

MEMORANDUM

December 3, 2019

To:
Ricky Ramos, Senior Planner
Community Development Department
City of Huntington Beach

From:
Alia Hokuki
Psomas

Subject: Response to Public Comments Raised at October 22, 2019 Planning Commission Hearing

This memorandum responds to the comments raised orally at the City's Planning Commission hearing on October 22, 2019. Although many of the same comments and concerns have already been addressed in previous responses, including (i) responses prepared following the Planning Commission study sessions and (ii) the Response to Comments included in the Final Program Environmental Impact Report ("FEIR"), given the extensive questions raised at the public hearings, City Staff and City consultants believed that preparing a single, comprehensive response would be useful to both the City Council and members of the public.

I. Hazards and Hazardous Materials

Comment HAZ-1: Commenters expressed a general concern about contamination at the project site, alleging that such contamination exceeds levels appropriate for residential and visitor serving/hotel uses.

Response to Comment HAZ-1: Roux, environmental consultants who have analyzed all the environmental issues on the project site, have prepared a summary of all the recent studies on the project site, attached hereto as Exhibit A. This report also summarizes anticipated future remediation activity on the project site, meetings with other technical consultants, regulatory agencies and ASCON, and includes a number of specific responses to comments and questions that have been raised during the processing of the project. Roux previously prepared responses to comments and concerns raised at Planning Commission study sessions, which were included in the FEIR's responses to comments. (FEIR, Section 5.3 *Response Pertaining to Hazardous Materials*, pp. 5-25 through 5-30.) As aptly summarized in the EIR, "based on testing conducted over multiple years by various parties that do not include the applicant, there is no indication of substantial contamination onsite." (FEIR, p. 5-6.)

In sum, and as explained in detail in the EIR and Exhibit A, the project site has been comprehensively studied since 1995, when the California Department of Toxic Substances Control ("DTSC") entered into a stipulated judgement concerning both the AES power plant site and the project site, including issuing closure requirements in 2005 (the project site, historically used for the placement of three aboveground storage tanks, has not been in use since 1999). Following asbestos and lead sampling and a Phase II environmental site assessment ("ESA") completed in 2010 and 2013, respectively, no less than 10 additional environmental studies, sampling, and workplans on the site have been undertaken: (1) 2015 Resource Conservation and Recovery Act ("RCRA") Facility Investigation ("RFI") Workplan; (2) 2015 Phase I ESA; (3) 2016 amendments to RFI Workplan based on DTSC comments; (4) 2016 human health risk and assessment ("HHRA"); (5) 2016 soil and soil gas sampling, including analysis of methane concentrations (which tested well below Huntington Beach Fire Department ("HBFD") screening levels); (6) 2016 implementation of the RFI workplan (Nos. (1) & (3)), including soil and soil gas sampling and groundwater analysis; (7) 2017 removal of above-ground storage tanks, associated structures and pipelines, and post-demolition soil sampling beneath former storage tanks and pipelines;

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(8) 2017 workplans to remove soils with petroleum and hydrocarbons beneath the former storage tanks, approved by HBFD, and subsequent removal of those soils; (9) 2017 sampling confirming all contaminated soils underneath the former tanks and pipelines have been removed, and issuance of no further action determination from HBFD; (10) 2017-2018 updates to HHRA; (11) 2018 Well Installation Workplan and subsequent installation of three groundwater monitoring wells by DTSC; (12) 2018 analysis of groundwater monitoring well data; (13) 2018 additional soil sampling technical memorandum submitted to DTSC; and (14) 2019 implementation of additional sampling along former fuel pipelines. (Exhibit A, pp. 2-6; *see also*, Draft Programmatic EIR (“DEIR”), Appendix G-1, *Complication Report of Environmental Investigations*.)

Indeed, as discussed in Section 4.7 of the DEIR, Hazards and Hazardous Materials, extensive testing of the project site, including 152 soil test locations, 23 soil gas test locations, and 10 groundwater samples (including samples from three wells installed by EnvApps in May 2018) have been conducted for petroleum hydrocarbons and other constituents of concern. All of the sampling locations that had contained petroleum hydrocarbons (TRPH/TPH) and PAHs in excess of residential screening levels were removed during the excavation activities. On August 15, 2017, HBFD issued a written concurrence that “no further action” was needed. (FEIR, p. 5-5.)

The net result of all the above-discussed investigations shows that (i) the project site is a relatively clean site, consistent with its use for storage, not active industrial operations; (ii) all contamination associated with the above ground storage tanks has been removed, and the bulk of planning and remediation work has already occurred; (iii) the groundwater is not contaminated, is brackish to saline and therefore not suitable for drinking, and flows from the project site toward the ASCON Landfill Site; (iv) the HBFD has been satisfied with the progress to date, will rely on DTSC final site closure; and (v) DTSC is still overseeing additional soil sampling and will ensure the entire site has been remediated to below established residential screening levels before issuing a closure/no further action determination, a prerequisite for any actual development of the project site.

The EIR ensures that there will be no development until the site is fully remediated, as confirmed by the appropriate expert regulatory agency, DTSC. Specifically, MM HAZ-2 requires the applicant to implement all required site assessment and remedial actions to address residual contamination in soil, soil gas, and groundwater as prescribed by DTSC, under DTSC oversight, and must obtain a “No Further Action” letter or similar approval from DTSC, which must then be submitted to HBFD for approval. (DEIR, p. 4.7-12, 4.7-14 through 4.7-15; FEIR, p. 5-6.) Further, MM HAZ-2 does not just rely on DTSC but specifies that risk-based target concentrations (“RBTCs”) approved by DTSC will serve as the screening level (i.e. cleanup threshold) for each constituent of concern. All soil exceeding the screening level shall be removed from the site and transported to a facility licensed to accept the waste. The RBTCs shall be calculated based on exposure assumptions and toxicity criteria published by DTSC as sufficiently conservative for residential land use, for maximum protection of human health. (FEIR, p. 5-6.) The applicant must also demonstrate compliance with Fire Department Specification #429 (Methane) and #431-92 (Soil Quality). (*Id.*; *see also*, FEIR, pp. 3-43 to -44.) The EIR, through MM HAZ-1, also requires the preparation of a Soil Management Plan to safeguard any contamination that may be encountered during grading and other earthwork activities. (DEIR, p. 4.7-11 through 4.7-15; FEIR, p. 3-44.) Finally, the applicant must record a covenant preventing groundwater at the site from being used as a potable water source and must submit all development plans to the California Department of Conservation, Division of Oil Gas, and Geothermal Resources (“DOGGR”) for review and comment. (DEIR, p. 4.7-17.)

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Comment HAZ-2: Commenters expressed concern about contamination on the neighboring ASCON Landfill Site, with one commenter asserting that dangerous chemicals were placed in unlined pits for decades, and that Pit F and other “lettered pits” contain hazardous waste “50 yards” from the project site, which a commenter asserted will remain and is not part of a remediation plan.

Response to Comment HAZ-2: The commenter is incorrect. The ASCON Landfill Site, which is currently vacant, is actively undergoing cleanup/remediation under DTSC oversight, implementing an approved remedial action plan (“RAP”). (FEIR, pp. 3-34 to -35; DEIR, 4.9-72; 4.7-14, 016.) While DTSC’s closure of the project site is not contingent on closure of the ASCON Landfill Site, complete occupancy of the proposed project site will not occur until 2026, *after* the completion of the ASCON RAP. In other words, the final remedy prescribed by the RAP for the ASCON Landfill Site will be completed to satisfaction of the DTSC prior to the completion of the project. (FEIR, p. 3-35; *see also, e.g.*, 3-45, 3-50, 3-100, 3-109, 3-149, 3-248, 3-251 to 3-252; 5-5 to 5-6.) In particular, the RAP will result in waste consolidation, a permanent cap, landfill gas capture, and monitoring in perpetuity of soil gas and groundwater along the perimeter of ASCON Landfill Site, under DTSC supervision. (Exhibit A, p. 9.)

To the extent this comment refers to the detection of benzopyrene and dibenzo-anthracene near Pit F at the northern property line of the MTF site, the detections of these two chemicals at depths of 0.5 feet below ground surface were due to the use of an imported engineered fill material designed to have limited permeability and to provide structural stability for the former above-ground storage tanks. The engineered fill material was removed, and the results of the confirmation soil samples collected below the removed material indicated no detections of these two chemicals, or any other contaminants of concern. (FEIR, p. 5-27.)

It bears noting that groundwater has been extensively studied at the ASCON Landfill Site and the results of the three most recent groundwater monitoring events are summarized in reports prepared by Geosyntec Consultants in 2017 and 2018. ***The direction of groundwater flow from the ASCON Landfill Site is in the opposite direction of (i.e. away from) the project site.*** (FEIR, p. 3-100.) However, to the extent any leaks or intrusion from the ASCON Landfill Site are discovered, it must be addressed prior to the issuance of grading permits. (DEIR, p. 4.7-9.)

Comment HAZ-3: Commenters asserted that there has been minimal site testing on the ASCON Landfill Site and project site, and neither DTSC nor ASCON knows what is actually in the ground.

Response to Comment HAZ-3: This is inaccurate. Both sites have been extensively tested, and the ASCON Landfill Site is currently undergoing remediation under DTSC’s supervision, pursuant to a DTSC-approved RAP. See Responses to Comments HAZ-1 and HAZ-2.

Comment HAZ-4: A commenter expressed concern about cancer risks for future residents of the site asserting that there were no “core samples” taken to test for carcinogens.

Response to Comment HAZ-4: The commenter is wrong. As part of the extensive sampling and analysis discussed on Response to Comment HAZ-1, a screening level HHRA has been completed for the site – the HHRA was originally completed in 2016 and updated in December 2017 following additional soil remediation work. (DEIR, p. 4.7-10.)

The HHRA concluded that the calculated total excess cancer risk at the Site was “well below the DTSC significance threshold of 1.0×10^{-6} ” (i.e., equivalent to 1 in 1,000,000) and that the calculated hazard index was “well below the [DTSC] significance threshold of 1.0.” (Exhibit A, p. 3; DEIR,

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p. 4.7-11; 4.2-22 through 4.2-23, 4.2-39 through 41.) Based on the results for the studies conducted thus far, “residual concentrations in soil, soil gas, and groundwater at the Site should not constitute a health hazard to future occupants.” (*Id.*) Further, DTSC will determine if a subsequent HHRA is necessary following the additional remediation activities on the project site conducted at its direction (as agreed to by the Hbfd), and additional sampling/testing. If no contamination above residential screening levels remains, no additional HHRA will be required, as at that point, there would be no risk to human health on the project site. As stated in Response to Comment HAZ-1, no development will be permitted until the site is below residential screening levels, which are safe for future residents.

Additionally, the Huntington Beach Energy Project Petition to Amend (12-AFC-02C) Revised Air Quality and Public Health Assessment (AES 2016) reanalyzed potential health risks associated with the AES power plan. During the operations phase of the AES power plant, the Point of Maximum Impact (“PMI”) resulted in a risk level of 4.3 cancer risk per million. The PMI is the point at which the highest cancer risk is anticipated outside of the AES Plant boundaries. The PMI is based on a receptor grid that extends up to 10 kilometers (6.2 miles) from the AES facility, which includes the entirety of the proposed project site. As such, conservatively assuming maximum possible exposure, the project site would be exposed to cancer risk levels 4.3 in a million, below the South Coast Air Quality Management District’s (“SCAQMD”) significance threshold of 10 in a million. Acute and chronic exposure at the PMI were substantially below the hazard risk level and would also result in a less than significant health risk exposure level at the project site. (FEIR, p. 3-34, 5-24; *see also*, Exhibit A, p. 10.)

Comment HAZ-5: Commenters cited to the City’s General Plan Policy HAZ-5(C) regarding the placement of sensitive land uses in close proximity to hazardous material and hazardous waste sites and assert the project violates this goal because the proposed visitor-serving uses would be within 500 feet of the ASCON Landfill Site.

Response to Comments HAZ-5: The City’s General Plan Goal HAZ-5 states that “environmental cleanup and management of brownfield sites improves environmental quality of life, desirability of surrounding neighborhoods, economic development, and housing options in the community.” (Natural and Environmental Hazards Element, p. 5-22.) Under this Goal, the General Plan sets forth three policies, including HAZ-5(C), relied on by the commenters: “prohibit the future placement of sensitive land uses in close proximity to hazardous material and waste sites.”

This policy by no means prevents the development of the project, which is actually consistent with Goal HAZ-5 and its policies, including Policy HAZ-5(C). (DEIR, p. 4.9-30.) First, the project would result in environmental cleanup of a brownfield site that would otherwise remain, resulting in more economic development and housing options, which is clearly consistent with the language of the overarching goal set forth in Goal HAZ-5. Second, the project is also consistent with all three policies under HAZ-5, including the policy that the City “continue to identify, map and remediate existing hazardous waste sites and require remediation when a property is redeveloped,” which is precisely what is required here. Third, with respect to Policy HAZ-5(C) specifically, as explained above, the ASCON Landfill Site will be remediated, pursuant to the DTSC-approved RAP currently being implemented, *prior to* the complete occupation and operation of the project -- meaning that no portion of the completed project will actually be in close proximity to hazardous material or waste sites, as ASCON Landfill Site will be remediated. (See Response to Comment HAZ-2.)

Further, the commenter asserts that the project conflicts with HAZ-5(C) because the proposed visitor-serving uses would be in close proximity to hazardous material and waste sites. However, a transient hotel

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use is not considered a “sensitive land use,” as defined in the General Plan. Thus, the project would not conflict with HAZ-5(C) as stated in the comment.

Notwithstanding the foregoing, it bears noting that a proposed project does not need to comply with every line and verse of all General Plan goals and policies to support a finding that a project is consistent with the General Plan. (*San Francisco Tomorrow v. City and County of San Francisco* (2014) 229 Cal. App. 4th 498, 513-14 [“it is nearly, if not absolutely, impossible for a project to be in perfect conformity with each and every policy set forth in the applicable plan”]; *Save Our Heritage Organization v. City of San Diego* (2015) 237 Cal.App.4th 163, 185–186 [“[S]tate law does not require precise conformity of a proposed project with the land use designation for a site, or an exact match between the project and the applicable general plan. . . . The courts have interpreted this provision as requiring that a project be ‘in agreement or harmony with’ the terms of the applicable plan, not in rigid conformity with every detail thereof.”].)

Comment HAZ-6: Commenters expressed concern about the project causing migration of contaminants in the groundwater.

Response to Comment HAZ-6: At the DSTC’s direction, three groundwater wells were installed by EnvApps in April-May 2018, and are located in the northern, eastern and southwestern areas of the site. Data generated during four quarters of groundwater sampling did not show any constituents of potential concern (impacting the groundwater) from activities occurring at the Site. (DEIR, p. 4.7-10; Appendices G-2 & G-3; Exhibit A, p. 6.) The project site will only be further cleaned up, meaning that if there is not groundwater contamination now, there will not be contamination caused in the future when the site is further remediated. To the extent the concerns were expressed that pollutants would migrate from ASCON Landfill Site to the project site, the groundwater actually flows in the reverse direction, as explained in Response to Comment HAZ-2, above. (*See also*, FEIR, p. 3-247, 3-253 to -254, 3-271, 5-27 to -28.) In other words, any groundwater pollutants occurring under the ASCON Landfill Site¹ would hypothetically migrate northeast away from the project site.

Furthermore, it bears noting the project site’s groundwater is not suitable for drinking because of its brackish/saline qualities, and MM HAZ-3 requires the project Applicant to record a DTSC Land Use Covenant (“LUC”) that prohibits the use of groundwater at the project site as a potable water source. Proof of the LUC agreement from the DTSC shall be provided to the Huntington Beach Fire Department for approval. (DEIR, p. 4.7-17.)

Comment HAZ-7: A commenter expressed concern that pile driving will expose groundwater under the project site to contaminants.

Response to Comment HAZ-7: As an initial matter, it bears noting that pile driving will not occur. See Response to Comment NOI-2, below.

Grading and excavation activities will not take place until the site has been further remediated, as required by the DTSC and MM HAZ-2. Specifically, implementation of MM HAZ-2 would ensure that any known contaminated soils would be remediated, removed or otherwise addressed to DTSC residential standards **prior to issuance of grading permits**, which would precede any foundation stabilization activities. (DEIR, p. 4.7-12.) Further, MM HAZ-1 requires the preparation of a Soil Management Plan to safeguard and

¹ City consultants use this example for illustrious purposes only; there is no known evidence of groundwater pollutants migrating from the ASCON Landfill Site.

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transport offsite any contamination that may be encountered during grading and other earthwork activities. (DEIR, p. 4.7-11 through 4.7.-15; FEIR, pp. 3-44, 5-6.) The Soil Management Plan prescribed in MM HAZ-1 includes regulatory requirements and additional guidance concerning the proper monitoring, handling, segregation, stockpiling, dust control, testing, transport, and disposal of soils that are potentially impacted by hazardous materials and/or petroleum hydrocarbons. All project remediation activities are required to comply with SCAQMD Rule 1166, Volatile Organic Compound Emissions from Decontamination of Soil and Rule 1466, Control of Particulate Emissions from Soils with Toxic Air Contaminants. Rule 1166 requires an approved mitigation plan be obtained from the SCAQMD prior to commencement of excavation, grading, or handling of VOC contaminated soils. Based on this information, the project would not contribute to an increase in ambient levels of TAC. (FEIR, p. 5-6.)

II. Air Quality

Comment AQ-1: Commenters asserted that AES power plant facility emits smoke and odors, which commenters allege have caused people who live in the area to have chronic headaches, throat issues, and other health problems that commenters believe future project residents would also suffer from as a result of exposure to emissions from the AES facility.

Response to Comment AQ-1: As an initial matter, CEQA only requires analysis of impacts of the project on the environment, not the impacts of the environment on the project, which is sometimes referred to as a “reverse CEQA” analysis. (See, *California Building Industry Association v. Bay Area Air Quality Management District* (2015) 62 Cal.4th 369, 377 (“*CBLA*”) [“agencies subject to CEQA generally are not required to analyze the impact of existing environmental conditions on a project’s future users or residents”]; accord, *Ballona Wetlands Land Trust v. City of Los Angeles* (2011) 201 Cal. App. 4th 455, 473-74.) In other words, CEQA requires an analysis of the emissions and/or odors caused by the project, not an analysis of impacts existing emissions and/or odors may have on future residents of the project. (*South Orange County Wastewater Authority v. City of Dana Point* (2011) 196 Cal. App. 4th 1604, 1614-15 [CEQA did not require the analysis of impacts of emissions and odors from existing sewage treatment on proposed adjacent residential dwelling units].)

