS A STAND ALONE DEVELOPMENT.

>> THANK YOU, SIR. YOUR TIME IS UP. THERE'S A QUESTION FROM COMMISSIONER CAHAN.

>> THANKS FOR EXPRESSING YOUR SUPPORT. IT'S IMPORTANT HOW WE SEE HOW YOUR ORGANIZATION FEELS ABOUT THIS PROJECT SO THANK YOU.

>> THANK YOU.

>> JOYCE DELGADO, ARE YOU HERE? THE APPLICANT YOU HAVE UP TO FIVE MINUTES TO MAKE ANY ADDITIONAL POINTS OR A REBUTTAL IF YOU SO CHOOSE? THANK YOU VERY MUCH. MOTION TO CLOSE PUBLIC HEARING? ALL IN FAVOR? OKAY. STAFF IS ANYTHING FURTHER TO ADD? ANY QUESTIONS FROM COMMISSIONERS OR MOTION? COMMISSIONER XAVIER CAMPOS?

>> THANK YOU, MR. CHAIR. I MOVE WE CONSIDER THE USE OF THE JAPANTOWN CORPORATION DEVELOPMENT IN ACCORDANCE WITH SEE REQUEST AND RECOMMENDED APPROVAL FROM THE REZONING TO A PD PLANNED DEVELOPMENT ZONING DISTRICT TO ALLOW UP TO 75 AFFORDABLE SENIOR HOUSING UNITS ON A POINT 55 ACRE SITE AS RECOMMENDED BY STAFF.

>> SECOND. COMMISSIONER JENSEN? COMMISSIONER XAVIER CAMPOS WOULD YOU LIKE TO SAY ANYTHING ELSE? OKAY. COMMISSIONER JENSEN?

>> THANK YOU, MR. CHAIR. THANK YOU SO MUCH FOR BRINGING THE MEMBERS OF THE LEADERSHIP OF JAPANTOWN. I KNOW THE THREE OF YOU HAVE BEEN WORKING ON THIS FOR A LONG TIME. YOU, FROM THE AGENCY SIDE, OF COURSE AND IT'S NICE TO SEE THAT SOME OF THIS IS STARTING TO MOVE FORWARD AND I KNOW THAT IT'S A LITTLE DISAPPOINTING IT CAN'T BE AS BIG AS YOU HOPED AND REST OF THE COURTYARD IS NOT MOVING AT THE SPEED YOU WANT, BUT I REALLY APPRECIATE YOUR BEING HERE AND CONTINUING TO BRING THE VOICE OF THE COMMUNITY AND I REALLY APPRECIATE THE DEVELOPMENT OF WHAT I BELIEVE IS GOING TO BE A REALLY NICE FACILITY FOR SENIORS AND, YOU KNOW, I'M NOT SO FAR FROM 55 MYSELF SO I DON'T REALLY WANT TO HEAR THAT, BUT I APPRECIATE IT AND I HAVE THE PLEASURE OF SPENDING A FAIR AMOUNT OF TIME OUT IN JAPANTOWN, AND TO MY KNOWLEDGE, EVERY SINGLE SENIOR OUT THERE CAN PROBABLY OUT DO MOST OF US HERE IN TERMS OF WALKING, SO I HAVE NO DOUBT THAT THEY'LL BE MAKING IT OVER TO THE LIGHT RAIL. THANK YOU VERY MUCH FOR YOUR PROPOSAL.

>> THANK YOU. COMMISSIONER JENSEN? OKAY. THE MOTION IS APPROVED UNANIMOUSLY. BEFORE WE MOVE ON, THERE MAY HAVE BEEN A VOTING IRREGULARITY SO I'LL INVITE COMMISSIONER JENSEN TO MAKE A MOTION.

>> THANK YOU. I BELIEVE IT WOULD BE CALLED AMISS TAKE AND NOT AN IRREGULARITY.

>> OUT OF POLITENESS.

>> I INDICATED I PLANNED TO VOTE IN FAVOR OF A DENIAL ON ITEM 4A AND I MISUNDERSTOOD WHAT MY FELLOW COMMISSIONER IS MAKING AND I WOULD LIKE TO MAKE A MOTION FOR RECONSIDERATION OF THAT ITEM.

>> NEED CLARIFICATION FROM THE COUNCIL OR THE DIRECTOR ON THE PROCEDURE OF THIS. WOULD THE APPLICANT NOT BEING HERE AND ALL OF THAT. IS THAT A RELEVANT FACT?

>> SO A MOTION FOR RECONSIDERATION IS APPROPRIATE AT THE VERY SAME MEETING. IT IS APPROPRIATE MOTION TO UTILIZE WHEN SOMEBODY ON THE PREVAILING SIDE BELIEVES THERE HAS BEEN A MISTAKE OR HAS MADE MISTAKES IN THE VOTING SO IF COMMISSIONER JIM ZITO WILL RECUSE HIMSELF, AND THE REASON FOR THE MOTION FOR RECONSIDERATION IS TO ALLOW COMMISSIONER JENSEN TO VOTE IN THE MANNER SHE HAD INTENDED, MATERIALLY, IT'S NOT GOING TO CHANGE THE RECOMMENDATION OF THE COMMISSION SO IN THAT INSTANCE, AGAIN SHE IS ON THE PREVAILING SIDE IF IT HAS A SECOND, SHE CAN MAKE THE MOTION IF THERE'S A SECOND THEN YOU CAN RETAKE THAT VOTE.

>> MATERIALLY IT WILL CHANGE THE DECISION OF THE COMMISSION.

>> I BELIEVE THAT THE - THAT IT WAS A 4-2.

>> RIGHT. IT WOULD BE 3-3.

>> RIGHT. THERE WON'T BE A QUORUM. IN THAT CASE, AGAIN IT IS THE APPROPRIATE MOTION TO MAKE AND IT CAN BE MADE AT THE SAME HEARING. SHE IS ON THE PREVAILING SIDE SO SHE MAY MAKE THE MOTION, BUT THEN WE WOULD BRING IT BACK BEFORE THE COMMISSION AS WE HAVE IN THE PAST.

>> TONIGHT, RIGHT NOW?

>> NO IT WOULD BE AGENDIZED SO THAT THE PERSONS WHO ARE AFFECTED BY THE VOTE HAVE AN OPPORTUNITY TO BE AT THE HEARING.

>> SO THERE'S A MOTION ALREADY BY COMMISSIONER JENSEN?

>> IS THERE A SECOND?

>> I'LL SECOND IT.

>> THERE'S A SECOND AND COMMISSIONER JIM ZITO, YOU'D LIKE TO SPEAK?

>> UM... THIS IS NOT TOO TYPICAL THAT A COMMISSIONER MISTAKES THE INTENT OF THE MOTION BUT IT HAPPENS EVERY ONCE IN A WHILE AND I THINK UNDER THE CIRCUMSTANCES IF COMMISSIONER JENSEN WANTS TO CORRECT HER VOTING ON THIS, I THINK IT'S ONLY APPROPRIATE TO DO SO.

>> THANK YOU. COMMISSIONER KAMKAR?

>> YOU KNOW, I WOULD LIKE TO PLEAD TODAY, TO MY FELLOW COMMISSIONERS WHAT WE VOTED ON WAS NOT FOR THE APPLICANT TO HAVE A FREE PASS BUT FOR HIM TO CONTINUE TO GO THROUGH THE PROCESSING, SO I DON'T UNDERSTAND THE URGE FOR A REVOTE OR MORE DELIBERATION WHEN ALL WE SAID IS IF HE WANTS TO PROVE TO MAKE THE PLACE SAFE AND ABIDE BY THE REGULATION THAT HE NEEDS TO ABIDE BY, WE GIVE HIM A CHANCE. SO IT'S - IN MY FOUR YEARS OR 3 1/2 YEARS ON THE COMMISSION, I DON'T BELIEVE WE EVER DID THIS BEFORE WHERE ABLE TO - WRONG VOTE AFTER THE APPLICANT WAS LEFT THE PLACE, WE ASK A REVOTE. SO-

>> THANK YOU COMMISSIONER KAMKAR, IT'S NOT MY INTENTION THE OR THE INTENTION OF ANYONE.