Notwithstanding the foregoing, the EIR still fully analyzed and disclosed all of the project site’s potential exposure to toxic air contaminants (“TACs”) from existing emissions, specifically including the AES power plant, ASCON Landfill Site, and State Route 1 (“SR-1”). (FEIR, pp. 3-33, 5-5; DEIR, p. 4.2-20 to -23, 4.2-39 to -42.) All impacts related to human health risks were determined to be less than significant. (*Id.*)

As discussed above in Response to Comment HAZ-4, the Huntington Beach Energy Project Petition to Amend (12-AFC-02C) Revised Air Quality and Public Health Assessment (AES 2016) reanalyzed potential health risks associated with the AES Plant. During the operations phase of the AES Plant, the PMI resulted in a risk level of 4.3 cancer risk per million. The PMI is the point at which the highest cancer risk is anticipated outside of the AES Plant boundaries. The PMI is based on a receptor grid that extends up to 10 kilometers (6.2 miles) from the AES facility. The proposed project site is included within this analysis area. The SCAQMD considers cancer risk levels of 10 or greater in a million to result in a significant cancer risk. As such, the project site would be exposed to cancer risk levels of 4.3 in a million, below 10 in a million, which are not considered to be significant cancer risk exposure by the SCAQMD. Acute and chronic exposure at the PMI were substantially below the hazard risk level and would also result in a less than significant health risk exposure level at the project site. (FEIR, p. 3-34; see also, PlaceWorks 2016 Human Health Risk Analysis, Updated 2017 [Appendix J to Appendix G-1 to the DEIR]; FEIR, Attachment D [Supplemental Air Quality Assessment].)

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Further, generally speaking, TACs and resulting health risks have significantly decreased in recent years, as discussed in Section 4.2, Air Quality, of the DEIR. The Multiple Air Toxics Exposure Study IV (MATES IV), which is the SCAQMD's most recent in-depth analysis of the TACs and their resulting health risks for all of Southern California, shows that cancer risk for the South Coast Air Basin has decreased more than 55 percent between MATES III (2005) and MATES IV (2012). (DEIR, p. 4.2-21 to 4.2-23.)

III. Noise

Comment NOI-1: The AES power plant was designed assuming the project site was an industrial use, and therefore the sound standard at the property line was 70 dBA. Comments have pointed out that this is higher than the City's General Plan standards for residential and hotel uses, and therefore expressed concern that existing noise, including the AES power plant, will reach the project site at levels above residential and hotel standards.

Response to Comment NOI-2: As discussed in detail above, CEQA does not require analysis of impacts from existing noise on future project residents. (CBA, 62 Cal.4th at 377.)

Notwithstanding the foregoing, the EIR still analyzed and disclosed all existing noise levels at various points on the project site, including noise generated from traffic, the AES power plant and the potential Poseidon desalination plan under future build out conditions. (DEIR, pp. 4.10-14 through 4.10-17, 4.10-19 through 4.10-25.) As analyzed therein, even if noise levels reach 70 dBA at the AES property line (as was conservatively assumed, based on a worst case scenario), the project will still be consistent with the General Plan because the eventual development of the site will be required to further reduce noise impacts through the design review process, when actual project level approvals/permits are issued for specific development, to the extent required by the City's General Plan and other City regulations (see MM NOI-4, Final Acoustical Report). (DEIR, pp. 4.10-24; *see also*, DEIR, Table 4.9-2.)

As repeatedly noted throughout the EIR and during the Planning Commission's hearing, the proposed project is a programmatic land use change, but not an approval of a specific development by way of a specific subdivision. (DEIR, p. 4.10-24.) When specific development applications are processed by the City, a number of methods are available for reducing noise levels to appropriate standards, including the 45-dBA interior standard. For example, a 26-dBA reduction from 71 dBA – the highest possible existing onsite noise level anywhere on the project site – would be easily achieved through construction of walls with a STC-46 rating and a window rating of STC-28. (*Id.*) Indeed, once final architectural plans and unit layouts are available, MM NOI-4 requires a final noise analysis to provide more accurate and specific interior noise reduction calculations, and any additional reduction techniques will be imposed at that time, if they are required. (*Id.*; *see also*, pp. 4.9-31 through 4.9-34.) Requiring implementation of specific techniques at this time, for a programmatic approval, before details regarding specific development are known, would be too speculative to ensure effectiveness.

Comment NOI-2: Commenters expressed concern that noise from the project's pile driving would negatively impact nearby schools and residences.

Response to Comment NOI-2: The potential impacts and implications of pile driving were discussed in detail in Section 4.10, Noise, of the DEIR and further disclosed and identified as a significant, unavoidable impact. (DEIR, p. 4.10-33.)

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Specifically, the DEIR explained that the Commercial Visitor Zone of the proposed project would require pile driving activities for construction of its lodge/guesthouse uses due to the deep foundation system required. (*Id.*, pp. 4.10-31 to -32.) This analysis disclosed that the closest residential structure from the pile driving location would be approximately 220 feet, enough to cause annoyance but no damage. (*Id.*; FEIR, pp. 5-18 to 5-19; DEIR, p. 1-23) Of course, pile driving impacts are temporary, and would only occur during the development of the area of the project site's Commercial Visitor Zone, not the development of the entire site, nor during project operations.

The DEIR imposed Mitigation Measure (MM) NOI-3, which has been revised to prohibit pile driving thereby eliminating the identified significant and unavoidable impact. Further, MM NOI-3 was revised in the FEIR to require the applicant include documentation on the feasibility of alternative methods of construction that would avoid the impacts of pile driving, and otherwise requires reduction of such impacts to the "maximum extent possible." (FEIR, pp. 4-3 to 4-4; 5-19 to 5-20.) Further, MM NOI-1, which requires the establishment of a disturbance coordinator that is responsible to responding to any local complaints about construction noise, was revised to require such a response to occur within 48 hours. (FEIR, pp. 3-51, 4-3; *See also*, DEIR, pp. 4.10-18 to -33.)

Furthermore, the Planning Commission requested an additional revision to MM NOI-3 –which was accepted by the applicant at the hearing – to require that the above-referenced feasibility study regarding alternatives to pile driving be peer reviewed by a third-party expert. (Exhibit B, Planning Commission Transcript, pp. 184-196.)

Finally, a representative of the applicant made clear at the Planning Commission hearing that there are enough available alternatives, all of which would not generate as much noise and vibration as pile driving, to be able to develop the project without actually using driven piles, and therefore, while all possible pile driving impacts have been analyzed and disclosed in the EIR, actual pile driving with impacts as severe as those analyzed in the EIR is very unlikely to occur. (*Id.*, pp. 189-190.)

IV. Biological Resources

Comment BIO-1: Commenters alleged that the proposed pile driving for construction of the visitor serving uses will have impacts on wildlife and, in particular, the wildlife in the nearby wetlands area.

Response to Comment BIO-1: All impacts of noise on wildlife were evaluated as an indirect impact in Section 4.3, Biological Resources, of the DEIR, and that evaluation identified short term construction activities (*i.e.*, piling driving) as a potential impact. To ensure all impacts are less than significant, the EIR imposes MM BIO-1, which allows the biologist to redirect construction activities if it is determined that nesting birds are being disturbed by project noise and/or other project activities, and MM BIO-2, which requires implementation of a temporary 14-foot tall construction sound wall, which would reduce these potential impacts to less than significant levels. In addition to the construction sound wall, a 20-foot-high temporary noise barrier/curtain would be required at the base of the pile drivers. (DEIR, p. 4.3-19; FEIR, p. 5-18) Long-term, the project would not result in substantial noise levels that would have significant impacts on wildlife. Other indirect impacts evaluated, including lighting, dust on vegetation, bird strikes, invasive plant species, and introduction of domestic animals in proximity to the Magnolia Marsh, a designated Environmentally Sensitive Habitat Area, would all result in less than significant impacts. (FEIR, p. 5-18; DEIR, pp. 4.3-18 to -22.) Further, even though the EIR analyzed and disclosed the potential impacts of pile driving under a "worst case scenario," pile driving will not occur. (*See*, Response to Comment NOI-2.)

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V. Traffic

Comment T-1: Commenters expressed concern about impacts from traffic coming from the hotel use, which is estimated to be about 60% of project related traffic and stated that this traffic volume is inconsistent with surrounding residential uses.

Response to Comment T-1: The EIR analyzed all of the project's potential traffic impacts in detail, and all impacts will be less than significant except for impacts at two intersections – located outside the City, in Newport Beach – under the 2026 cumulative scenario and long-range buildout scenario and only when using the Caltrans' Highway Capacity Manual methodology for calculating impacts. (DEIR, pp. 4.14-22 through 4.14-7; Appendix J [Magnolia Tank Farm Project Transportation Impact Analysis ("TIA")]; FEIR, p. 5-10 to -13.) All of the specific locations in the City noted by the commenters, including the neighborhoods adjacent to the project site, will not experience significant impacts, and as such, there is no evidence to support the commenters claim.

It also bears noting that the TIA was very conservative, and likely overestimated the traffic impacts that will actually be generated by the project. Specifically, the TIA conservatively utilized shopping center equations when developing the trip generation for the retail component of the project to account for potential food uses. Also, the retail may likely be heavily utilized by hotel guests, project residents, and wetland visitors that would, therefore, not generate additional trips. However, the TIA conservatively assumed that a considerable majority of the retail trips will come from outside the project. (FEIR, p. 5-11) The fact that the neighborhoods adjacent to the project site will not experience significant impacts even under very conservative trip generating assumptions, further dispels the claim made by commenters.

VI. Cumulative Impact Analysis

Comment CUM-1: A commenter expressed concern about the impacts of the potential future approval of the Poseidon desalination plant, stating that it would require the construction of a pipeline along Magnolia that could cause traffic or air quality impacts on the project.

Response to Comment CUM-1: The potential future Poseidon desalination plant was included in the EIR's list of cumulative projects, and therefore the potential cumulative impacts of the development of the Plant combined with the impacts of the proposed project were analyzed as part of the EIR's analysis in every impact category. (DEIR, p. 4-8 (Table 4-1), Exs. 4-1 through 4-3, pp. 4.1-21 to -22, 4.3-19, 4.3-24, 4.9-9, 4.10-18, 4.10-20, 4.10-23, 4.10-34; FEIR, pp. 3-5 to 3-6; *see also, e.g.*, pp. 3-227, 231, 237, 252, 253-55, 270.) Accordingly, all of these impacts have been analyzed and disclosed in the EIR.

Further, *if* the Plant is ultimately approved and developed (which at this time, is still speculative, even though the EIR assumed that it will be), the construction of any pipeline will be subject to its own completed environmental review, mitigation measures and other conditions of approval, including requirements that will limit impacts to the project and other surrounding areas.

VII. Land Use

Comment LU-1: Commenters expressed opinions that proposed land uses are out of character with surrounding neighborhoods, characterizing the proposed housing as "medium density blight."

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Response to Comment LU-1: Section 4.9, Land Use and Planning, of the DEIR includes a detailed discussion of land use compatibility (including a full General Plan consistency analysis) and the features that would address potential land use impacts. (DEIR, pp. 4.9-9 through -74.)

The DEIR's land use discussion identifies the surrounding uses as industrial uses to the west and southwest, and residential uses across Magnolia Street to the east, and discusses potential conflicts related to the proposed uses with both the existing industrial uses and the residential uses. However, the discussion in Section 4.9 provides substantiation as to why the proposed project would not have a significant impact. Specifically, the proposed uses are not immediately adjacent to these existing uses. To the east, Magnolia Street (100-foot right-of-way) with a landscaped median separates the project site from the existing residential uses, and a six-foot high block wall further separates the existing residential uses from Magnolia Street. Furthermore, the plan includes a number of provisions that would create additional buffers with the existing uses. The proposed Magnolia Park at the eastern edge of the site along Magnolia Street creates an enhanced buffer between the existing residential uses and the project site, as well as the Coastal Conservation ("CC" area. (DEIR, p. 4.9-71; FEIR, p. 3-61.) To the south and southwest, the Huntington Beach Channel (145-foot right-of-way) separates the project site from the marsh, the AES Generating Station, and the proposed Huntington Beach Desalination Plant. The proposed lodge/guesthouse, visitor-serving retail and dining, and residential uses would be located along the channel. However, as Magnolia Marsh is an important environmentally sensitive habitat, the Coastal Conservation (CC) area is proposed to create upland buffer to the marsh. The minimum 70-foot wide CC area is located adjacent to the Orange County Flood Control property. When combined with the width of the flood control property outside of the channel, there would be a 100-foot development setback from Magnolia Marsh. Additionally, walls and fences would be located along the property line adjacent to the channel. These elements adjacent to Magnolia Marsh in addition to the channel would create buffers between the future uses within the project site and the marsh, the AES Generating Station, and the proposed Huntington Beach Desalination Plant. Additionally, the development standards and design guidelines included in the Magnolia Tank Farm Specific Plan would further enhance the quality of the environment and would not result in adverse impacts. (FEIR, p. 3-61.) Clearly, the proposed project would not negatively impact the existing environment and atmosphere of the area.

Furthermore, it is unclear why the commenter believes the medium density residential – which helps meet the need for housing in the City specifically, and the state generally, – is somehow less compatible with nearby residential uses than the existing industrial/brownfield use. The project will result in remediation and the development of uses far more consistent than what currently exists on the project site.

Comment LU-2: Commenters asserted that potential bar and entertainment uses (part of the proposed lodge) do not belong close to residential neighborhoods and schools.

Response to Comment LU-2: See Response to Comment LU-2 regarding significant buffers between the project and existing residential uses (and school) across Magnolia Street. Further, all the proposed visitor serving uses are far more consistent with these existing uses than the existing industrial/brownfield site that will not be remediated to residential screening levels without the development of the project. All noise impacts from the operation of the proposed visitor-serving uses have been disclosed and analyzed, and all are less than significant. (DEIR, p. 4.10-25 to -26.) Mitigation Measure NOI-4 requires the preparation of a Final Acoustical Report by a qualified acoustical consultant to demonstrate that noise from on-site operations will not exceed the applicable noise standards for the surrounding sensitive uses. (*Id.*, p. 4.10-29.)

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Further, the Huntington Beach Police Department will provide service to the site and has reviewed the proposed project and indicated that the project would not have a significant impact. (DEIR, p. 4.12-9) In addition, alcohol related uses are subject to approval of a conditional use permit through the public hearing process. Issues or concerns related to the operational aspects of an alcohol use would be reviewed by various City departments including the Police Department and addressed through code requirements and conditions of approval. (FEIR, p. 3-283.)

Comment LU-3: Commenters asserted that the project consists of illegal “spot zoning.”

Response to Comment LU-3: The project would result in a change in General Plan land use designation and zoning for an approximately 29-acre site, including the adoption of a new Specific Plan as master plan governing all future specific developments on the site. This does not qualify as spot zoning, which refers to a situation where a small parcel is rezoned in a manner where the use is different than, and inconsistent with, all other surrounding parcels. Instead, the project is a legitimate use of master planning, the opposite of spot zoning.

VIII. Geology and Soils

Comment GEO-1: Commenter claimed the project is located on a fault line and development of the site is therefore hazardous due to future earthquake risk.

Response to Comment GEO-2: As discussed in Section 4.5 of the DEIR, the project site is not included in an Alquist-Priolo Earthquake Fault Zone, and there are no known active or potentially active faults traversing the site. However, being in Southern California, a seismically active area, the project site would likely experience strong ground shaking during the life of the project – no different than every single other project in Southern California. The project is therefore required to comply with existing regulations and latest adopted edition of the California Building Code in addition to specific recommendations for the proposed project and pertaining to ground improvements, which would reduce potential impacts associated with seismicity to a less than significant level. (FEIR, p. 3-159; *see also*, FEIR, 5-6 to 5-7.)

MTF – Historical Summary

Pre-Development

Magnolia Tank Farm is an approximately 30-acre property located at 21845 Magnolia Street in the City of Huntington Beach, California (Site). Historical topographic maps and aerial photographs dating back to 1901 show the land was undeveloped through at least 1938 and that the land was used for agricultural activities between 1935 and 1965.^{1, 2, 3} According to the California Division of Oil, Gas, and Geothermal Resources (DOGGR) three oil and gas production wells were drilled at the Site in 1955 and abandoned and plugged in 1972.^{4, 5} Development of the adjoining property to the west of the Site (Huntington Beach Generating Station [HBGS]) began in 1956 when two 215-megawatt steam turbine generating units (Units 1 and 2) were constructed; HBGS began operation in 1958. Steam turbine generating Units 3, 4, and 5, and nine associated aboveground storage tanks (ASTs) west of the Site were added to the HBGS between 1961 and 1969.

MTF Historical Development and Ownership

In the late 1960s to early 1970s, three (3) 25 million-gallon ASTs and associated structures and pipelines were constructed at the Site. The ASTs were solely used to store fuel oil, a heavy, viscous petroleum hydrocarbon, which was used at HBGS as a fuel source for power generation. By the late 1980s, HBGS was utilizing primarily natural gas as a fuel source and fuel oil was no longer necessary; however, Southern California Edison (SCE), the owner of HBGS, was required by the State of California to maintain fuel oil as a back-up fuel source for the HBGS.² In 1999, SCE received notice from the California Independent Systems Operator that back-up fuel oil supplies were no longer necessary, eliminating the need for the on-Site ASTs. In May 2001 Edison Pipeline and Terminal Company (EPTC) assumed ownership of the Site from SCE and in 2003, Pacific Energy Partners, L.P. (Pacific) acquired the Site. In 2007 Pacific was acquired by Plains All-American Pipeline Company, LP (Plains) and in August 2016, Plains sold the Site to Shopoff Realty Investments (Shopoff), the current owner of the Site. The three ASTs and all associated structures and pipelines were removed from the Site by Shopoff in 2017. The Site was leased by Shopoff in 2018 and a portion of 2019 for use as an equipment laydown yard for construction of the adjacent AES generating station.⁶ As of November 2019, the Site was vacant.