>> COMMISSIONER JENSEN MADE IT CLEAR WHAT HER OPINION WAS AND I WAS VERY SURPRISED THAT HER VOTE SO. I ABSOLUTELY THINK SHE SHOULD HAVE THE OPPORTUNITY TO VOTE THE WAY SHE WANTED TO ESPECIALLY IN THE MEETING WHERE THE VOTE TOOK PLACE INITIALLY.

>> THANK YOU COMMISSIONER CAHAN. SO, WITH THAT, AND LET'S VOTE.

>> VOTE.

>> JUST TO CLARIFY SO, THIS THE MOTION FOR RECONSIDERATION AND DECISION THE COMMISSION IS MAKING IS, SHOULD THE ITEM COME BACK BEFORE THE COMMISSION TO ALLOWED THE COMMISSION TO RETAKE IT'S VOTE ON THAT ITEM? IT'S NOT YOUR VOTE ON THE ACTUAL ITEM?

>> COMMISSIONER CAHAN HAS A QUESTION.

>> STAFF, WILL THIS DELAY.

>> COMMISSIONER XAVIER CAMPOS?

>> SOUNDS LIKE THIS IS ALSO TO BE HEARD BY THE COUNCIL ON THE COMMISSION'S DECISION. WILL IT DELAY IT FROM WHEN IT'S SCHEDULED IT'S NEXT SCHEDULED TO GO BEFORE COUNCIL?

>> ITEM IS SCHEDULED ON FEBRUARY 23RD BEFORE THE CITY COUNCIL. IF THE MOTION FOR RECONSIDERATION WOULD PASS THAT WOULD BRING US BACK TO THE PLANNING COMMISSION ON FEBRUARY 24 AND WE WOULD BRING IT BACK TO THE COUNCIL'S ATTENTION IN MARCH.

>> SO THIS IS A MOTION TO RECONSIDER AND LAY ON THE TABLE?

>> AND LAY ON THE TABLE.

>> THAT'S WHAT WE'RE SAYING WE'RE GOING TO TABLE IT AGAIN. THAT'S APPROPRIATE MOTION.

>> RECONSIDER AND TABLE.

>> COMMISSIONER JIM ZITO WHO HAS FAR MORE EXPERIENCE THAN I.

>> AND IT'S SIMPLE MAJORITY GUYS.

>> SO WE'VE NOT TAKEN A VOTE. COMMISSIONER JENSEN WOULD YOU LIKE TO ADD A COMMENT?

>> I APPRECIATE THE SUPPORT FOR MY WANTING TO CORRECT MY MISTAKES. THE DIRECTOR, OUR NEXT MEETING IS FEBRUARY TENTH. I'M SORRY, I WILL LEARN TO READ. IT WILL COME BEFORE US NEXT ON FEBRUARY 10TH PRIOR TO THE CITY COUNCIL MEETING? WHICH WOULD NOT THEN DELAY THE PROCESS OF GETTING IT TO CITY COUNCIL?

>> YEAH, THAT WOULD BE A QUICK TURN. WE WILL COMMUNICATE THAT TO THE CITY MANAGER'S OFFICE SO THEY UNDERSTAND HOW QUICKLY THIS WILL BE COMING BACK BEFORE THEM.

>> BUT IT WOULD BE A RECONSIDERATION OF THE TESTIMONY.

>> BUT TYPICALLY STAFF REPAIR AS MEMORANDUM TO THE FULL COUNCIL DOCUMENTING YOUR DISCUSSION AND IF THE REVOTE OCCURS ON FEBRUARY TENTH, THAT MIGHT MATERIALLY CHANGE YOUR RECOMMENDATION FOR THE CITY COUNCIL AND WE WOULD WANT TO MAKE SURE WE HAD ADEQUATE TIME TO CAPTURE THE ESSENCE OF ANY ADDITIONAL COMMENTARY BEYOND WHAT YOU'RE MAKING TONIGHT ON THAT MATTER AND FOR THAT, IT'S, WE'VE GOT SUNSHINE AND A FEW OTHER REQUIREMENTS THAT MAKE THE TIMING CHALLENGING, SO WE MAY NOT, THE COUNCIL MAY NOT BE ABLE TO HEAR IT ON THE 23RD, BUT WE WOULD WORK WITH THE CITY MANAGER'S OFFICE TO BRING IT TO COUNCIL AS EARLY IN MARCH AS POSSIBLE.

>> GOOD. THANK YOU.

>> AGAIN, LET'S VOTE. MOTION IS PASSED WITH COMMISSIONER KAMKAR DESCENDING. MOVING ON TO ITEM 3D. PDA88-068-04. APPEAL OF THE PLANNING DIRECTOR'S DECISION TO APPROVE A PLANNED DEVELOPMENT PERMIT AMENDMENT TO ALLOW OFF-SALE OF ALCOHOLIC BEVERAGES AT AN EXISTING RETAIL STORE ON A 1.72 GROSS ACRE SITE IN THE A(PD) PLANNED DEVELOPMENT ZONING DISTRICT LOCATED ON THE NORTHWEST CORNER OF CAPITOL AVENUE AND CAPITOL EXPRESSWAY. COUNCIL DISTRICT 5. STAFF?

>> THANK YOU. THIS IS BEFORE YOU AS AN APPEAL OF THE DIRECTORS DECISION. THE PROJECT IS REALLY APART OF THE AMENDMENT TO SERVE BEER AND WINE AT AN EXISTING MARKET. THE DIRECTOR'S DECISION WAS TO APPROVE IT AS STATED IN THE STAFF REPORT, WE'RE ABLE TO MAKE THE NECESSARY FINDINGS, THIS IS LOCATED AT BASICALLY THE CORNER OF SOUTH CAPITOL AVENUE AND CAPITOL EXPRESSWAY. SEPARATED FROM THE RESIDENTIAL BY BOTH STREETS AND RESIDENTIAL BY 6 FOOT WALL AND DOES NOT HAVE DIRECT ACCESS ALONG THE - EXCEPT ALONG THE CAPITOL SIDEWALK. THAT'S HOW YOU GET TO IT. AND AS YOU CAN SEE, IN OUR STAFF REPORT, THIS IS INTENDED TO BE A FULL SERVICE MARKET WHICH DOES SELL MEAT AND PRODUCE AND IS CONDITIONED AS SUCH AND AGAIN. WITH THE ATTACHED MAP IN THE STAFF REPORT. IT SHOWS YOU THAT THERE ARE NO EXISTING OR PENDING LICENSES WITHIN A THOUSAND FEET OF THE PROPOSED USE, SO IF STAFF IS STILL STANDING BY IT'S RECOMMENDATION OF APPROVAL, GIVEN IT'S LOCATION AS WELL AS MIX OF THE TENANTS IN THE SMALL NEIGHBORHOOD SERVING SHOPPING CENTER AND FACT THAT THERE ARE ONLY TWO EXISTING SELLING ESTABLISHMENTS OF SELLING ALCOHOL IN A THOUSAND FEET. I'M PREPARED TO ANSWER ANY QUESTIONS.

>> THANK YOU. COMMISSIONERS ANY QUESTIONS OR IS THERE A MOTION? COMMISSIONER JIM ZITO?

>> THANK YOU, MR. CHAIR. I GUESS WHAT I DON'T UNDERSTAND IS THERE AN APPELLATE?

>> YES. I DIDN'T SEE ANYBODY. BUT IS THE APPELLATE HERE? THERE'S NO PUBLIC HEARING. COMMISSIONER JIM ZITO?

>> OKAY. SEEING AS THE APPELLATE IS NOT HERE, I'LL MAKE A MOTION. NOT MUCH TO CONSIDER. I'LL UPLOAD HOLD THE DIRECTOR'S DECISION TO ALLOWED THE OFF-SALE OF ALCOHOLIC BEVERAGES IN THE APD PLANNED DEVELOPMENT ZONING DISTRICT AS RECOMMENDED BY STAFF.