¹ United States Geological Survey (USGS)

² EEL, December 11, 2015, *Phase I Environmental Site Assessment, Shopoff Land Fund III, LP, Proposed Development-Summer House HB, 21845 Magnolia Street, Huntington Beach, Orange County, California 92646*. Prepared for Shopoff.

³ UC Santa Barbara Library, Aerial Photography Collection, http://mil.library.ucsb.edu/ap_indexes/FrameFinder/

⁴ DOGGR Well Finder, <https://www.conservation.ca.gov/dog/Pages/Wellfinder.aspx>

⁵ City of Huntington Beach, Oil Well Finder, <http://huntingtonbeach.maps.arcgis.com/apps/Viewer/index.html?appid=47827245017247a3a3835cb6d0d58dde>

⁶ Tait Environmental Services, Inc., April 18, 2018, *Compilation Report of Environmental Investigations Update No. 1*. Prepared for Shopoff.

MTF Environmental Investigations and Related Activities

On February 1, 1995, SCE and the Department of Toxic Substances Control (DTSC) entered into a Stipulated Judgment (Stipulation BC121219), related to environmental issues at HBGS (including the Site) and ten other generating facilities throughout Southern California.⁷ In January 1996, EPE&C Geotechnical Group, on behalf of SCE performed an environmental investigation “to determine the absence or presence of hydrocarbon affected soil” beneath the ASTs. EPE&C concluded that petroleum hydrocarbons found in the soil were only within the top 6-inches beneath each of the AST ring plates. They stated that “these hydrocarbons are considered to be from the oil that was sprayed on the aggregate for corrosion protection and not from leakage or spillage from the tanks or the associated piping.”⁸

On August 22, 2005, DTSC issued a notification of the closure requirements for all the facilities subject to the 1995 Stipulated Judgment.⁹ In May 2010, J&M Environmental Control Group (J&M), on behalf of Plains, conducted asbestos-containing material (ACM) and lead-based paint (LBP) sampling of the ASTs and other equipment/structures/surfaces that were reportedly planned for demolition. J&M recommended that “identified LBP should be removed by a Cal-OSHA-registered abatement contractor” and “asbestos containing materials be removed and disposed ...in accordance with the guidelines and procedures....”¹⁰,¹¹ In December of 2013, WGR Southwest, Inc. (WGR) on behalf of Plains, conducted a Phase II Site Assessment of the Site, which included collection and analysis soil, soil gas, and groundwater samples from throughout the Site to “evaluate the potential presence of petroleum hydrocarbon, pesticides, herbicides, metals and other chemical concentrations in the subsurface soil, soil gas and ground water” at the Site.¹²

On April 13, 2015, Environmental Applications, Inc. (EnvApps), on behalf of SCE, prepared a RCRA Facility Investigation (RFI) Workplan. The primary purpose of the proposed work was to “obtain environmental data that are representative of subsurface conditions at the HBGS.” EnvApps stated that Site-wide data obtained during the RFI would “be used to support a comprehensive evaluation of the nature and extent of potential contaminants at the facility...to determine if remedial action is necessary as part of the facility closure process.” The RFI Workplan was revised to address comments from DTSC January 18 and May 17, 2016.¹³

⁷ State of California, Department of Justice, February 1, 1995, Edison Consent Agreement.

⁸ EPE&C Geotechnical Group, February 23, 1996, *Baseline Tank Study Report, Above Ground Oil Storage Tanks 1, 2, 3, and Displacement Tank, Huntington Beach Generating Station*. Prepared for SCE.

⁹ California Department of Toxic Substances Control, August 22, 2005. *Notification of Resource Conservation and Recovery Act (RCRA) Requirements for Closure and Corrective Action at the Former Southern California Edison Generating Stations*.

¹⁰ J&M Environmental Control Group, June 1, 2010, *Asbestos Sampling and Hazard Assessment, Plains LLC, Huntington Beach Terminal, 21652 Newland Street, Huntington Beach, California*. Prepared for Plains.

¹¹ J&M Environmental Control Group, June 1, 2010, *Lead Based Paint Inspection Report, Plains LLC, Huntington Beach Terminal, 21652 Newland Street, Huntington Beach, California*. Prepared for Plains.

¹² WGR Southwest, Inc., March 25, 2014, *Plains West Coast Terminals Phase II Site Assessment, Huntington Beach Terminal*. Prepared for Plains.

¹³ EnvApps, April 13, 2015 (rev. Jan 18 and May 17, 2016), *RCRA Facility Investigation Workplan, Former Southern California Edison Huntington Beach Generating Station, 21730 Newland Street, Huntington Beach, California 92646*. Prepared for SCE.

In late 2015, EEI Geotechnical & Environmental Solutions (EEI), on behalf of Shopoff, began due diligence investigations for possible acquisition of the Site. EEI prepared a Phase I ESA report in December 2015, which identified the former use of the Site as a fuel oil storage facility and the former on-Site oil wells as potential environmental concerns. EEI recommended “additional investigation including methane testing, as well as shallow soil sampling (upper 5 feet) to evaluate potential impacts from petroleum hydrocarbons and related compounds.” EEI also recommended that a screening level human health risk assessment (HHRA) be performed to evaluate the potential risk to future occupants.¹⁴

In January 2016 PlaceWorks issued a screening level HHRA to Shopoff, as per the recommendation in EEI’s Phase I ESA. The HHRA was intended to evaluate potential risk to future residents and occupants of a contemplated “development with a mix of residential land use, hotel, and open space” using available data for the Site.¹⁵ The screening HHRA concluded that the calculated total excess cancer risk at the Site was “well below the DTSC significance threshold of 1.0×10^{-6} ” and that the calculated hazard index was “well below the [DTSC] significance threshold of 1.0.” Based on the results of the screening level HHRA, PlaceWorks stated that “residual concentrations in soil, soil gas, and groundwater at the Site should not constitute a health hazard to future occupants.”

In January and February 2016 EEI conducted soil and soil gas sampling at the Site to “evaluate potential impacts from petroleum hydrocarbons and related compounds,” as recommended in EEI’s Phase I ESA. Sampling was reportedly done at locations “in close proximity to on-site features such as the primary fuel pumping area and the above ground storage tanks.” The investigation also evaluated methane concentrations near “abandoned on-site oil wells and the landfill adjacent to the northern property line [Ascon].” Based on soil data generated for the Site, EEI concluded that “no analytes exceeding either [California Office of Environmental Health Hazard Assessment] OEHHA or [Orange County Health Care Agency] OCHCA screening levels were found.” EEI also concluded that methane concentrations were below “the threshold value of 5000 ppmv as established by the Orange County Fire Agency.”¹⁶

EnvApps, on behalf of SCE, implemented the RFI Workplan in August 2016. During this event, the ASTs, the former pumping area, and the former transformers were targeted for soil sampling. EnvApps evaluated the data generated during the RFI “in conjunction with that from previous investigations” to determine if remedial actions were necessary for Site closure. Based on their analysis, EnvApps concluded that “no soil or soil gas samples from the Shopoff portion of the HBGS were reported to contain compounds above [Commercial/Industrial Screening Levels] CISLs.” They also stated that because groundwater beneath the Site was not considered a drinking water source compounds reported above drinking water standards were

¹⁴ EEI, December 11, 2015, *Phase I Environmental Site Assessment, Shopoff Land Fund III, LP, Proposed Development-Summer House HB, 21845 Magnolia Street, Huntington Beach, Orange County, California 92646*. Prepared for Shopoff.

¹⁵ Placeworks, January 2016, *Human Health Risk Assessment, Huntington Beach Terminal Property, for SLF-HB Magnolia, LLC*. Prepared for Shopoff.

¹⁶ EEI, February 25, 2016, *Site Investigation Report, 21845 Magnolia Street, Huntington Beach, California*. Prepared for Shopoff.

not significant for the Site. EnvApps recommended that DTSC issue closure for the Site on behalf of SCE.”¹⁷

Shopoff acquired the Site from Plains on August 15, 2016 and began removal of the ASTs, and associated structures and pipelines in early 2017. In March and April 2017, EEI conducted additional soil sampling beneath the former ASTs and below a former crude oil line “to evaluate potential impacts from petroleum hydrocarbons and related compounds.” EEI stated that soil sample results showed petroleum hydrocarbons present in shallow soils beneath the ASTs; excavation and removal was recommended prior to Site redevelopment¹⁸. Based on EEI’s findings, WGR Southwest, Inc. (WGR), on behalf of Plains, submitted two workplans to the City of Huntington Beach Fire Department (HBFD) on May 10, 2017: a Remedial Excavation Work Plan and a Site Assessment Work Plan, Crude Oil Transfer Lines. HBFD approved both workplans on May 11, 2017.

WGR stated that “a thin zone of hydrocarbon impacted material [that was present] directly below the bottom” of the ASTs would be targeted for excavation. The material was reported to be “imported engineered fill material designed to have limited permeability and to provide structural stability for the AST’s.” WGR further stated that “the lateral extent of the hydrocarbon impaction is predominantly limited to the immediate vicinity of the AST footprints...lateral migration does not appear to have occurred.”^{19, 20} In May and June 2017 WGR removed hydrocarbon impacted materials beneath all three former ASTs to a depth of approximately 6 inches. Confirmation soil samples were collected to “confirm the successful removal of impacted material” WGR concluded that based on data generated during confirmatory soil sampling, “the potential environmental threat from the remaining soil beneath the former ASTs appears to be minimal.” In addition, WGR targeted “abandoned underground piping” running east-west at the northern portion of the Site. According to WGR the piping was believed to have been related to the former on-Site abandoned oil production wells. Soil suspected of containing elevated hydrocarbon concentrations were excavated and taken off-Site for disposal. The piping was removed from the Site and was cut at the northern property boundary with Ascon where the piping continued. Confirmation soil samples were collected below excavated surfaces and at regular intervals along the trench. WGR concluded that impacted soils had been successfully removed from the Site and recommended “no further action” associated with AST excavations

¹⁷ EnvApps, February 24, 2017 (rev. Sept. 10, 2019), *Draft RCRA Facility Investigation Report, Shopoff Realty Investments Portion of Former Southern California Edison Huntington Beach Generating Station, 21730 Newland Street, Huntington Beach, California 92646*. Prepared for SCE.

¹⁸ EEI, May 11, 2017, *Results of Limited Soil Investigation, 21845 Magnolia Street, Huntington Beach, California*. Prepared for Shopoff.

¹⁹ WGR Southwest, Inc., May 26, 2017a, *Remedial Excavation Summary Report, Aboveground Storage Tank (AST) T3, Plains Huntington Beach Terminal, 21845 & 22011 Magnolia Street, Huntington Beach, CA*. Prepared for Plains.

²⁰ WGR Southwest, Inc., June 19, 2017b, *Remedial Excavation Summary Report, Aboveground Storage Tanks (AST’s) T1 and T2, Plains Huntington Beach Terminal, 21845 & 22011 Magnolia Street, Huntington Beach, CA*. Prepared for Plains.

and piping removal activities.²¹ On August 15, 2017, HBFD issued a no further action determination for the work contemplated in the WGR workplans.^{22, 23}

In December 2017, Placeworks, on behalf of Shopoff, provided an update to the screening level HHRA. The updated HHRA incorporated analytical data generated during multiple sampling and soil export events in 2017 and 2018. The stated purpose was to “determine whether or not the analytical data collected to date indicate the presence of a potential human health risk or hazard at the Site.” PlaceWorks stated that data analysis showed “contaminants were not found in larger concentrations and no new contaminants were reported at the site since the 2016 HHRA.” The conclusion of the 2016 HHRA that “residual concentrations in soil, soil gas, and groundwater at the Site should not constitute a health hazard to future occupants” were considered valid.²⁴

On December 26, 2017, HBFD issued a letter to Shopoff with comments related to its review of several environmental documents for the Site. The purpose of the review was to “determine if the Site is in compliance with the residential requirements of [City Specification] CS 429 and 431-92.”²⁵ HBFD reviewed the March 2014 WGR Phase II, the May and June 2017 WGR Remedial Excavation Summary Reports, and the December 2017 Update HHRA. Comments were broken into several categories including Data Gaps, Lead Agency, Methane, Former Oil Wells, Interim Use of the Site, HHRA, and Missing Report. On February 22 and March 14, 2018, Shopoff submitted a response to HBFD Comments and HBFD issued a second letter with additional comments and responses, respectively.^{26, 27} It was agreed between HBFD and Shopoff that:

- 1) *DTSC is the appropriate lead regulatory agency to issue regulatory concurrence regarding the sufficiency of investigation, health risk assessment, and remediation to residential standards;*
- 2) *DTSC's site closure process will independently ensure that project impacts related to hazardous materials are less than significant and the City may impose conditions that require completion of DTSC's process prior to issuance of grading permits;*
- 3) *State and local requirements for methane testing and mitigation will be followed; and,*

²¹ WGR Southwest, Inc., June 19, 2017c, *Remedial Excavation Summary Report, Crude Oil Transfer Lines, Plains Huntington Beach Terminal, 21845 & 22011 Magnolia Street, Huntington Beach, CA*. Prepared for Plains.

²² EnvApps, January 5, 2018a, *Response to Comments (RTC) on the Draft RCRA Facility Investigation (RFI) Report, Shopoff Realty Investments Portion of Former Southern California Edison Huntington Beach Generating Station (HBGS) dated February 24, 2017, by Environmental Applications, Inc. (EnvApps)*. Prepared for SCE.

²³ Eros, Steve (Huntington Beach Fire Department), January 3, 2018, *Re: Request for Clarification and No Further Action at the Magnolia Tank Farm*, email.

²⁴ Placeworks, December 2017, *Human Health Risk Assessment Update, Huntington Beach Terminal Property, for SLF-HB Magnolia, LLC*. Prepared for Shopoff.

²⁵ Huntington Beach Fire Department, December 26, 2017, *RE: Review of Existing Reports, Magnolia Tank Farm Site, 21845 & 22011 Magnolia Street, Huntington Beach, California*, letter.

²⁶ Shopoff Realty Investments, February 22, 2018, *RE: Magnolia Tank Farm Site; 21845 & 22011 Magnolia Street, Huntington Beach, California; Response to Comments Regarding Environmental Reports*, letter.

²⁷ Huntington Beach Fire Department, March 14, 2018, *RE: 2nd Review of Existing Reports, Magnolia Tank Farm Site, 21845 & 22011 Magnolia Street, Huntington Beach, California*, letter.

- 4) *DOGGR will be consulted regarding historical oil wells and all DOGGR requirements will be complied with.*

Further it was agreed that Shopoff would secure “a letter of approval” from DTSC that the Site had been remediated to allow residential uses before requesting HBFD approvals. HBFD approvals would include project review for compliance with City Specification that address soil (431-92) and methane (429), which HBFD stated “must be met to obtain building permits.”

On January 5, 2018, EnvApps, on behalf of SCE, submitted a Well Installation Workplan to DTSC to install three groundwater monitoring wells at the Site. The objectives of the work were to “determine groundwater concentrations beneath the Site and the approximate direction of groundwater flow.”²⁸ The work was performed at the request of DTSC, which requested three wells installed in a triangular configuration with one specifically near the Ascon Landfill and one downgradient near the Channel.²⁹ It was agreed that the wells would be sampled for a minimum of four quarters. The wells were installed and initially sampled in April and May 2018.^{30, 31} EnvApps sampled the groundwater monitoring wells in August and November 2018 and in March 2019.^{32, 33, 34} Based on the four rounds of groundwater monitoring EnvApps concluded that groundwater beneath the Site and downgradient beneath Ascon, “is brackish to saline.” Also, data generated during four quarters of groundwater sampling did not show any constituents of potential concern from activities at the Site.³⁴ EnvApps recommended that the three on-Site wells be permanently destroyed.

On March 26, 2018, EnvApps, on behalf of SCE, submitted an Additional Soil Sampling Technical Memorandum to DTSC to collect soil samples along former fuel pipelines, “at joints, angles, and at minimum

²⁸ EnvApps, January 5, 2018. *Re: Well Installation Workplan, Shopoff Realty Investments (Shopoff) Portion of Former Southern California Edison (SCE) Huntington Beach Generating Station (HBGS), 21730 Newland Street, Huntington Beach, California 92646, California EPA ID No: CAD00631085.* Prepared for SCE.

²⁹ California Department of Toxic Substances Control, October 5, 2017. *Additional Information Required: Resource Conservation and Recovery Act (RCRA) Facility Investigation Report (RFI), Shopoff Realty Investments Portion of Former Southern California Edison Huntington Beach Generating Station (SCE), 21730 Newland Street, Huntington Beach, California 92646, California EPA ID No: CAD00631085.*

³⁰ EnvApps, July 19, 2018e. *Re: Groundwater Monitoring Well Installation Report, Shopoff Realty Investments Portion of Former Southern California Edison Huntington Beach Generating Station, 21845 Magnolia Street, Huntington Beach, California 92646 (Site) California EPA ID No: CAD00631085.* Prepared for SCE.

³¹ EnvApps, July 19, 2018d. *Re: Quarterly Groundwater Sampling Report (Second Quarter 2018), Shopoff Realty Investments Portion of Former Southern California Edison Huntington Beach Generating Station, 21845 Magnolia Street, Huntington Beach, California 92646 (Site) California EPA ID No: CAD00631085.* Prepared for SCE.

³² EnvApps, September 17, 2018f. *Re: Quarterly Groundwater Sampling Report (Third Quarter 2018), Shopoff Realty Investments Portion of Former Southern California Edison Huntington Beach Generating Station, 21845 Magnolia Street, Huntington Beach, California 92646 (Site) California EPA ID No: CAD00631085.* Prepared for SCE.

³³ EnvApps, December 17, 2018h. *Re: Quarterly Groundwater Sampling Report (Fourth Quarter 2018), Shopoff Realty Investments Portion of Former Southern California Edison Huntington Beach Generating Station, 21845 Magnolia Street, Huntington Beach, California 92646 (Site) California EPA ID No.: CAD00631085.* Prepared for SCE.