>> MOTION AND SECOND. COMMISSIONER XAVIER CAMPOS WOULD YOU LIKE TO SPEAK?

>> THANK YOU, MR. CHAIR. I'M ACTUALLY SURPRISED THAT SHE'S NOT HERE. SHE'S THE PRESIDENT OF THE SIERRA NEIGHBORHOOD ASSOCIATION THE NEIGHBORHOOD BEHIND THIS MARKET AND YOU KNOW, AT SEVERAL 680 MEETINGS SHE HAS EXPRESSED HER CONCERN ABOUT THIS, SO I'M JUST - I'M ACTUALLY WONDERING WHAT HAPPENED AS TO WHY SHE IS NOT HERE. YOU KNOW, IT'S NOT LIKE HER AND I THINK THAT ALTHOUGH I'M NOT SPEAKING ON HER BEHALF BUT KNOWING ALOFA. SHE WOULD BE HERE. THERE'S TWO OTHER OUTLETS THAT ARE BEYOND A THOUSAND FEET, BUT IF YOU KNOW THIS NEIGHBORHOOD THEY'RE RIGHT THERE AND TO ME THAT'S OVER CONCENTRATION OR IS LEADING TO OVER CONCENTRATION. I WOULD PREFER IT NOT TO GET TO THE EDGE OF OVER CONCENTRATION. I JUST THINK THAT'S BETTER THE NEIGHBORHOOD. I THINK THE OTHER POINT IS, WITH THIS WE'VE TRADITION LISTENED TO THESE AND I AGAIN, AT THE MEETING, AND SHOWING UP AND OPPOSITION AND ESPECIALLY TO FILE AN APPEAL, YOU KNOW, I DON'T KNOW WHETHER OR NOT THERE WAS A COMMUNICATION MISHAP OR SOMETHING, BUT I WILL NOT BE SUPPORTING THE MOTION BECAUSE I TEND TO SIDE RIGHT HERE ON THIS ONE WITH THOSE THAT FILED THE APPEAL. THERE'S A REASON WHY THEY FILED THE APPEAL AND THEY KNOW THEIR NEIGHBORHOOD WELL AND I WANT TO RESPECT THAT. THANK YOU.

>> THANK YOU, COMMISSIONER JENSEN?

>> THANK YOU. I'M ALSO SURPRISED THEY'RE NOT HERE AND LEGAL APPELLATE ON THIS ONE. I KNOW THEY ARE BOTH PASSIONATE ABOUT THEIR COMMUNITY AND WHEN I DID MY SITE VISIT THEY REFERENCED MULTIPLE OUTLETS WITHIN THE AREA AND I DIDN'T SEE ANY AND SO I WAS HOPING THEY WOULD HELP ME BETTER UNDERSTAND WHERE THERE MIGHT BE OTHER OUTLETS IN THE AREA. THIS IS A FULL SERVICE MARKET. VERY CLEAN, VERY NICE, VERY WELL KEPT. AND IT SERVE AS WIDE VARIETY OF FRESH FRUITS AND VEGETABLES AND MEATS ALONG WITH EVERY KIND OF GROCERY ITEM THAT ANYBODY COULD HOPE FOR. IT'S VERY SIMILAR TO THE PROPOSAL THAT WE HAD AT - I BELIEVE IT WAS CALLED EITHER THE PINK OF WHITE ELEPHANT OVER OFF SAN ANTONIO, WHERE THAT WAS ALSO A FULL SERVICE MARKET REQUESTING BEER AND WINE TO SERVE THEIR NEIGHBORHOOD COMMUNITY. THERE'S NOT A LOT OF HOUSING ISN'T DIRECTLY ATTACHED TO ANY OF THE FACILITIES. IT'S VERY CLEARLY A MALL AND I AGREE WITH ALOFA THAT THE MALL HAS BEEN RUN DOWN SOMEWHAT AND COULD USE SOME HELP FROM THE PROPERTY OWNER. I WOULD ENCOURAGE THE PROPERTY OWNER TO WORK WITH TENANTS TO MAKE SURE THOSE CHANGES HAPPEN AND GENERALLY, I WOULD AGREE WITH COMMISSIONER XAVIER CAMPOS ON THIS, BUT THIS IS NOT THE NEIGHBORHOOD GROCERY STORE MASKS - OR ONE THAT IS REALLY A LIQUOR STORE SO I WILL BE SUPPORTING AND HOPEFULLY, I'LL GET THE BUTTONS RIGHT THIS TIME THE DIRECTOR'S DECISION. THANK YOU.

>> THANK YOU. COMMISSIONER JENSEN. NOW, COMMISSIONER JIM ZITO?

>> TURNED IT OFF. THANK YOU, MR. CHAIR. I AGREE WITH COMMISSIONER XAVIER CAMPOS THAT KNOWING OLOFA. I IT'S SURPRISING. I WONDER IF SHE'S THE STATION MEETING DOWN THE HALL. IT'S IN THE INTEREST OF GETTING FULL STORY, IF YOU WILL, I WOULD CERTAINLY BE ABLE TO RETRACT MY MOTION IF SOMEBODY FELT THIS SHOULD BE DEFERRED AND WOULD LIKE TO MAKE A MOTION TO DEFER UNDER THE CIRCUMSTANCES. I DON'T KNOW IF ANYBODY WANTS TO DO THAT, BUT THAT MAYBE THE RIGHT THING TO DO IF IN FACT WE THINK THAT THE APPLICANT WOULD BE-

>> COMMISSIONER XAVIER CAMPOS?

>> THANK YOU, MR. CHAIR. YEAH. I WOULD - DO WE HAVE TO RETRACT IT?

>> NO, JUST MAKE THE MOTION.

>> I MOVE THAT WE DEFER. I MEAN, OBVIOUSLY OLOFA REALLY BEATS INVOLVED IN THE PUBLIC PROCESS AND WE ALL KNOW HER AND IT IS RATHER ODD THAT SHE IS NOT HERE TO SPEAK ON THE ITEM, SO YEAH, I WOULD MOVE TO DEFER. THANK YOU.

>> THERE'S A MOTION AND A SECONDS. THERE A PUBLIC SPEAKER? SOMEONE THAT WISHES TO ADDRESS THE COMMISSION IN THE AUDIENCE? THERE'S NO CARDS. SO THERE'S A MOTION AND THERE'S A SECOND. COMMISSIONER KAMKAR?

>> QUESTION, WOULD IT BE DEFERRAL OR A CONTINUANCE. WE DIDN'T HERE A TESTIMONY.

>> IT WOULD BE A DEFERRAL. I THINK THAT'S CORRECT. COUNCEL?

>> CORRECT.

>> LET'S VOTE.

>> SO THE MOTION APPROVED WITH COMMISSIONER JENSEN ABSTAINING. OH, ABSENT. I SEE. COMMISSIONER JENSEN ABSENT. THE ITEM IS DEFERRED HOPEFULLY TO THE NEXT MEETING. SO MOVING ON TO ITEM FOUR. PETITIONS AND COMMUNICATIONS.

>> JUST TO CONFIRM IT WILL BE DEFERRED?

>> YES.

>> TO THE NEXT MEETING?

>> YES.

>> PETITIONS AND COMMUNICATIONS AND THERE'S NO ITEMS. REFERRALS FROM CITY COUNCIL, BOARDS AND COMMISSION'S OR OTHER AGENCIES.

>> NONE.

>> GOOD AND WELFARE.

>> THANK YOU MR. DIRECTOR. LAST NIGHT THE CITY COUNCIL APPROVED THE LINCOLN AND WILLOW ZONING UNANIMOUSLY. THE MIXED USE PROJECT YOU CONSIDERED AT YOUR PRIOR MEETING. THE CAT WALDER PROJECT IS BEING CONTINUED TO FEBRUARY 9TH, SO IF YOUR FOLLOWING THAT ONE, THAT WILL BE COMING BACK TO THE COUNCIL IN FEBRUARY AND THEN THE ALMADEN ROAD WAS APPROVED UNANIMOUSLY LAST NIGHT. THAT CONCLUDES STAFF'S REPORT.