³⁴ EnvApps, April 26, 2019a. *Report for the Fourth of Four Quarterly Groundwater Sampling Events (First Quarter 2019), and Summary and Evaluation of Groundwater Investigation Activities, Shopoff Realty Investments Portion of Former Southern California Edison Huntington Beach Generating Station, 21845 Magnolia Street, Huntington Beach, California 92646 (Site) California EPA ID No.: CAD00631085.* Prepared for SCE.

100-foot spacing along straightaways.”³⁵ The Technical Memorandum was prepared at the request of DTSC, per electronic correspondence received by SCE on January 31, 2018. DTSC provided comments to the Technical Memorandum on November 28, 2018, which were addressed by EnvApps on December 4, 2018.^{36, 37}

In June 2019 EnvApps on behalf of SCE implemented the Additional Soil Sampling Technical Memorandum as an addendum to the work documented in the February 2017 DRAFT RFI Report. All work will be documented by SCE in a Revised RCRA Facility Investigation Report, which will evaluate all data for the Site to determine if the Site is ready for residential closure.

Meetings with City of Huntington Beach Fire Department, DTSC, and Ascon Representatives

In preparation for Site development and in recognition of the importance of environmental topics for the Site, Shopoff and its environmental consultant, Roux Associates (Roux), met with DTSC, Ascon representatives, and the HBFD with its technical consultant, Tetra Tech. The meetings were held to inform the various parties of Shopoff’s development plans for the Site, and to confirm our understanding of environmental conditions, timelines, and requirements for the Site and off-Site (Ascon).

City of Huntington Beach Fire Department

A meeting was held at the City of Huntington Beach on December 17, 2018 with Mr. Steve Eros and Mr. Vincent Anderson. Topics discussed during the meeting included: timing to DTSC issuance of a “No Further Action Letter”; need for future submittal of a Construction Site Review package to DOGGR; engagement of HBFD after DOGGR’s review, for conformance with City Specification No. 422 for oil well abandonment, No. 429 for methane mitigation, and No. 431-92 for soil quality; and requirement for submittal of a “final package” to the HBFD after conformance with the relevant City Specification has been achieved.

A meeting was held at the City of Huntington Beach on September 26, 2019 with Mr. Steve Eros and Mr. Salar Niku of Tetra Tech, technical consultant to HBFD. Topics discussed during the meeting included: current condition of soil, soil gas, and groundwater at the Site; groundwater flow direction and contamination at Ascon; future planned activities at the Site and timing for DTSC closure; general needs for oil well abandonment and for conformance with City Specification (consistent with December 2018 meeting). It was agreed that after the anticipated Revised RFI has been approved by DTSC, Shopoff will prepare a workplan for HBFD review, comment, and approval to meet the City Specifications, which will be implemented after DTSC closure. HBFD asked about oil field piping that had been cut at the northern Site boundary and whether it had been abandoned by Ascon.

³⁵ EnvApps, March 26, 2018c, *Additional Soil Sampling Technical Memorandum, Draft RCRA Facility Investigation (RFI) Report, Shopoff Realty Investments Portion of Former Southern California Edison Huntington Beach Generating Station*.

³⁶ California Department of Toxic Substances Control, November 28, 2018. *FW: GSB Comments SCE HB - Additional Soil Sampling Tech Memo Draft RFI Report Shopoff*, electronic correspondence.

³⁷ EnvApps, December 4, 2018g. *Re: Response to Geologic Services Branch (GSB) comments on March 26, 2018, Additional Soil Sampling Technical Memorandum (Tech Memo)*. Prepared for SCE.

Department of Toxic Substances Control

A meeting was held at the DTSC offices in Cypress, California on July 15, 2019 with Ms. Scarlett Zhai and Mr. Shahir Haddad to discuss status and plans for the Ascon landfill as it pertains to the Site development. Topics discussed during the meeting included: status of the remedy implementation at Ascon; future operation and maintenance activities, specifically perimeter soil gas and groundwater monitoring, for Ascon; and status of oil field piping that had been cut at the northern Site boundary.

A meeting was held at the DTSC offices in Cypress, California on October 1, 2019 with Mr. Steven Rounds, Mr. CY Jeng, Mr. Allan Plaza, and Mr. Jose Marcos, lead DTSC regulators for the Site. Topics discussed during the meeting included: development plans for the Site, including expected import of soils; required methane mitigation systems for some or all future buildings based on former on-Site oil wells and conformance with City Specifications; status of entitlement efforts and timing of EIR certification; and expected timing of future DTSC reviews and milestones for the project. The oil field pipe that had been cut at the northern Site boundary was discussed.

Ascon

A meeting was held at Roux's office in Long Beach, California on July 24, 2019 with Ms. Tamara Zeier and Mary Urashima to discuss Ascon's remedy and expected timeline to restart and completion. Topics discussed during the meeting included: confirmation of our understanding of groundwater flow direction (north/northeast) and lack of groundwater contamination along Ascon's southern border; requirements and procedures for enhanced mitigation, including dust monitoring, prior to Ascon's completion of their final remedy; and proper abandonment of oil field piping that was cut at the northern Site boundary.

City of Huntington Beach Planning Commission Study Sessions

Planning Commission Study Sessions were held at the City of Huntington Beach on July 23, August 13, August 27, and September 10, 2019. A Planning Commission Hearing was held on October 22, 2019. In response to environmental questions and concerns by residents and Commissioners, Roux gave a formal presentation during the August 13 and September 10, 2019 Study Sessions. Questions addressed in the presentations were related to the history of the Site, the specific chemicals used during historical on-Site activities, the Site contaminants of potential concern, the status of the Site within the DTSC and HBFD regulatory processes, and the potential effect Ascon could have on the Site and its future development. Below we provide a synopsis of the questions that were raised and the technical answers provided.

Are chemicals historically used at the Site known and understood?

Yes. According to DOGGR, three oil wells were drilled at the Site in 1955 and were plugged and abandoned in 1972. It is possible that former oil field operations introduced petroleum hydrocarbons to the shallow subsurface at the Site, consistent with regional historical activities across the City of Huntington Beach. In the late 1960s to early 1970s, the Site was developed with three (3) 25 million-gallon ASTs and associated structures and pipelines. The ASTs were solely used to store fuel oil, a heavy, viscous petroleum hydrocarbon, which was used at HBGS as a fuel source for power generation. Petroleum and fuel oil both have low volatility and do not easily migrate through soils.

It is known from historical environmental investigations that a thin zone of hydrocarbon impacted material (6-inches in thickness) was encountered beneath the former ASTs. The material was reportedly engineered fill designed to have limited permeability and to provide structural stability for the AST's. These materials were excavated and removed from the Site when the ASTs were demolished in 2017. Additionally, it is known that shallow petroleum hydrocarbon impacted soils were encountered below former piping discovered at the Site during AST demolition; these impacted soils also were excavated and removed from the Site. In all cases, confirmation soil sampling showed that all impacted soils had been removed from the Site.

Was the Site historically used for a landfill like Ascon?

No. The physical history of the Site is well documented through historical aerials and topographic maps. All confirm that Ascon and the Site were always separate and distinct with no landfill operations ever existing on-Site.

Is the Site known to share any of Ascon's toxic chemicals?

No. Chemical data generated from multiple rounds of soil, soil gas, and groundwater sampling along the northern boundary of the Site show no evidence of contamination from Ascon migrating onto the Site. Groundwater flow direction is to the north and northeast, which is from the Site onto the Ascon landfill. Wastes at Ascon are known to have been placed into pits and lagoons, which would not readily allow for lateral migration in soils.

Is there reason to believe that the future Site development will be impacted by Ascon?

No. Site development will not be allowed until DTSC and Hbfd have been satisfied the Site is safe for residential development. In addition, Ascon is implementing a final remedy under DTSC oversight that will include waste consolidation, a permanent cap, landfill gas capture, and monitoring in perpetuity of soil gas and groundwater along the perimeter of Ascon.

Did an airport once operate within boundaries of the Magnolia Tank Farm Site?

No. According to multiple historical sources, the airport (referred to as Huntington Beach Airport) was to the northwest of the Tank Farm Site, adjacent to the west of ASCON landfill, immediately south of a former Sewage Treatment Plant. It was reportedly constructed in 1938 and was identified in the 1951 United States Geological Survey Topographic sheet. The airport was closed at some point between 1950 and 1955.

Was the Site historically occupied by over 20 oil wells?

No. According to multiple historical sources (historical aerials, historical topographic maps, and DOGGR records), three oil wells were drilled at the Site in 1955. The three oil wells were abandoned in 1972 around the time the Site was developed as a tank farm.

Has there been sufficient sampling at the Site to understand impacted media and to determine if the Site can be developed into residential and commercial uses?

Yes. There have been numerous soil, soil gas, and groundwater investigations conducted at the Site. At present, SCE, under the direct oversight of DTSC, is completing the RCRA Facility Investigation (RFI). The RFI will determine whether the Site can be issued a letter of No Further Action for residential development or whether additional soils may need to be excavated and removed from the Site. Final closure from DTSC is expected in early 2020 after which HBFD requirements (conformance with City Specifications) will need to be met. It is expected that oil well abandonments, additional methane sampling, and methane mitigation systems (barriers) beneath future structures, all will be required by HBFD for future Site development.

Will the Site place health risks on current and future residents?

No. DTSC will not issue a letter of No Further Action until all historical contaminants of concern have been characterized and considered in the context of future residential and commercial development for the Site. Prior to allowing development, the City of Huntington Beach will require a formal letter from DTSC allowing for residential development. Also, HBFD will require methane barriers beneath some or all of the future buildings to mitigate historical conditions from oil field operations and former Site activities. Finally, as a conservative measure, DTSC will require that Shopoff place a restriction in perpetuity on the title for the Site that will not allow for groundwater beneath the Site to be used as a drinking water source. All of these requirements will ensure that human health and the environment are protected during and after development of the Site.

Are there contingencies in the event contaminants from previous use as an oil field and as a tank farm are encountered during development that have not been found during the previous assessments?

Yes. There has been extensive soil sampling at the Site for a multitude of possible contaminants under the oversight of the DTSC. However, as is standard for oil field sites, a Soil Management Plan (SMP) is prescribed in the EIR in MM HAZ-1. The SMP includes additional guidance concerning the proper monitoring, handling, segregation, stockpiling, dust control, testing, transport and disposal of soils that are potentially impacted by hazardous materials and/or petroleum hydrocarbons and which may be encountered during future development activities.

Is a pipeline that remains below ground at the northern Site boundary on Ascon a possible source of petroleum hydrocarbons that may impact the Site?

No. The pipeline was removed from the Site and cut at the northern Site boundary with Ascon. A limited volume of soil impacted by crude oil was removed from the northern area of the Site in 2017. The pipeline is present beneath Ascon property and Shopoff is working with DTSC and the HBFD to request that it be properly removed along with any associated impacted soils at the boundary with Ascon.

Is closure of the Site dependent on completion of any aspects of Ascon remediation?

No. The Site and Ascon are both under the purview of the DTSC but are entirely independent from one another. Contamination from Ascon to the Site has been considered, studied, analyzed and then ruled out. Therefore, the Site is being investigated for contaminants that possibly originated from its former use as a fuel oil storage facility and from drilling and operation of former oil wells. Once the investigation and any needed removal action is completed, the Site will be approved for development.

HUNTINGTON BEACH, CALIFORNIA
COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING COMMISSION

IN RE:)
)
MAGNOLIA TANK FARM:) PUBLIC HEARING
) ITEM 19-845
ENVIRONMENTAL IMPACT REPORT)
NO. 17-001; GENERAL PLAN AMENDMENT)
NO. 17-001; ZONING MAP AMENDMENT)
NO. 17-001; ZONING TEXT AMENDMENT)
NO. 17-005; LOCAL COASTAL PROGRAM)
AMENDMENT NO. 17-001; AND)
DEVELOPMENT AGREEMENT NO. 19-001.)
-----)

REPORTER'S TRANSCRIPT OF VIDEOTAPED PROCEEDINGS
Huntington Beach, California
Tuesday, October 22, 2019

Transcribed by:
LAURIE HELD-BIEHL
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TX CSR No. 8555
RPR/CRR No. 32836
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HUNTINGTON BEACH, CALIFORNIA
COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING COMMISSION

IN RE:)
)
MAGNOLIA TANK FARM:) PUBLIC HEARING
) ITEM 19-845
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NO. 17-001; GENERAL PLAN AMENDMENT)
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DEVELOPMENT AGREEMENT NO. 19-001.)
-----)

Reporter's Transcript of
Videotaped Proceedings, pages 1
through 245, transcribed Thursday,
October 24, 2019, in Irvine,
California, by LAURIE HELD-BIEHL,
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APPEARANCES :

PLANNING COMMISSION:

CHAIR PAT GARCIA

VICE CHAIR MICHAEL GRANT

COMMISSIONER JOHN SCANDURA

COMMISSIONER DAN KALMICK

COMMISSIONER BRENDON PERKINS

COMMISSIONER CONNIE MANDIC

COMMISSIONER ALAN RAY

STAFF:

URSULA LUNA-REYNOSA Director of
Community Development

JANE JAMES, Planning Manager

RICKY RAMOS, Senior Planner

MIKE VIGLIOTTA, Chief Assistant
City Attorney

JENNIFER VILLASENOR, City Planner

KIM DE COITE, Administrative Assistant

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Huntington Beach, California

Tuesday, October 22, 2019

6:00 p.m. - 10:35 p.m.

CHAIR GARCIA: Okay. I call this Planning Meeting of October 22, 2019 to order.

The Pledge of Allegiance, presented by Connie -- Commissioner Connie Mandic.

COMMISSIONER MANDIC: Please stand and join me in a salute to the flag.

(Pledge of Allegiance recited by all.)

CHAIR GARCIA: Okay.

Roll call, please.

MS. JAMES: Commissioner Scandura?

COMMISSIONER SCANDURA: Here.

MS. JAMES: Commissioner Ray?

COMMISSIONER RAY: Here.

MS. JAMES: Vice Chair Grant?

VICE CHAIR GRANT: Here.

MS. JAMES: Chair Garcia?

CHAIR GARCIA: Here.

MS. JAMES: Commissioner Kalmick?

COMMISSIONER KALMICK: Here.

MS. JAMES: Commissioner Perkins?

1 COMMISSIONER PERKINS: Here.

2 MS. JAMES: Commissioner Mandic?

3 COMMISSIONER MANDIC: Here.

4 MS. JAMES: We have a quorum.

5 CHAIR GARCIA: Thank you.

6 Okay. We have a little bit of housekeeping.

7 VICE CHAIR GRANT: Okay. Mr. Chair, I would
8 like to make a motion to go ahead and move item
9 19-1011, Coastal Development Permit Number
10 19-001/Conditional Use Permit, 3rd Street Commercial
11 Building, to November 12th.

12 COMMISSIONER PERKINS: Second.

13 MS. JAMES: Chair, may I make a suggestion?

14 CHAIR GARCIA: Yes, ma'am.

15 MS. JAMES: This is under the agenda approval;
16 so just the order of the agenda.

17 If you would perhaps make a motion to move
18 that item first to the agenda and then we could
19 explain that the Applicant has requested a
20 continuance.

21 And we would suggest that the Chair open the
22 public hearing this evening.

23 So an appropriate motion would be to move
24 the item to first on the agenda and then ask me for a
25 brief report.

1 VICE CHAIR GRANT: Okay. I would like to go
2 ahead and ask to move that item to first on the
3 agenda and then I would like to hear the report.

4 CHAIR GARCIA: Okay. Do we need to vote on
5 that?

6 MS. JAMES: Is there a second?

7 COMMISSIONER PERKINS: Second.

8 COMMISSIONER SCANDURA: Just a clarification.

9 Would this go before oral communications,
10 public comments, or after?

11 MS. JAMES: After public comments.

12 COMMISSIONER SCANDURA: Okay. So we'll do
13 public comments first, then.

14 CHAIR GARCIA: Okay.

15 MS. JAMES: So the motion is to move the item to
16 after public comments on the agenda.

17 CHAIR GARCIA: Okay.

18 MS. JAMES: Seconded by Commissioner Perkins.

19 Can we have a vote, please?

20 Seven ayes, motion carries.

21 So then public comments.

22 CHAIR GARCIA: Okay. So I'll open public
23 hearing.

24 MS. JAMES: So then public comments is next.

25 CHAIR GARCIA: Okay. Public comments.

1 MS. JAMES: And we have no one signed up to
2 speak under public comments.

3 CHAIR GARCIA: Okay.

4 MS. JAMES: And so that brings us to the item
5 that you just moved forward on the agenda.

6 And I wanted to announce that the Applicant
7 has requested a continuance of this item to the
8 November 12th Planning Commission meeting.

9 We do suggest that the Chair open the public
10 hearing and perhaps a motion to continue the public
11 hearing open to that November 12th meeting would be
12 an appropriate motion.

13 And once you open the public hearing, we
14 actually have no speakers. But we need to go through
15 the motions.

16 CHAIR GARCIA: Okay. Okay. Open the public
17 hearing on 19-1011, Coastal Development Permit
18 Number 19-001/Conditional Use Permit 19-001,
19 3rd Street Commercial Building.

20 MS. JAMES: No one is signed up to speak on that
21 item.

22 CHAIR GARCIA: All right.

23 Do I have a motion to --

24 VICE CHAIR GRANT: I'll move the item.

25 COMMISSIONER SCANDURA: Second.

1 MS. JAMES: So motion to continue to the
2 November 12th with the public hearing open.

3 And if we can have a vote?

4 Seven ayes.

5 Motion carries. Thank you.

6 CHAIR GARCIA: All right. We're going to move
7 on to the next item which is another public hearing.

8 Public Hearing 19-845, Environmental Impact
9 Report (EIR) Number 17-001; General Plan Amendment
10 (GPA) Number 17-001; Zoning Map Amendment (ZMA)
11 Number 17-001; Zoning Text Amendment (ZTA)
12 Number 17-005; Local Coastal Program Amendment
13 (LP- -- (LCPA) Number 17-001; and Development
14 Agreement (DA) number 19-001, Magnolia Tank Farm.

15 And do we have any disclosures from
16 Commissioners?

17 Starting at that end, I guess.

18 COMMISSIONER SCANDURA: Okay. I guess I'll go
19 ahead and kick -- kick this off.

20 So I've had -- I've had meetings with
21 James O'Malley and Ed Mountford of the -- the
22 Applicant. I also participated in the housing
23 product tour, along with Commissioner Kalmick and
24 Commissioner Grant.

25 I had a number of meetings with both

1 the staff -- a number of meetings and phone calls
2 with both the staff and the City Attorney.

3 Also had a phone call with a -- one of the
4 residents, Nassur Mustafa.

5 Visited the site a number of times, one time
6 with the Applicant, other times just on my own.

7 That's it.

8 CHAIR GARCIA: Next.

9 COMMISSIONER RAY: And I've driven by the site,
10 I've met with several nearby residents.

11 CHAIR GARCIA: Okay. Thank you.

12 VICE CHAIR GRANT: Okay. I have spoken with
13 many members of the community. I have also met with
14 the Applicant and their advisors, Ed Mountford and
15 James O'Malley. I also visited the -- or
16 participated in the new housing product tour, had
17 toured the site during the removal of the tanks
18 initially.

19 And that's it.

20 CHAIR GARCIA: Commissioner Kalmick.

21 COMMISSIONER KALMICK: Thank you.

22 I'm familiar with the site. I went on the
23 housing tour with the other Commissioners, as stated
24 before. I looked at the product. I had multiple
25 conversations with staff regarding multiple sections

1 of the project, multiple phone calls and meetings
2 with local residents. And I've met with the
3 Applicant on multiple occasions to go over the
4 details of the project.

5 CHAIR GARCIA: Commissioner Perkins.

6 COMMISSIONER PERKINS: Yes, thank you.

7 I've met with James O'Malley and Ed
8 Mountford, representatives of Shopoff, and numerous
9 residents. And also visited the site. And I did not
10 participate in the housing tour.

11 CHAIR GARCIA: Commissioner Mandic.

12 COMMISSIONER MANDIC: Yes.

13 I've met with the public, the Applicant and
14 staff, and driven the nearby neighborhoods.

15 CHAIR GARCIA: Okay. And I have --

16 I visited the site and I drove through the
17 site and I met with one homeowner.

18 So let's see, what's next here?

19 Staff report.

20 MS. JAMES: Thank you, Chair Garcia.

21 We'll be starting off our staff presentation
22 with our Community Development Director, Ursula
23 Luna-Reynosa.

24 CHAIR GARCIA: Thank you.

25 MS. LUNA-REYNOSA: Good evening, Chair Garcia

1 and members of the Planning Commission.

2 I'd like to set the table for tonight's
3 discussion because, after sitting through four study
4 sessions, I feel like there are a number of issues
5 that should be -- should be clarified.

6 I think it's important that there is common
7 understanding on a few issues in order to have a
8 productive dialogue this evening on this very
9 important decision that this Commission will be
10 making a recommendation on.

11 So the first item I'd like to clarify is
12 that the current General Plan designation and zoning
13 designation for the site is -- General Plan is Public
14 and the Zoning Code designation is Public/Semipublic.

15 And I've seen a number of correspondence and
16 seen some comments made that some folks think that
17 means that it's public open space; that that
18 designation means parks, conservation space,
19 et cetera.

20 And I just wanted to make it very clear that
21 that is not the current land use designation or
22 zoning of this site. And so I'm actually going to
23 read from the General Plan what "Public" means.

24 It means the "public designation provides
25 for government, administrative, (example, City Hall,)

1 and related facilities, such as public utilities,
2 public parking lots, and similar uses."

3 And for the Zoning Code under -- is
4 "Public/Semipublic" is this "District is established
5 by this chapter. This District provides area for
6 large public or semipublic uses."

7 So I just wanted to make sure that we were
8 all clear what the current zoning is today, and land
9 use designation, and to make sure people understand
10 that it is not currently open space, park, et cetera;
11 so I think that's important as we move forward.

12 The second item I wanted to clarify is that
13 this -- what's before the Planning Commission this
14 evening is legislative changes; so they're all
15 changes related to the General Plan, the Zoning,
16 Specific Plan, Local Coastal Program. There's not an
17 actual development application before the Planning
18 Commission this evening.

19 I've heard some different comments. I just
20 wanted to make sure that -- that the public
21 understands this as well, that there is no -- we have
22 not received an application to actually construct
23 houses or construct a hotel. That --

24 This decision before the Planning Commission
25 is to set the rules in place; so to establish what

1 appropriate land uses might be through a General Plan
2 Amendment, to set what an appropriate Zoning District
3 might be through a Zoning Map and Zoning Code
4 Amendment, and to create the development standards by
5 which future applications would be reviewed under.

6 And so that's essentially -- that's through
7 the Specific Plan. Those are the items that are
8 before the Planning Commission this evening.

9 And I think that's important because under
10 the California Environmental Quality Act you will see
11 references to the items before you tonight as a
12 "project." And it's true under CEQA it's a project,
13 but that's very different from an actual development
14 application.

15 I think the way we typically think of a
16 project as an actual, you know, vertical
17 construction, an actual -- some construction
18 happening, a project happening; so I wanted to make
19 sure that that was clear for everyone.

20 And then I wanted to talk a little bit about
21 the issues that have been very, very much raised in
22 all of the study sessions about contamination and
23 hazardous materials. And I understand why the
24 community is so concerned about these issues. And
25 they are important to understand and be cognizant of.

1 But I think it's been a little bit
2 unfortunate that there's been no dialogue about the
3 actual decision that you all have to make. And
4 that's relative to -- to land use.

5 And so I would hope that the continuation of
6 that doesn't prevent the discussion regarding,
7 really, the important questions before you, which are
8 is the current General Plan designation and the
9 current Zoning District, is it appropriate?

10 So understanding that it's this
11 Public/Semipublic, why it was there historically for
12 a utility use, is that an appropriate land use for --
13 for today?

14 Two, if not, what is the appropriate land
15 use?

16 And how do we transition from very
17 low-density residential on one side to industrial,
18 which is a very intense use, on the other? How would
19 you take a 29-acre site and transition that
20 appropriately?

21 And I think that it's helpful to look at
22 some verbiage in the General Plan, and so I apologize
23 but I'm just going to read directly from it.

24 But this is from the Land Use Element
25 characterizing land uses.

1 "Land uses are generally described by the
2 maximum density and/or intensity, a measure of how
3 much development exists or can be built on a site,
4 and by the characteristic of use(s) located on a
5 site."

6 So "Density, intensity, and use
7 characteristics form the basis for categorizing types
8 of development into land use designations."

9 "Use characteristics refer to the intended
10 character and development pattern of, and uses
11 associated with, a parcel of land. The General Plan
12 uses" -- "uses these" -- "uses these use
13 characteristics to classify buildings with similar
14 characteristics into land use designations. To
15 maintain compatible development on and between sites
16 and within neighborhoods, overlay areas, and other
17 defined areas, use characteristics for each
18 designation are intentionally limited."

19 Character of change "is a constant process
20 observed over a specific time frame. Between now and
21 2040, Huntington Beach expects a certain continuing
22 level of change resulting from a number of forces
23 such as population growth, changing demographics, the
24 need to replace aging buildings and improve existing
25 homes, and an ever-changing economy. Physical

1 changes are guided by new development that almost
2 exclusively occurs through private forces based on
3 market demand. The goals and policies provided in
4 this element address areas and locations that would
5 be best suited to accommodate transformational change
6 that supports the Community Vision established in the
7 General Plan."

8 And then the Land Use Element goes on to
9 contain some economic development strategies and a
10 few of those are "Infrastructure" --

11 And then there's -- there's more information
12 I'm not going to read.

13 -- "Quality of Life," "Fiscal
14 Responsibility," "Tourism and Hospitality"; so the
15 General Plan Land Use Element does contemplate some
16 of these economic development strategies in looking
17 at the different land uses.

18 So I will conclude my portion of this
19 presentation with asking you those same questions.

20 Is the current General Plan designation and
21 the current Zoning District appropriate today? If
22 not, what is appropriate?

23 And, finally, how do you transition between
24 low-density residential and industrial?

25 And with that, I will introduce Ricky Ramos,

1 a senior planner, to go into some more details.

2 MR. RAMOS: Thank you.

3 I want to first make note that we have late
4 communication tonight, including a couple slide
5 shows, one from the Applicant and one from staff.

6 We also have a hard copy of Attachment
7 Number 8 to the staff report; that's the one that
8 wasn't displaying properly online.

9 And then we also have some late public
10 comments.

11 And then next, I want to introduce the staff
12 consulting team.

13 Sitting next to me are Alia Hokuki and Tim
14 Cheung from Psomas, the City's EIR consultant. And
15 one row behind us we have Trissa Allen from LLG, the
16 City's traffic consultant.

17 So the subject site is a vacant 29-acre
18 property located on the west side of Magnolia at
19 Banning. It used to be a -- a former tank farm that
20 served the adjacent power plant. More recently, it
21 was being used for construction parking and laid down
22 with the AES remodel.

23 There are several applications proposed, the
24 first one is the General Plan Amendment to amend the
25 land use designation from the current Public

1 designation, and that's shown on the smaller map to
2 the left, to four new General Plan designations that
3 are shown on the bigger proposed map on the right.

4 The first one is "Open Space-Conservation";
5 that's this sliver of property next to the flood
6 control channel.

7 And then next is "Open Space-Park";
8 primarily the Magnolia Park along Magnolia Street as
9 well as some interior park locations as well.

10 There is a "Residential Medium Density"
11 portion, the majority of the site; that's the one in
12 orange.

13 And, finally, a "Commercial Visitor"
14 designation where the lodge will be. And these are
15 all with a Specific Plan Overlay.

16 Next is a Zoning Map Amendment to amend the
17 zoning designation from the current
18 "Public/Semipublic with Oil Overlay and Coastal Zone
19 Overlay." And that's shown, again, on the smaller
20 map to the left to "Specific Plan with Coastal Zone
21 Overlay."

22 UNIDENTIFIED FEMALE SPEAKER: Can you speak into
23 the mic?

24 MR. RAMOS: Sure.

25 The existing Public General Plan designation

1 and Public/Semipublic designation permit a variety of
2 uses including, among others, assisted living,
3 government facilities, hospitals, parks, churches,
4 schools and utilities.

5 Next we have a Zoning Text Amendment "To
6 establish the Magnolia Tank Farm Specific Plan,
7 including some development standards for visitor
8 serving commercial, residential, and open space
9 uses."

10 A Local Coastal Program Amendment "To amend
11 the City's LCP, pursuant to the General Plan
12 Amendment, Zoning Map Amendment, Text Amendment."
13 And this is subject to California Coastal Commission
14 approval.

15 Next we have a Development Agreement and
16 this is "To enter into a Development Agreement for
17 the subject site, to vest the permitted uses,
18 density, and intensity of the use for a 15 year term,
19 to ensure financial benefits, and to (sic) ensure
20 off-site improvements."

21 And then, finally, we have an EIR
22 "To analyze the potential environmental impacts
23 associated with the project."

24 The Specific Plan establishes the zoning
25 standards for the site. And there are four planning

1 areas that are proposed that align with the General
2 Plan areas that are proposed as well.

3 First is Planning Area 1, that's the
4 "Coastal Conservation" area. And that's proposed to
5 be "2.8 acres of upland habitat with a (sic) public
6 trail."

7 Next we have Planning Area 2, which is
8 "Open Space-Parks and Recreation." And that includes
9 "2.8 acres of park."

10 3 is the "Residential" planning area. And
11 that is proposed for "250 medium density for-sale
12 residential units." These units, the product types
13 are going to be more compact and taller than the
14 traditional single-family dwelling here in
15 Huntington Beach.

16 And finally we have -- we have Planning
17 Area 4, which is the "Commercial Visitor" area. And
18 that's proposed for a 230-square-foot --
19 230,000-square-foot lodge, with up to 175 market
20 room -- market-rate rooms, 40 rooms that are more
21 guesthouse-style, budget-oriented for family and
22 group overnight accommodations, and some ancillary
23 retail and dining facilities.

24 So staff is recommending some modifications
25 for the Planning Commission to consider on the -- on

1 the Magnolia Tank Farm Specific Plan.

2 The first one is an increase in the proposed
3 recreational facility area for the Residential
4 component. We're recommending that that be increased
5 to 15,000 square feet.

6 Based on the product-type tour that we went
7 on, we felt that larger open space provided more
8 opportunity for useful space. And we're also
9 recommending to require at least three amenities on
10 this recreation area.

11 In terms of the next three items on this
12 table, "Floor Area," "Residential Lot Coverage" and
13 "Minimum Site Landscaping," we're recommending that
14 those be calculated based on the lot consistent with
15 how we do it citywide pursuant to the zoning
16 ordinance.

17 In terms of the roof decks, we're
18 recommending that no decks be permitted for the
19 structures, they're limited to two stories along
20 Magnolia.

21 We're recommending to require the use of
22 solid deck rails only so that the decking blends
23 better with the main dwelling -- the main dwelling.

24 And a minimum 5-foot roof -- roof deck
25 trellis setback from the edge of roof or the adjacent

1 unit. And that's basically to minimize the bulk of
2 that -- that trellis.

3 In terms of height, you may have noted that
4 there is a two-story maximum limitation for a 50-foot
5 sliver in the Residential component next to Magnolia
6 Park. We're recommending adding that that's limited
7 to a maximum of 25 feet in building height.

8 For "Parking," we're recommending that we
9 require any guest parking on driveways to be counted
10 only as guest parking for the unit that it serves.

11 And in addition, we're recommending some
12 language for the CC&Rs to regulate parking.

13 I mentioned the recommendation to increase
14 the number of amenities from one to three.

15 And then in terms of private streets and
16 roundabouts, the Fire Department recommended some
17 changes to comply with Fire Code and fire
18 specifications. Those changes are -- are mandatory,
19 they have to be done in order to comply with Code.

20 And then finally we have some recommended
21 changes to the Phasing section to basically -- to be
22 consistent with whatever might be approved on the
23 Development Agreement.

24 In terms of the Development Agreement, it
25 would vest the proposed land use changes in return

1 for a couple items.

2 First is the payment of 2 and a half million
3 dollars to the City, which can be used for any
4 purpose but we -- but will be prioritized for
5 improvements within a one-mile radius of the subject
6 property.

7 Second, we have Magnolia Street and Hamilton
8 improvements along the Ascon property. And that
9 would include curb, gutter, sidewalk and
10 undergrounding of utilities.

11 Some requirements for hotel-quality
12 standards.

13 And some -- some Phasing information.

14 The overall requests are for legislative
15 land use changes only, establishing development
16 standards for future development. Again, there is no
17 development proposed at this time.

18 In terms of the EIR, it concluded that the
19 project will have less than significant impacts for
20 the topics that are listed on the slide, some due to
21 mitigation.

22 In addition, it also concluded that the
23 project would have significant and unavoidable
24 impacts to three areas, including greenhouse gas
25 emissions in terms of exceedance to AQMD's thresholds

1 for residential uses.

2 Noise, in terms of pile-driving annoyance
3 during the construction of the hotel.

4 And then transportation and traffic, in
5 terms of intersections in Newport Beach and Caltrans,
6 intersections which actually can be mitigated but
7 they're outside of the -- the jurisdiction of the
8 City of Huntington Beach; so we're being conservative
9 in this regard.

10 We received 121 EIR comment letters. And
11 responses to these comments have been prepared, as
12 well as errata, and those are available for public
13 review.

14 We've had several study sessions on this
15 project covering the applications as well as a
16 variety of topics from soil conditions to hazards
17 among others listed on the slide.

18 The Planning Commission may recommend
19 certification of the EIR and approval of the EIR
20 applications based on the following reasons:

21 The "EIR is adequate, complete, and in
22 compliance with CEQA Guidelines";

23 The applications are "Consistent with
24 General Plan and the Local Coastal Program";

25 "Compatible with the (sic) surrounding

1 area";

2 A transition buffer has been provided and
3 planned between the subject site and the power plant,
4 the wetlands and the existing residential
5 development;

6 It "Conforms to the Coastal Act by
7 prioritizing visitor serving commercial and
8 encouraging public access and (sic) recreation
9 opportunities."

10 And, finally, it "Enhances the (sic) local
11 economy, provides revenue for the (sic) City, creates
12 jobs, and adds attainable housing stock."

13 So that concludes my presentation.

14 MS. LUNA-REYNOSA: And, Chair, if I can just add
15 two things.

16 One is that I wanted to make the point
17 earlier and I -- I missed it, that if this -- if
18 the --

19 The request before you this evening, these
20 legislative changes to land use, if that is denied,
21 an application could still come forward to the City
22 under the current zoning. And one of those uses was
23 mentioned was an assisted living facility.

24 And such an application would raise probably
25 some other similar concerns that you've already heard

1 relative to some of the traffic, contamination,
2 et cetera. But those concerns would be appropriately
3 addressed at that time, through that development
4 application review process.

5 And I just want to say that that same
6 process would be the same here.

7 Tonight, if you change the land use
8 designation, there would still be an application
9 process that would come for any new applications
10 under any new zoning land use. And those concerns
11 would be appropriately identified and mitigated at --
12 at that time.

13 So I just wanted to make sure that by --
14 your action this evening doesn't really preclude one
15 way or another the -- the necessity to deal with
16 these -- these issues.

17 And then finally I just wanted to kind
18 of let everybody know what the process is moving
19 forward.

20 The Planning Commission's role in these
21 legislative actions is to make a recommendation to
22 the City Council, then the City Council, at a noticed
23 public hearing, would act on the -- on the request.
24 And if they approve it, it would then go to the
25 California Coastal Commission for certification of

1 the Local Coastal Program, as the site is within the
2 Coastal's jurisdiction.

3 So I just wanted to make sure everyone,
4 including the public, was aware of that process.

5 Thank you.

6 CHAIR GARCIA: Okay. Thank you.

7 I -- I guess there's a whole queue of people
8 on my monitor now; so I --

9 I see your name.

10 COMMISSIONER KALMICK: I just have a couple
11 quick questions.

12 CHAIR GARCIA: Do any other Commissioners have
13 questions?

14 Okay. Well, we'll start with Commissioner
15 Kalmick.

16 COMMISSIONER KALMICK: Thank you.

17 I just have a couple of quick questions
18 before we open the public hearing.

19 There was a letter from Caltrans that was on
20 the back, back, back page.

21 Does staff have any comment on that? Is it
22 just to receive and file?

23 MR. RAMOS: I think we looked at it, we have to
24 have our traffic consultant look at it. But it
25 didn't seem bothersome to me, it seems pretty basic.