>> THANK YOU. COMMISSIONERS REPORT FROM COMMITTEES AND NORMAN Y. MINETA.

>> THANK YOU, MR. CHAIR.

>> ENVISION SAN JOSE 20406789 GENERAL PLAN UPDATE PROCESS. COMMISSIONER KAMKAR?

>> I MISSED THAT MEETING AND WONDERED IF COMMISSIONER JENSEN MIGHT BE ABLE TO REPORT ON THAT.

>> YES. THANK YOU, COMMISSIONER KAMKAR. OUR MONDAY - ON THE PAST MONDAY EVENING, WE DISCUSSED HOUSING AND NEIGHBORHOODS. HAD A WONDERFUL PRESENTATION FROM LESLEY CRETCO AND MICHAEL QUIN ABOUT ECONOMIC GROWTH AND GROWTH GOING ON IN SAN JOSE. THERE'S GOING TO BE A LOT OF AGEING IN PLACE IN SAN JOSE, WE'RE GOING TO BE TOP HEAVY ON THE OVER 65 CLIENTELE. AND SO THERE WAS A LOT OF DISCUSSION OVER THE TYPES OF HOUSING, HOW MUCH HOUSING AND CONTINUED DISCUSSION ON WHAT MIGHT BE THE PREFERRED CHOICE TO EXPLORE BY THE TASK FORCE IN TERMS OF JOBS HOUSING BALANCE AND A LOT OF DISCUSSION ABOUT WHAT WAS AN APPROPRIATE BALANCE. OUR NEXT MEETING IS MONDAY, FEBRUARY 8TH AT 6:30 AND I STRONGLY ENCOURAGE ANYBODY INTERESTED TO JOIN US THERE. THANK YOU.

>> THANK YOU. COMMISSIONER CAHAN?

>> THANK YOU, MR. CHAIR. WE HAD A VERY GOOD POINT RAISED EARLIER IN THE MEETING ABOUT THE LACK OF, A WAY FOR RELIGIOUS ORGANIZATIONS TO HAVE A BUILDING THAT THEY CAN CALL THEIR OWN LEGALLY AND I'M WONDERING THE TASK FORCE IS WORKING ON THAT.

>> THEY WILL BE. RIGHT NOW WE'RE FOCUSING ON A VILLAGE CONCEPT SO WE HAVE COMPLETE IN ALL NEIGHBORHOODS IN SAN JOSE AND FAITH-BASED USES ARE PART OF A COMPLETE COMMUNITY. ONCE WE GET THROUGH THE SELECTION OF A PREFERRED SCENARIO WE'LL LOOK AT THE DETAILED LAND-USE DESIGNATION AND MIGHT EVEN RECONFIGURE THE LAND-USE DESIGNATION SO THERE'S CLARITY IN TERMS OF WHERE PLACES OF WORSHIP SHOULD BE LOCATED IN THE COMMUNITY. IS IT IN THE WORK PLAN OF THE TASK FORCE? WE JUST HAVEN'T GOTTEN TO IT YET.

>> THANK YOU, DIRECTOR. COMMISSIONER CAHAN? THANK YOU. OKAY. LET'S SEE, THE REVIEW AND SYNOPSIS FROM THE LAST MEETING? ANY COMMENTS? IS THERE A MOTION TO APPROVE? SECOND? OKAY. ALL IN FAVOR? I'M SORRY, STAFF HAS COMMENT?

>> YOU CAN VOTE ON THIS BUT I NEED TO BRING SOMETHING UP AFTERWARDS.

>> ALL IN FAVOR. THANK YOU. THERE'S SYNOPSIS IS APPROVED. PLEASE?