1 COMMISSIONER KALMICK: Okay. Yeah, because I
2 think 2 was just "Okay" and 1 seemed to be "Please
3 resubmit calculations"; so it's a tech- -- more of a
4 technical letter than anything important? Okay.

5 To speak to the Community Development
6 Director's points, the Magnolia Tank Farm Specific
7 Plan, if approved, doesn't allow any development by
8 right; so there will be a public hearing for any
9 development that happens in -- in that Specific Plan,
10 correct?

11 MR. RAMOS: That is correct.

12 COMMISSIONER KALMICK: Say that again.

13 MR. RAMOS: That is correct.

14 COMMISSIONER KALMICK: Thank you.

15 And then it's in the appealable zone of the
16 Coastal Zone?

17 MR. RAMOS: That -- that is correct.

18 COMMISSIONER KALMICK: So even if it came back
19 through for a permit it could still be appealed to a
20 higher body; so we go --

21 You have five, six public meetings on this
22 in the end, right?

23 Okay. So I just wanted to clarify some of
24 that.

25 Project-tiering real quick. All of the

1 other projects that are happening in the area, AES is
2 finishing up, they start demo, potentially Poseidon,
3 and then the Ascon cleanup.

4 Do we have control, really, of how these
5 projects start and go through traffic mitigation or
6 man- -- traffic plans? Or is it really who shows up
7 first?

8 MR. RAMOS: We can't control when a project
9 starts. We -- we can't limit a developer -- a
10 developer from beginning their project. But if
11 there's a condition for a traffic -- a traffic plan
12 to be submitted, that's one way for us to review it.

13 COMMISSIONER KALMICK: Okay. I just -- just
14 kind of off the top.

15 I'm seeing a lot of "No Hotel" signs here up
16 in the audience real quick; so I just wanted to ask,
17 for the public's edification, the reason that the
18 Applicant is -- is proposing a hotel as opposed to
19 100 percent residential, if you could explain --
20 explain that.

21 MR. RAMOS: It's because of the Coastal Act.

22 The Coastal Act places a priority on
23 visitor-serving commercial uses over residential use.

24 COMMISSIONER KALMICK: So if they didn't have
25 that, most likely the entire thing would be denied by

1 the Coastal Commission?

2 MR. RAMOS: The anticipation is it would be
3 difficult if not impossible to get Coastal Commission
4 approval.

5 COMMISSIONER KALMICK: So the zoning would
6 remain Public/Semipublic and potentially an
7 application would come through for an assisted living
8 facility?

9 MR. RAMOS: Potentially, yes.

10 MS. LUNA-REYNOSA: Let me just add, the Coastal
11 Act designates Residential as the lowest priority use
12 of all of the various uses.

13 COMMISSIONER KALMICK: Right. Okay.

14 And then backing into my last question,
15 which is the General Plan Amendment, we just went
16 through a whole General Plan process.

17 There were several letters --

18 I think as the discussion of why we didn't
19 want this project to come through changed a bit,
20 there was a couple of emails coming through talking
21 about why this was left out of the General Plan
22 process and that we've already made a decision on
23 this.

24 My recollection was that Council made a
25 determination on -- that we were going to leave this

1 out of the process. But I wanted to -- if --

2 I don't recall -- I don't have it in my
3 notes, so I wanted to --

4 MS. LUNA-REYNOSA: Well, being somewhat new and
5 not being here for the General Plan update, I asked
6 that same question because it seemed like it would
7 have been the appropriate time to look at this --
8 this question.

9 And I was informed that it was Council's
10 desire to have it be an applicant-driven process.
11 They wanted to understand what the market might bring
12 through an applicant to consider land use changes.

13 COMMISSIONER KALMICK: And so we -- we missed
14 the opportunity, essentially, to be able to kind of
15 control what the land use was at that point?

16 I mean, we still have the control but we
17 missed kind of being able to drive that process as
18 opposed to have -- kind of receive the process?

19 MS. LUNA-REYNOSA: I suppose --

20 The decision was to be a little bit more
21 reactionary as opposed to proactive --

22 COMMISSIONER KALMICK: Okay.

23 MS. LUNA-REYNOSA: -- but we certainly have not
24 missed any opportunity to have --

25 COMMISSIONER KALMICK: I didn't mean to

1 insinuate --

2 MS. LUNA-REYNOSA: Okay.

3 COMMISSIONER KALMICK: I meant that reaction --
4 I think that you said it better.

5 So those are all the questions I have for
6 right now.

7 Thank you.

8 CHAIR GARCIA: Okay. Thank you.

9 Commissioner Scandura.

10 COMMISSIONER SCANDURA: Okay. Just a couple
11 questions, again to follow on to Commissioner Kalmick
12 and then the Community Director's presentation.

13 So basically these documents that we have
14 tonight, if, indeed, the City Council and the Coastal
15 Commission were to approve all of these documents,
16 does that -- that does not mean that the next day
17 we're going to be seeing equipment, earth moving
18 equipment, pile driving, all that kind of stuff going
19 on, correct?

20 MR. RAMOS: That is correct.

21 The Applicant would still have to submit the
22 applications for the actual construction of the
23 project, including a Conditional Use Permit, Coastal
24 Development Permit, a Tentative Tract Map, among
25 others.

1 COMMISSIONER SCANDURA: Right.

2 So they're going to have to go through a --
3 through a separate entitlement process?

4 MR. RAMOS: It's going to be another round of
5 public hearings.

6 COMMISSIONER SCANDURA: And then who would --
7 who would actually -- who would actually approve all
8 of these entitlements? Or who would it go before?

9 MR. RAMOS: Well, based on the size of the
10 project, it would be the Planning Commission.

11 COMMISSIONER SCANDURA: Okay. So we would
12 actually -- we would actually see the actual
13 Conditional Use Permit, Coastal Development Permit
14 for the specific housing and hotel development and
15 all --

16 MR. RAMOS: That's correct.

17 COMMISSIONER SCANDURA: -- and all of those kind
18 of things?

19 Now, the second question I have, and this
20 really follows on to a question that Commissioner Ray
21 raised a couple meetings -- a couple study sessions
22 back, and also we saw a letter from a resident a
23 little bit earlier about that, and that is we have a
24 General Plan Goal, HAZ number 5, Policy B (sic), that
25 basically prohibits placement of sensitive land

1 uses in close proximity to hazardous material and
2 hazardous waste sites.

3 So given the fact that we have housing --
4 the development that would go right next to the Ascon
5 site which has not yet been remediated, would this --
6 would this preclude City Council from approving these
7 documents that we have tonight?

8 MR. RAMOS: The -- the General Plan goals and
9 policies are subject to interpretation by each
10 individual decision-maker. In other words, you get
11 to read it and interpret it and apply it the way that
12 you see fit; so there's not one -- one way of
13 interpreting it for everybody.

14 COMMISSIONER SCANDURA: Right. So certainly
15 that will be --

16 Oh, I think the Community Development
17 Director had some --

18 MS. LUNA-REYNOSA: I was only going to add that
19 in -- in addition to that, the Ascon site is -- has
20 been approved, a Remediation Action Plan has been
21 approved and that process has started. It's
22 currently halted.

23 But this particular site, there would be a
24 requirement that DTSC provides either a no further
25 action letter or some kind of letter indicating that

1 it is appropriate, it has been cleaned up to a level
2 of standard that would allow the proposed
3 development.

4 And there would not be any building permits
5 issued until that has happened.

6 COMMISSIONER SCANDURA: Right.

7 And so it will be something we discuss later
8 on about how this policy goal fits into the -- fits
9 into the approvals tonight; however -- or the
10 recommendations tonight.

11 However, definitely at the Conditional Use
12 Permit stage, that CUP and CDP is going to have to
13 comply with this goal in the General Plan, if I'm not
14 mistaken.

15 MR. RAMOS: Again, it's -- it's up to how a
16 Commissioner or Councilmember might read it.

17 COMMISSIONER SCANDURA: Uh-huh.

18 MR. RAMOS: The fact that they have an approval
19 for remediation and they've started might be enough
20 to say that's good enough for me.

21 COMMISSIONER SCANDURA: Right.

22 MR. RAMOS: So it's up to each one of you to
23 read it and interpret it.

24 COMMISSIONER SCANDURA: Yeah. Okay.

25 CHAIR GARCIA: Okay. Do we have any other

1 questions?

2 Oh, yes, we do.

3 Commissioner Grant. Or Vice Chair Grant.

4 I'm sorry.

5 VICE CHAIR GRANT: Just to be absolutely clear,
6 that nothing would be built on that until the DTSC
7 has completely signed off on this and that it's
8 basically going to sit more or less in its current
9 condition without any project going forward at all?

10 MR. RAMOS: That is correct.

11 VICE CHAIR GRANT: Okay. That's all I have for
12 the moment.

13 CHAIR GARCIA: Okay. Commissioner Scandura,
14 you're still on my list.

15 COMMISSIONER SCANDURA: Nope.

16 CHAIR GARCIA: Anyone else?

17 Okay. Is the -- is the Applicant
18 presentation part of the public hearing or --

19 It is; so I will open the public hearing
20 then.

21 The public hearing is now open.

22 MS. JAMES: We have numerous public speakers,
23 the first will be the Applicant.

24 After the Applicant's presentation has
25 completed, I will then call numerous speakers in

1 groups.

2 Please come forward and line up at the two
3 podiums.

4 And I will call you in groups at a time; so
5 I may interrupt you to call the next group, but you
6 can go in any order. But just come on down as your
7 name is called.

8 Thank you.

9 So first is James O'Malley.

10 MR. O'MALLEY: Good evening. James O'Malley
11 with Shopoff Realty.

12 Members of the Commission, I'm going to make
13 a short presentation, primarily on the benefits of
14 the project and the application. And then I'd like
15 to leave a couple minutes in case I need to have a
16 small rebuttal at the conclusion of tonight's
17 testimony from the citizens here, if that's possible.

18 CHAIR GARCIA: Yes. Yeah. We've worked that
19 out.

20 MR. O'MALLEY: I promise I'll be quick.

21 One item of housecleaning, we totally concur
22 with the staff report and the revisions suggested by
23 staff on our application; so we are in concert with
24 the staff recommendations.

25 I first thought, when I put this -- put this

1 slide together, it might be repetitious but it's a
2 good reminder because I get many questions, "Hey,
3 what's it going to look like? What's it going to be?
4 What" -- you know, all of these physical attributes
5 of a -- of a development.

6 But why we're really here tonight is to
7 approve the EIR, a Development Agreement --

8 I'll go into some of the benefits of it.

9 -- and the Specific Plan, which is really a
10 design guideline for the project to be designed to in
11 the future. And as you all mentioned, the future is
12 long and bright on this project for additional
13 applications, additional approvals, additional
14 community outreach.

15 We look at it as a land use that appeared
16 like this when we acquired the property. Big, large
17 tanks used for an industrial purpose, which we'd like
18 to convert to that.

19 Basically it's a paper design; so from a
20 physical condition of a property to a design, that's
21 really what the application is all about and what
22 we're here to discuss and hopefully get your
23 recommendations on.

24 Some of the fun parts of this is I get asked
25 by the community members or people that just drive by

1 this site, that may or may not even live in it but
2 would hopefully use it, "Hey, what's it going to look
3 like?"

4 A small rendering from Bermuda of what our
5 landscape plan, our buffer, our conditions, taking
6 down the power lines and how this might actually fit
7 in with the community at whole.

8 Another shot from the center of Magnolia.

9 I --

10 Actually a resident said, "Hey, I'm going to
11 look at this thing. What's it going to look like
12 when I look out the window? I know the tanks are
13 gone, that's appropriate, but what about this design
14 for Magnolia Park that you keep talking about?"

15 Well, this is a very good example of what
16 this project would look like on its edge.

17 Lastly, at Banning Avenue, another shot what
18 would look at the -- at the coastal buffer, public
19 access, all of the improvements made on a setback
20 from the back of the sidewalk into the property, all
21 constructed, all designed, all maintained by the HOA,
22 nothing by the City; so no cost borne by the City.

23 Another edge condition. If you look
24 closely, if we use Magnolia as a halfway point and
25 you go to the right in the Southeast community, it's

1 about, you know, 45 feet, an 8-foot sidewalk and then
2 a 5-foot minimum. The average is about 20 feet to
3 the first home in the Southeast community.

4 But if you look at what we're applying for,
5 or we're suggesting, is the same distance on Magnolia
6 obviously, an 8-foot sidewalk, and a 75-foot linear
7 buffer, which we're going to call that Magnolia Park
8 to replace Squirrel Park, an additional 15-foot
9 minimum, then our first row of homes.

10 On the Ascon edge another question comes up,
11 "Well, what's that going to look like?"

12 Well, we'll have homes on our edge on the
13 left, a 15-foot minimum setback, a wall, and a
14 30-foot minimum access lane designed by the folks at
15 Ascon. And then a 3-to-1 slope, a very gradual
16 slope.

17 We don't see that as a -- a rough condition
18 at all; as a matter of fact, we see that as a good
19 neighbor.

20 AES. If you take a cross-section at the
21 center of the AES facility, if you look on our left,
22 the elevations, a pad elevation 10 plus or minus, a
23 50-foot setback, around 275 feet, an additional
24 100 feet; so a total of 400 feet before the first
25 residence could be plotted on our property.

1 So that's a -- we think that's a very good
2 compactability. We think that's a very safe distance
3 and an advantage to us being allowed to design for
4 something that already exists.

5 Tank farm benefits. We're basically --

6 You've probably heard it before many times
7 by us and others that we're converting a blighted
8 piece of property. It's not something we're not used
9 to doing, it's being done throughout California, and
10 converting it to something that can transform and be
11 a good component to the community.

12 It will also be a good revenue resource. It
13 will provide housing. It will provide TOT. It also
14 provide benefits that I'll describe later in our
15 Development Agreement.

16 The lodge. We all know that the --
17 your City's Coastal Commission and the policy of the
18 Coastal Commission are visitor-serving
19 accommodations, access.

20 We've created a really nice design in our
21 opinion. We've actually got some very good public
22 input. We think it's going to be very unique, it
23 will be a one of a kind. We already have operating
24 organization calling us saying "Hey, can we be a part
25 of that?" It will be a very successful operation.

1 New homes. It doesn't take anybody to
2 understand that new homes are in high demand in the
3 State of California. It seems like everybody needs
4 one. We think the demographic is good.

5 What we've done with our architects and our
6 planners and our engineers, the first thing they ever
7 heard is "Design a community for this community." We
8 think we've done a very good job in that aspect as
9 well through the Specific Plan.

10 Coastal access. It's an obvious
11 opportunity. We're going to have coastal access all
12 the way from Edison Park, Edison High School down
13 Magnolia to the beach, as well as a circuitous
14 movement of trails and open space elements throughout
15 the project.

16 Magnolia Park. That will be the -- the new
17 name or the conversion to Squirrel Park where most
18 squirrels like to habitate (sic) and fewer people; we
19 want to convert that idea.

20 It will be privately owned. It will be
21 maintained. It will be installed by the developer,
22 us. It will serve as a great buffer between the
23 existing residents in the Southeast community and the
24 future tank farm residents.

25 Marsh Park. That park is getting a lot of

1 attention. We actually put that on the cover of
2 our -- our graphics, our illustrations, our -- our
3 advertisements. It will be the -- a bit north of the
4 lodge. It's going to have an amphitheater of sorts,
5 just a seating area like this. It's going to have
6 docent-led tours. It's going to jive really well
7 with the ecotourism theme and sustainability of the
8 lodge. We think it's going to be quite popular.

9 Wetlands interpretive program. We've been
10 working very closely with the Huntington Beach
11 Wetlands Conservancy. We're going to work with
12 programs, we're going to work with financing and
13 funding, and we're going to make this entire lodge in
14 the theme of the wetlands and all the hard work
15 placed in that wetlands and that beautiful backdrop a
16 part of our plan.

17 Coastal trail and viewpoints. We've
18 described before, it is a 100-foot minimum coastal
19 buffer between the -- the wetlands channel and our
20 property before development ever comes. That's going
21 to be planted. That's going to be interpretive.
22 It's going to be a great feature. And basically a
23 great -- a nice, excitable place to walk.

24 Public parking. Boy, need it everywhere.
25 Throughout this project we've already outlined a -- a

1 loop street within it. It will be open to the
2 public. There are no gates, none whatsoever. And
3 we've calculated around 100 spots of additional
4 public parking that can be used by the public for
5 access purposes, both to the lodge, to the beach, to
6 whatever people wish to do. This will be open for
7 the -- the public to park in.

8 Fiscal. Everyone knows, you know, agencies
9 are dependent -- they're a business of sorts. Every
10 project that we're working on right now requires a
11 fiscal impact report. This one provides that.

12 With this preferred plan, 3.5 million in the
13 revenues to the City. You take a million out for
14 service and operations cost that the City will need
15 to serve this community and you have a
16 2.5-million-dollar net income that this project will
17 provide the City. Over 30 years, that's over
18 108 million dollars of net income as well as
19 300 permanent jobs.

20 I can remember about seven or eight years
21 ago the jobs, that was a really big complement (sic).
22 I think it's still necessary. I think the jobs that
23 this facility will -- will create will be very good
24 for the entire city or maybe others that would want
25 to reside here and/or work here.

1 Development Agreement benefits. A
2 Development Agreement is a contract, as you well
3 know, between an applicant and a city. And we sat
4 down with the City and had some very, very, very,
5 good dialogue. And we said "Hey, look it, if we can
6 do some very good benefits" --

7 Quite honestly, a few of them -- many of
8 them I'll go through were ideas that came from the
9 general public, from different -- either proponent or
10 opponent, we got good ideas from it. I want to go
11 over those with you quickly.

12 Banning Branch Library. Didn't even know it
13 existed three years ago, I'll be honest with you. I
14 drove by it numerous times, I never really knew what
15 it was. It seems to have an emotional flare and kind
16 of an internal component to that neighborhood. We'd
17 like to apply a million dollars to the improvements
18 to that facility.

19 Banning Avenue beautification. I didn't
20 even use Banning Avenue very often when I came to the
21 City or to the -- to the project. And once I
22 realized it could -- it might need some repair and
23 some help, we'd like to apply \$400,000 to improve the
24 Banning Avenue with the City's direction.

25 Edison Park improvements. I don't know if

1 you all have been there lately, it could use some
2 work.

3 We do know that pickleball, for instance, as
4 an example, is becoming very popular. We can convert
5 the -- the sinking tennis courts into a pickleball
6 court and make it a more social aspect; so whatever
7 the City's needs are, we'll work with Park & Rec,
8 we'd like to apply \$800,000 through our Development
9 Agreement and that commitment to Edison Park
10 improvements.

11 Play equipment at Seely Park. Another
12 gentleman said "Hey, it could use it." And I go
13 "Okay, let's go check it out." He was right. We'd
14 like to apply \$400,000 to the improvements in
15 Seely Park.

16 Road improvements. This is a great example.
17 If you look closely on the photograph, you can see
18 the offset. This is at the edge of the Ascon
19 property and our property.

20 If you notice that the street, curb, gutter,
21 sidewalk, was never completed up Magnolia on -- west
22 on Hamilton. We're going to make those improvements.
23 We can argue who should have made them, we're going
24 to make them. We've made that commitment to the City
25 through our Development Agreement.

1 The good news with that is the new roadway,
2 the improvements there, it will provide safe travel
3 for anybody that wants to walk to Edison High School
4 or Edison Park or anywhere along Magnolia where you
5 can't do it right now unless you cross the street.

6 Outreach. That table there shows key
7 appointments made during outreach from 2016 to 2019;
8 I think that's over 40.

9 I think there's probably 400 conversations
10 I've probably had with people, not just on the phone
11 but in person. I know Marlo has had her -- and
12 Christopher has, there's a whole series of outreach.

13 I've committed to anybody that has a
14 question, concern, idea, a thought, a dream, anything
15 of -- of nature that can be -- that can be
16 practically applied to, we're open for that
17 conversation.

18 I want to put in the record tonight, if I
19 could, a binder of our application -- our outreach
20 effort, our outreach strategy, some of the materials
21 we used and complimentary letters on this project.
22 Each of you will get a copy of that.

23 But we'll continue to do it. Again, I'm
24 pretty easy to get ahold of. We're very
25 approachable. And if people have ideas or -- or a

1 different way of doing something that makes sense to
2 us, you'll find us to be very compatible.

3 Thank you very much.

4 Oh, one last thing, I apologize.

5 On the outreach, the room is full of experts
6 here and we've got a series of professional experts;
7 if you have a question on civil engineering, soils,
8 hydrology, outreach, architecture, legal, CEQA,
9 planning, traffic, noise, fiscal, we even probably
10 have a minister here, for any of you -- and if you
11 have a question, we have the right person to answer
12 that.

13 I know there will probably be a question
14 about the pile driving; we have a solution for that
15 as well as an example.

16 Thank you very much.

17 CHAIR GARCIA: Okay. Thank you.

18 MS. JAMES: Next speakers --

19 CHAIR GARCIA: So public speakers next? Public
20 speakers next?

21 MS. JAMES: Next speakers are Scott Sanfilippo,
22 Dr. Joslin Dediego, Jami Marseilles, Tom Bilich,
23 John Hobson, Steven Lamont.

24 CHAIR GARCIA: Okay. And while you're working
25 your way down here, thank you all for coming. And if

1 we're still here by 8:00, and I think we will be,
2 we're going to take a 15-minute break just so
3 everybody can have a break.

4 DR. DEDIEGO: Hi. My name is Dr. Joslin Dediego
5 and I am asking that you deny the rezoning and
6 development of the tank farm.

7 I think there is a preponderance of evidence
8 that shows -- and expertise from our community that
9 shows that there are a lot of dangers to this
10 project. And to deny the evidence that's sitting
11 there in front of you is just dangerous.

12 The land is unsuitable. It will cause
13 countless future lawsuits.

14 Yeah, we're going to get 2.5 million
15 dollars now but how much are you going to be paying
16 in lawsuits later?

17 My other concern is -- is of course the
18 General Plan which you guys have kind of discussed.
19 I just don't understand why this could even be an
20 option after the City paid about 1.7 million dollars
21 to adjust the plan and re- -- reconfigure it.

22 Parking. Of course that's going to be a
23 huge concern. And as Mr. Ramos noted, those need to
24 be adjusted before this plan can even be worked on.

25 Congestion. Obviously with the hotel and

1 250 more residences there's going to be a lot more
2 problems with congestion, with parking, with traffic,
3 with pollution and things like that.

4 Another real concern is the wetlands. I
5 know there's no one here from the wetlands, which is
6 a shock, but then I found out that they donated a ton
7 of money to them; so that's cool. Awesome sauce.

8 So what's going to happen to our wildlife
9 preserve? I'm just wondering.

10 I mean, I know if I shoot a bird, they're not
11 going to want to be there; so this is way more than
12 shooting when there's 3,000 pilings that are going to
13 be pile driven into the ground. How in the heck are
14 those animals going to stick around? We're
15 destroying our resources.

16 Five and half years of construction
17 scheduled. And that's what's scheduled and we all
18 know how construction goes, it's always much longer
19 than that. That's ridiculous.

20 To say that it would not impact the
21 neighborhood, that's a lie.

22 To say it would not impact the wetlands,
23 that's a lie.

24 To say that -- that parking would not effect
25 us, that's a lie.

1 These are lies. They're lying to us and
2 using fancy language.

3 You guys aren't elected officials, you guys
4 are appointed. I know that because I'm also on an
5 appointed council here as well -- or commission. And
6 we do this because we love our city. I know you love
7 this city, otherwise you wouldn't sit here and get
8 shouted at. I understand that.

9 My -- what I'm asking you is to understand
10 that this impacts --

11 Look at these people. These people are
12 angry. They're scared. They're concerned about this
13 project. And these people are not just your
14 neighbors but they're your neighbors' nephews,
15 nieces, grandkids, friends, and you can't do this to
16 us. We don't want it.

17 MR. HOBSON: Good evening. My name is John
18 Hobson. I'm with the Chamber -- Huntington Beach
19 Chamber of Commerce.

20 I'm here to express the support of the
21 Chamber for the Magnolia Tank Farm Specific Plan.

22 As a member of the local business community,
23 I look forward to the transformation of this property
24 into a vibrant, new mixed-use community. The
25 southern gateway to our community will be

1 dramatically improved through the revitalization of
2 this property.

3 The economic and community benefits of
4 redeveloping this property are numerous.

5 Adding a four-star hotel to the City's
6 existing inventory will bolster the City's vital
7 tourism industry.

8 The ecotourism focus of the lodge will fill
9 a growing but underserved niche for local tourism.

10 And more quality meeting and conference
11 space with restaurants will not only serve the needs
12 of businesses but residents as well.

13 The current property is an underutilized
14 asset in the community that many would consider an
15 eyesore. The proposed development will serve as an
16 economic engine for the City.

17 As you've seen in the Economic Impact
18 Analysis, the proposed community will generate
19 significant annual net revenue for the City, not to
20 mention the jobs that will be created for the project
21 during and after construction.

22 The direct and indirect economic impacts of
23 this project are significant. These benefits come
24 from land that is currently sitting dormant.

25 In closing, the mixed-use community proposed

1 for the tank farm property can produce three very
2 important benefits for our City:

3 Significant new tax revenue;

4 Quality housing;

5 And hundreds of jobs for Huntington Beach
6 residents.

7 In our community the opportunity to develop
8 a parcel of land this size is rare. As stewards of
9 the community, I hope you take into consideration the
10 economic benefit this plan proposes for the City and
11 the residents.

12 Thank you.

13 CHAIR GARCIA: Can we keep the applause down to
14 a minimum here or -- or not even that?

15 Please don't applause (sic).

16 VICE CHAIR GRANT: A one-handed clap.

17 CHAIR GARCIA: Go ahead. Thank you.

18 MR. SANFILIPPO: Chair Garcia and Planning
19 Commission members, my name is Scott Sanfilippo and I
20 am a resident of Huntington Beach. I'm here tonight
21 to voice my support for the Magnolia Tank Farm
22 project.

23 Continuing to build homes on
24 7,200-square-foot lots is no longer feasible. And
25 the housing proposed in this development is a nice

1 gradual transition from the existing neighborhood to
2 the AES facility and is a better use of the
3 property --

4 COMMISSIONER KALMICK: Point of order, Chair.

5 MR. SANFILIPPO: -- than the existing zoning to
6 build a hospital.

7 COMMISSIONER KALMICK: Excuse me, sorry. Can I
8 have a point of order, please?

9 Okay?

10 CHAIR GARCIA: Yeah.

11 COMMISSIONER KALMICK: I'd like to ask the
12 audience to please respect everyone's public time
13 here and not shout out.

14 We're all adults. I don't see any children
15 in the audience tonight and I think that we really
16 need to be respectful of everyone's opinions here.

17 We're talking about land use today and
18 people's homes, people's -- people's concerns,
19 people's issues. We want to hear everyone; so please
20 let's not -- let's not be childish tonight and
21 let's -- let's be like adults.

22 Thank you.

23 CHAIR GARCIA: Yeah. We're here -- we're here
24 to hear everybody.

25 Sorry. Proceed.

1 MR. SANFILIPPO: That's all I had.

2 Thank you for your consideration.

3 CHAIR GARCIA: Okay. Thank you.

4 MS. MARSEILLES: Good evening, Commissioner
5 (sic) and Chair and everyone. Thank you for allowing
6 the public to come and speak on this.

7 So I've been a -- my name is Jami
8 Marseilles. I've been a 27-year resident of
9 Huntington Beach. And as I stand in front of you
10 today, I am a stage 4 cancer survivor.

11 And the reason I'm here --

12 I apologize for the cracking of the voice.

13 -- is because I am afraid for the future of
14 our city. We are called Huntington Beach, Surf City.
15 Our first and foremost affiliation should be with the
16 environment. We live right next to the ocean.

17 My son is a scholar at Edison High School.
18 He's been coming home with headaches since the
19 spring, he's been taking naps and I know he goes to
20 bed early. I am concerned.

21 The fact that all there is is a chain-link
22 fence that divides Magnolia Tank Farm and Ascon, I
23 don't believe the EIR is -- the EIR is correct.

24 That soil has been contaminated for over
25 50 years. And the soil that seeped under Ascon, it

1 definitely is with Magnolia.

2 I agree with the gentleman that came up and
3 gave us all these pretty pictures and jobs, we need
4 that. It would be amazing for our City to do that.
5 But at what risk? The risk of the health of our
6 community? The risk of the future?

7 I'm very scared that you start digging in
8 this land and when was the last time someone really
9 dug down 10 feet and tested the water? I have not
10 seen any of those results. Or have they really
11 tested the soil and dug real deep and looked around
12 to make sure that we are protected?

13 We as citizens, we have rights. You guys --
14 Like the other lady said, you're not elected
15 officials but you're here to support us and to help
16 us. And we appreciate you taking on that job
17 because, like she said, unfortunately you're getting
18 yelled at and people are upset and there's a lot of
19 heated dis- -- heated frustrations going on in this
20 room.

21 But the bottom line is that ground is not
22 safe to build on.

23 Do I agree, I raise my hand, I think that
24 land needs to be remediated. It would be amazing to
25 have it made into beautiful parks, maybe some homes,

1 but think about, where do you live?

2 Do you breathe that air on a daily basis?
3 Do your children go to Eader? Do your children go to
4 Sowers? Do your children go to Edison?

5 If you are not directly in that air flow or
6 in that area, I find it so concerning that you're
7 going to make decisions based on the future of the
8 health of those people.

9 So thank you for your time. I hope you
10 really think about this and keep history on your side
11 and deny the Magnolia Tank Farm developing of that
12 land.

13 CHAIR GARCIA: Thank you.

14 Please don't applaud.

15 And if you guys could queue up side by side
16 and then the next person can talk.

17 Thank you.

18 MR. BILICH: Yeah. My name is Tom Bilich.

19 So the reason for the signs, you were asking
20 about the signs and why it said "No Hotel," that's
21 just a general term, just to get our point across.
22 It's kind of large -- you know, you have to be able
23 to see it.

24 The current location. I -- I understand
25 that it's currently -- you can do the

1 Public/Semipublic if you did nothing.

2 I'm sorry, I'm getting distracted because
3 I'm so angry.

4 Still, if you don't make any changes to it,
5 we can still stop what you're going to build on
6 there.

7 I guess my point is is that you don't need
8 to change any zoning. Let's just leave it where it
9 is, let's figure out what's going on with Ascon,
10 let's figure out what's going on with AES, let that
11 finish.

12 They still have to tear down that whole
13 large plant. We don't know what's going to happen.
14 Nobody really knows what's under there.

15 Nothing needs to be there. It can be a
16 beautiful park.

17 See, you guys got me so angry. I'm sorry.
18 So many things.

19 The quality of life. They make it seem as
20 though it's going to make a better quality of life by
21 having these homes and this hotel and this little
22 park. What about the quality of life of the people
23 that live there?

24 We -- we live there. Our kids are walking
25 on -- on these streets. And, yes, there's no

1 sidewalk along Magnolia but that's because Ascon was
2 there. Right? We're trying to fix that.

3 We could put a sidewalk in. That -- that's
4 easy. We don't need to be bribed by Shopoff with all
5 of these improvements because that's what I --

6 The guy just stood up here and -- and showed
7 slides of this is all the money we're going to give
8 the City if we just approve this and go. That --
9 that's what I took out of it is that we're being
10 bought and that just doesn't seem fair.

11 So I -- I really think that you should say
12 no to making any changes.

13 I realize that they say that they could
14 start building right now because of the current
15 zoning. Well, they'd have to put in a request for
16 that and we'd have to review that; so let's just make
17 little baby -- let's not just jump into it and say
18 go, go build all this stuff.

19 We don't need it. Please. We don't need
20 it.

21 MS. JAMES: After -- excuse me.

22 One second, Mr. Lamont. One second,
23 Mr. Lamont.

24 CHAIR GARCIA: Hang on a minute.

25 What are -- what -- what's our recourse

1 here?

2 VICE CHAIR GRANT: One clap.

3 MR. VIGLIOTTA: Well, I think if the meeting
4 becomes disruptive, then we can -- we can take
5 action.

6 But at this point I'm just reminding the
7 crowd that we have a long night and give everyone
8 respect. All the speakers are here to voice their
9 opinion and we hope that -- that you'll respect each
10 one -- each one of the speakers in their turn.

11 Thank you. Okay.

12 VICE CHAIR GRANT: If -- if I might make a quick
13 suggestion is that -- whatever side you're on is just
14 one clap. One will do it.

15 MS. JAMES: I'm going to go ahead and call the
16 next group of speakers.

17 After Mr. Lamont is Alicia Ber- -- Berhow,
18 Pye Ian, Lee Ann Poe, Dave Guido, Lisa Simpson,
19 Blake Garrett, Richard Gomez, Roseann Andrus.

20 Please come down, approach the podium and
21 you can line up at both podiums. You can also raise
22 and lower the podiums to raise and lower the
23 microphones if you need to.

24 MR. LAMONT: All right. Sounds like we're
25 trying the one clap with me here; so let's see how we

1 do.

2 But Steve Lamont. I am a former Huntington
3 Beach renter, a current homeowner within the noticed
4 ring. My wife and I are raising two kids in the
5 Surfside neighborhood behind Mama's and one of my
6 children goes to the local schools here so --

7 I did attend some of the open houses, heard
8 from both sides, talked to the protesters, talked to
9 the -- the Applicant as well. But I do have to say
10 that as a renter wanting to stay in this area there
11 was slim pickings when we were looking to buy a home.
12 We were very fortunate that we found one.

13 That being said, it is very small. We have
14 two kids, they are growing and so we do ultimately
15 want to buy up; so my guess is that adding new stock
16 to this area is going to be a good thing for those
17 young families that are here right now who want to
18 move up, who want to buy up and who want to stay in
19 this community.

20 As far as land use, it kind of seems like
21 this is going to be a pretty good change to what it
22 is now.

23 We are a very outdoorsy family; I mean, we
24 live close to the beach, we're outside a lot. That
25 being said, we're going to be able to utilize this

1 site it looks like from some of the renderings versus
2 now being so fenced off; and so we do --

3 I do support this site. I do support this
4 project. Give the younger families a chance to stay
5 here in Huntington Beach, to buy up and to get kind
6 of that opportunity that a lot of families before us
7 had when there was a lot of development within the
8 City.

9 There isn't just opposition in this room, so
10 please know that. You hear the clapping but just
11 please realize that there are supporters in this --
12 in this room.

13 So thank you.

14 CHAIR GARCIA: That could work.

15 MS. BERHOW: All right. Good afternoon to the
16 Chair and to the Commissioners, thank you for --
17 thank you for the time today.

18 My name is Alicia Berhow and I'm the senior
19 vice president for government affairs for the Orange
20 County Business Council. And I'm here to request
21 approval to the Planning Commission to -- for the
22 Magnolia Tank Farm Project.

23 So this innovative multi-use project will
24 transform a previously blighted portion of the --
25 Southeast Huntington Beach into a recreational center

1 that will offer wetlands, interpretive programs and
2 beautifully landscaped parks for our residents to
3 engage in.

4 The project is specifically designed to
5 account for the fact that there is sea level rise
6 going on. It's happening in specific areas. And we
7 need to be taking account of what's been -- of the --
8 of this design in order to help combat that.

9 So prior to the design phase, a sea level
10 rise vulnerability assessment was conducted. Because
11 of this assessment, the ground elevation was raised
12 to address potential flooding vulnerabilities and
13 foundation measures were incorporated to address
14 potential sea level -- or seawater intrusion.

15 If approved, the Magnolia Tank Farm project
16 will bring construction jobs to Huntington Beach as
17 well as well-paying hospitality jobs to the City.
18 Because of this, the proposed development will
19 provide much-needed transient occupation (sic) tax
20 revenue to Huntington Beach, allowing for the City to
21 continue to attract and retain the best police
22 officers and firefighters in the state.

23 The lodge will be open and accessible to the
24 public and will -- which will add desirable multi-use
25 options, including restaurants within walking

1 distances to residences -- residents of Southeast
2 Huntington Beach.