>> YOU BLEW PAST THE COMMISSIONER REFERRAL THING AND I GOT A CALL FROM THE SECRETARY FOR THE PARKS COMMISSION TODAY AND THEY WOULD LIKE TO CONSIDER A DATE TO HAVE A JOINT SESSION NOT THAT YOU NEED TO VOTE ON ONE BUT I WANTED ME TO ASK YOU GUYS IF YOU HAD A PREFERENCE OF THE MARCH MEETING? I KIND OF FENDING THEM OFF FOR APRIL BECAUSE THAT'S WHEN WE'RE HAVING GENERAL PLAN STUFF, BUT THEY WERE THINKING MAYBE IN MARCH, SO I DON'T KNOW IF THERE'S ANYTHING GOING ON. IF THERE'S A PREFERENCE. THEY'RE GOING TO, AT THEIR NEXT MEETING TAKE A VOTE AS TO WHAT THEY LIKE AND THEN I THINK IT COMES BACK TO YOU FOR FORMAL CONSIDERATION. SO IF THERE IS A PREFERENCE OR NOT. OTHERWISE, WE CAN JUST TELL THEM THAT MARCH MIGHT BE A GOOD MONTH TO CONSIDER ONE.

>> WE'RE TALKING ABOUT STUDY SESSION. ANY COMMENTS FROM COMMISSIONERS? COMMISSIONER JENSEN?

>> THANK YOU FOR RAISING THAT. ONE QUESTION ABOUT MARCH WAS COMMISSIONER CAHAN REMINDED ME WE MAY HAVE HAD A DISCUSSION CANCELLING THE MARCH 24TH MEETING AND I SEE IT'S STILL ON THE CALENDAR. I THINK MEETING WITH THE PARKS COMMISSION WOULD BE GREAT BUT IF WE'RE CANCELLING THE MARCH 24TH MEETING, MAYBE APRIL?

>> THAT IS CORRECT, COMMISSIONER JENSEN. I ALSO RECALL THAT THE COMMISSION DID CANCEL THE MARCH 24TH MEETING BECAUSE OF THE PLANNERS INSTITUTE.

>> IS IT CANCELING OR MOVING IT?

>> I THINK WE WERE UNABLE TO FIND A SATISFACTORY DATE BUT STAFF CAN GO BACK THROUGH THE SYNOPSIS TO CHECK.

>> COMMISSIONER KAMKAR?

>> I WAS GOING TO RECOMMEND TO MOVE IT TO MAY SO WE MISSED THE GENERAL PLANS SO BECAUSE APRIL WILL BE PLAN MONTH, YOU KNOW?

>> MOST LIKELY APRIL 7TH WILL BE THE GENERAL PLAN HEARING FOR YOU, SO IT'S POSSIBLE THAT APRIL 21'ST MIGHT WORK. FOR THE JOINT SESSION WITH THE PARKS COMMISSION, IF THAT'S OF INTEREST.

>> OKAY. SO INPUT ON THAT ISSUE. MOVING ON TO SUBCOMMITTEE REPORT AND OUTSTANDING BUSINESS? ANYTHING?

>> YES BEING DISTRIBUTED IS PLANNERS INSTITUTE COMING UP IN LATE MARCH. WE CERTAINLY ENCOURAGE THE COMMISSIONERS TO ATTEND THE CONFERENCE, HOWEVER GIVEN OUR BUDGET CIRCUMSTANCES, UNFORTUNATELY THE DEPARTMENT CANNOT AFFORD REGISTRATION FEES OR HOTEL ACCOMODATIONS FOR THE COMMISSION. FORTUNATELY, THIS ONE IS NOT TOO FAR AWAY. IT'S JUST IN MONTEREY AND IF YOU CAN ATTEND, WE WOULD - IT WOULD BE OF GREAT VALUE TO YOU. I WAS PART OF A COMMITTEE THIS TIME TO PUT TOGETHER THE SECTIONS AND THERE'S SOME VERY EXCITING THINGS, SO I APOLOGIZE WE'RE NOT ABLE TO PROVIDE FINANCIAL SUPPORT TO THE COMMISSION. THANK YOU.

>> THANKS YOU, DIRECTOR. NO OTHER ITEMS, SO THE MEETING IS ADJOURNED.