3 The City of Huntington Beach is in need of
4 housing supply, we all are in Orange County, and all
5 types, for everything from our -- our corporate CEO
6 to our folks that are doing hourly work. We all need
7 housing. We need different types of housing. And
8 this is a -- a great opportunity for families to --
9 as Mr. O'Malley had said, to either downsize or to --
10 to move up, so --

11 And employers in Huntington Beach will also
12 have the tools to attract and retain skilled work
13 force if new housing opportunities are made available
14 to their employees.

15 So Orange County Business Council
16 respectfully requests that you approve this project.
17 And we really thank you for your consideration
18 tonight.

19 MR. IAN: Pye Ian, a long-term resident of
20 Huntington Beach.

21 I've developed early stage interstitial lung
22 disease as a result of the Ascon Landfill remediation
23 process earlier this year. I'm one of dozens with
24 very similar, disturbing symptoms. And we're all in
25 increasing sophisticated communications with each

1 other. We all live within a two-mile radius of the
2 Ascon Landfill.

3 I also carry over 20 years of work
4 experience in finance, research and strategic
5 planning. I called the '08 financial crisis after
6 tracking trends for two years prior and have forecast
7 its reprieve since early 2017.

8 Yes, we're about to have a global crisis
9 that will make the '08 crisis look like the practice
10 run it essentially was. The next financial and
11 economic crisis will be international and encompass
12 credit, debt, consumer banking and sovereign bonds.

13 This isn't hyperbole or doom-and-gloom
14 speculation, it's based on core, sober economic
15 fundamentals involving credible metrics and
16 statistics which have been tactically suppressed or
17 ignored by the government, financial press and, thus,
18 retail money management firms for the past decade.

19 Houses play into development plans within
20 HB; do the math.

21 Our true version of trickle-down economics
22 is about to involve massive corrections affecting
23 sovereigns, stock and bond markets, investment in
24 retail banks, credit unions, public institutions,
25 private and municipal bond auctions, school

1 districts, state and county and city budgets, and,
2 thus, most certainly households and individuals.

3 The already high true inflation rate will
4 dump -- will jump due to newer Fed QE for buying
5 bonds dumped abroad. And the already high true
6 unemployment rate will spike further, affecting
7 destitution levels, public health, and valuations for
8 private and commercial real estate.

9 Don't stick your head in the sand, accepting
10 false data in hopes that recent equity corrections or
11 reams of homeless across suburbia are anomalies;
12 rather, think back to where you were in early 2017
13 and multiply that start -- what started from
14 mid-20- -- I'm sorry, early 2007 and multiply what
15 started from mid-2007 through 2009 by a factor of
16 2 to 5, merely based on the dangers posed to dark
17 pool finances, bank derivative's values alone.

18 Remember that open land pit that just sat
19 there for years near downtown Huntington Beach before
20 becoming Pacific City's residential area? That
21 arrested development was due to former Lehman
22 Brothers money, causing everything to freeze.

23 Anticipate those type of dysfunctions,
24 because we'll have multiple Lehman and Bear Sterns
25 collapses over the next two years. That's why the

1 Federal Reserve is flooding the overnight repo market
2 with north of 70 billion dollars a day as we speak,
3 because banks are not trusting each other's
4 collateral.

5 Reflect upon tenants within Pacific City
6 right now who are experiencing trouble meeting their
7 rents. Think forward to shrinking discretionary
8 income taking them out. No perceived, inelastic
9 demand will not justify exorbitant yet imminently
10 correcting residential prices in Pacific City either.

11 Now think of what illogic would economically
12 strain to justify proceeding with its me-too tank
13 farm project aside from simply speculative future
14 property flipping for the developer and his ancillary
15 interests.

16 Developers are merely hammers to nails
17 and --

18 CHAIR GARCIA: Thank you, sir. Your time is up.

19 MR. IAN: -- they'll only develop regardless of
20 wider conditions, not caring about local economic
21 environmental or --

22 CHAIR GARCIA: Okay.

23 Next.

24 MS. SIMPSON: My name is Lisa Simpson, long-time
25 resident of Huntington Beach, a first-time speaker

1 here.

2 I definitely am not in favor of any kind of
3 project going on where it is tentatively set off to
4 be the Shopoff project.

5 This project or anything like it will
6 totally change the climate, the demographics of our
7 area and it will severely impact our active
8 community.

9 I regularly walk down Magnolia. We are in a
10 residential area where families, young and old, are
11 out biking, skateboarding, roller-skating, anything
12 else that you can think of. Active community. And
13 this project will raise pedestrian and bike traffic
14 issues, and it's going to limit the type of
15 activities that our families are out enjoying in
16 their community.

17 This brings up the idea of this last little
18 report that I tried to read through and I -- I feel
19 sorry for all of this information that you're given.
20 But one thing I did focus on was pedestrian and bike
21 traffic. And I'm sorry, this information was not
22 thorough.

23 You have been given insufficient data. And,
24 unfortunately, in previous months, from information
25 brought up by other residents, I've realized that

1 many of these reports do not offer complete and total
2 information. I'm not saying it's on purpose but I'm
3 saying that there are things left out.

4 This is a story I have for you, I'll try and
5 make it quick.

6 Several years ago, actually many years ago,
7 there was a woman, an excellent, excellent cook and I
8 really wanted some of her recipes. She had
9 fabulous --

10 Anyway, to make a long story short, after
11 several months she gave me a recipe and I was very
12 excited to try this salad. Four in the family; be
13 home tonight, it's going to be yummy.

14 Went to the grocery store, got all my
15 ingredients, read through the directions and, yeah,
16 you can guess. It did not work out.

17 It didn't look like what she had made, it
18 sure as heck didn't taste like what she had made.
19 And of course I find out later, oh, my bad, she left
20 out an ingredient. I think it was more than one.

21 But the idea is, like my recipe, much of the
22 information that is being supplied to us about this
23 area, about some of these projects, are not complete.
24 And this data is being left out, at least some is.

25 It's being selective. That's going to

1 affect our outcome.

2 And while any kind of a project would
3 probably be wonderful in this area, if we don't have
4 all of the information, all of the little tiny
5 details, that's going to affect us.

6 I'm done.

7 MS. POE: I'm Lee Ann Poe and I am a resident
8 here.

9 And I'm grateful for us having this venue.
10 And I think what people don't realize, and I think
11 what people in this room -- I'm not sure --

12 I believe you guys actually understand that
13 Shopoff, as a developer, is actually -- is trying to
14 do the best for Huntington Beach. I think they have
15 come up with some amazing projects in which I would
16 not consider bribes, I consider them ways that my
17 taxes aren't going to go up to make the
18 infrastructure of Huntington Beach better.

19 I think we need to be very aware that
20 high-density developing is the rage and Shopoff is
21 not wanting to touch that. And I think instead of
22 being against Shopoff, I think you should understand
23 there is a tremendous amount of developers that would
24 want this property and want to get in here. And
25 they're not -- they're the ones that you should be

1 fighting, not Shopoff.

2 MS. ANDRUS: Good evening, Commissioners. My
3 name is Roseann Andrus and I am a resident of
4 Huntington Beach and a local business owner of an
5 organization called Family Solutions Associates.

6 Family Solutions Associates is dedicated to
7 providing specialized community planning, training,
8 dependent care and solutions for families.

9 I support the zoning amendments and the
10 plans for the Magnolia Tank Farm.

11 Although development of all homes sounds
12 like a better use for the property, it cannot be
13 considered because, as you know, there are some State
14 mandates involved. The use of the Magnolia Tank Farm
15 property must follow the guideline established by the
16 California Coastal Act, as we learned this evening.

17 The Act requires the development in the
18 Coastal Zone to provide a use that is open to the
19 public, and I want you to keep in mind these words,
20 public, a visitor-serving use.

21 And although it is a requirement, I do feel
22 that adding a boutique hotel as the centerpiece of
23 this community brings a unique amenity to the area.
24 Not only will neighbors be able to enjoy new
25 restaurants and a park within walking distance and

1 biking distance, but they will also have nearby
2 accommodation for out-of-town guests during the
3 holidays and other celebratory events.

4 Some of our homes are 1,500 square feet and
5 really can't accommodate a big venue. And so we need
6 a venue where we can go and have these celebratory
7 events.

8 And, yes, we can go to the Hyatt or the
9 Pasea but some of them are -- are on limited incomes
10 and would rather do -- do away with the big hotels
11 and bring in our own private caterer and this will
12 allow us the opportunity to do that.

13 I was happy to serve on the committee to
14 give input on the design and the amenities that we
15 would like to see at the hotel. And I think the
16 design will fit with the area once it's built. I
17 believe everyone will have a whole new outlook on the
18 hotel.

19 In addition, I'm looking forward to access
20 to the park and the wetlands as it will bring a new
21 educational opportunity for nearby students,
22 neighbors and visitors alike.

23 I would also like to encourage -- encourage
24 the provision for licensed child care services to
25 address the growing impact of the working families

1 within the surrounding -- within this development and
2 surrounding business district.

3 Based upon 216 (sic) data compiled by the
4 American Institutes for Research, there's a total of
5 25,000 -- over 25,000 children, birth through
6 12 years of age, residing in Orange County. And of
7 those children, 19,000 are working families and
8 approximately 63 percent of those children have a
9 need for child care services. It's -- it's over
10 11,000.

11 But we're at a shortfall. We only have
12 5,000 to accommodate the need; so I would like for
13 you to encourage that provision as well.

14 I do support this project. Thank you.

15 MR. GOMEZ: Good evening, Chair and
16 Commissioners. My name is Rich Gomez and I'm a
17 representative with the Southwest Regional Council of
18 Carpenters.

19 I'm a long-time resident of Huntington Beach
20 and I'm here tonight.

21 And we know this project is still a ways
22 away, but if it is approved, we feel that this -- if
23 this project is going to be built, it should be built
24 by responsible and reliable contractors; so be it as
25 a general contractor or subcontractors who

1 participate in local hire, the hiring of veterans and
2 contractors who belong to a State-certified
3 apprenticeship, these programs will provide
4 opportunities for our kids who are attending our
5 local high schools who are getting ready to graduate
6 who do not plan on attending a college or university.

7 The Carpenters Union and the building trades
8 provide programs that will give them an
9 opportunity -- programs and a job that will give them
10 an opportunity to earn a livable wage and benefits so
11 they can continue to reside and stay in the City of
12 Huntington Beach and keep our community strong.

13 Thank you.

14 MR GARRETT: Council (sic), thank you tonight.

15 My name is Blake Garrett. I am a resident
16 of Huntington Beach in the Seabury tract just
17 adjacent to this site. I'm also a commercial real
18 estate broker, 15-year vet. I've got my own practice
19 here in Huntington. I've been to many of these like
20 meetings and seen lots of developments that are far
21 worse than this get approved.

22 I was also on a small committee chosen by
23 yourself and some other people in the City for the
24 research and technology zone and -- and weighed in on
25 that improvement to the overlay.

1 I'm in agreement with this development. I
2 think that, you know, the land has been
3 underutilized, it's been a blight.

4 Our -- our housing tract backs up to the
5 Edison Park there, right across from Edison High
6 School. And I have two small children, 5 and 2. We
7 used to love to walk down Mag- -- Magnolia to the
8 beach. But Squirrel Park and also the Edison Park
9 there has become a transient wasteland, drug deals.
10 It's dangerous.

11 Instead of walking not across any busy
12 streets, we can actually access that -- that park
13 through our -- our -- just down the street. We
14 actually choose to walk across Newland to Pacific
15 Shores to that great park that was approved and that
16 was part of the development there of the Pacific
17 Shores development. Super clean.

18 If, you know, Shopoff is able to do this
19 development, it would -- it would mean a lot, not
20 only to that immediate area but just the -- the foot
21 traffic down to the beach. Instead of walking down
22 Newland and, you know, dodging cars and walking next
23 to tanks, you would be able to walk through a park on
24 the way to the beach.

25 I just think it's a great overall

1 development. I'm in approval.

2 Thank you.

3 MS. JAMES: Next speaker is -- next speaker is
4 Dave Guido.

5 Following Mr. Guido is Kate Spear, John
6 Villa, Brett Bashore, Ann McCarthy, Michele Weedon,
7 Richard Armendariz and Harry Slusher.

8 MR. GUIDO: Good evening, Commissioners. My
9 name is Dave Guido. I am vice chair of the
10 Huntington Beach Wetlands Conservancy; however,
11 tonight I am speaking as a private citizen.

12 I was also a former member of the Huntington
13 Beach Environmental Board. I was on that board for
14 six years.

15 I've lived in Southeast Huntington Beach for
16 29 years.

17 In the time I've been able to become
18 familiar with the people involved in the Magnolia
19 Tank Farm project, I've seen a rare and unique
20 interest in the good of a very difficult piece of
21 Southeast Huntington Beach property. This is a
22 property at its best that is a challenge.

23 I believe Shopoff's ideas put the troubled
24 property into its very best use. I also believe in
25 their genuine interest in our Huntington Beach

1 wetlands, their next-door neighbors.

2 They will offer the wetlands an excellent
3 opportunity for access and for long-range life of the
4 wetlands.

5 I recommend approval of this project.

6 Thank you.

7 MS. SPEAR: Good evening, Commissioners. My
8 name is Kate Spear and I am here speaking on behalf
9 of Unite Here Local 11, the hospitality workers labor
10 union. We represent approximately 30,000 workers
11 across the Southern California and Arizona regions,
12 many of whom work and live in Orange County.

13 We are opposed to the project as it is
14 currently proposed. We have several questions about
15 this project and its Program Environmental Impact
16 Report, or PEIR, including the potential impacts on
17 the environment, such as the identified unavoidable
18 impacts on gas emissions, or GHGs, and traffic.

19 Here, the PIER's GHG analysis admits the
20 project would have a significant GHG impact and does
21 recommend some GHG mitigation measures; however, the
22 PEIR fails to discuss other feasible mitigation
23 measures that were not considered or considered
24 infeasible.

25 Your community clearly has ideas about what

1 kind of development would best serve them at this
2 site and it's hugely important to listen to what they
3 have to say.

4 A site of this magnitude in such close
5 proximity to the coast and protected wetlands should
6 be regarded as a particularly unique opportunity to
7 serve the community and the need -- a need that would
8 serve the entire region.

9 For example, at the beginning of this year,
10 the State of California filed a lawsuit against the
11 City of Huntington Beach for failing to provide and
12 preserve a sufficient amount of land for housing
13 development; however, here the PEIR analyzed only the
14 project and one alternative excluding the hotel which
15 kept the same number of residential units.

16 Given the City's need for increased housing,
17 the PEIR absolutely should have analyzed a project
18 alternative that contained more housing with no
19 hotel, or at least more housing available to all
20 income levels than what is currently proposed in the
21 project or Alternative One.

22 The PEIR must be recirculated to include
23 the appropriate amount of alternatives to be fully
24 comprehensive.

25 Please listen to what your community is

1 saying to you.

2 Thank you.

3 MR. ARMENDARIZ: Commissioners, my name is
4 Richard Armendariz. I'm a 57-year resident of
5 Huntington Beach. I'm a retired Administrative Law
6 Judge for the State of California.

7 I would recommend a denial of the General
8 Plan. I would recommend not approval of the CEQA. I
9 would recommend do not certify the EIR for three good
10 reasons: AES; Poseidon; and Ascon.

11 AES is going to be making so much noise that
12 anybody with any kind of a -- a brain would not want
13 to spend the night at a hotel right next to it.

14 Ascon is going to be poisoning and creating
15 health problems for many, many years to come.

16 And if you're familiar with what happened in
17 the City of Vernon with that Exide Battery plant that
18 was there, they saturated the ground with poisonous
19 chemicals for many years and Ascon is even worse than
20 that.

21 They've des- -- they've put in chemicals
22 from 1933 to 1984, dangerous chemicals. And the
23 fence outside of Ascon right now indicates this
24 property contains lead, nickel and arsenic. That is
25 not even including everything else that has been

1 saturated on that ground for -- for all of these
2 years.

3 Poseidon plans -- if they're approved, they
4 plan to build a pipeline along Magnolia. They're
5 going to dig up that ground and I don't -- I don't
6 know how long that will take. But digging up that
7 ground will saturate again and put that -- that dust
8 and dirt and poisonous chemicals back into the air
9 again.

10 That's what Poseidon is planning to do. And
11 they're going to run it along Magnolia and along
12 Brookhurst -- up to Brookhurst because the only body
13 who wants that water is Santa Margarita.

14 So that's what you're dealing with, that's
15 what you have to consider. You don't want to --

16 Somebody previously said that you will be --
17 the City will be inundated with major lawsuits for
18 cancer clusters.

19 And one other factor that -- that you have
20 to consider is the fact that global warming is making
21 the seas rise and that part of the land will be under
22 water in the 30 years that you're waiting for this
23 thing to take effect.

24 Thank you.

25 MR. SLUSHER: Good evening, I'm Harry Slusher.

1 I'm a local -- very local resident. I live just one
2 street on the other side of Magnolia; so I look out
3 toward this project and the -- and the old tank farm.

4 We have followed this project all the way
5 through. We believe that they have proposed a very
6 good solution, taken into account everything.

7 The land will be raised to cover the sea
8 level rise. The access and overlook of the wetlands
9 will be excellent. And the hotel facility sounds
10 like an amazing facility to me.

11 The homes in there are needed, as people
12 pointed out. I think the restrictions that are on
13 them will keep us close neighbors from being impacted
14 by them.

15 And I think this end of Magnolia and Banning
16 both have extremely light traffic; so I think any --
17 any additional traffic created by the additional
18 homes and the hotel will be -- will be negligible.

19 And there's talk that they'd have to close
20 down Magnolia for a time period and that's -- I think
21 that's ridiculous. That would never happen. And it
22 hasn't happened so far, even with Ascon, so --

23 I think -- all and all, I think it's a very
24 good project. I think it will benefit all of us.
25 And the access -- improved access to the coast will

1 be excellent; so I'm -- I'm in favor of it. And I
2 think you should vote in favor of it, too.

3 Thank you.

4 MR. VILLA: Good evening. My name is John Villa
5 and I represent the Huntington Beach Wetlands
6 Conservancy. I'm the executive director for the
7 organization.

8 I'm glad we're here talking about a specific
9 project, Shopoff, and the amendments that they want
10 to make in order to move forward for their project.

11 We are in support of that project and have
12 been for a couple years because we've been talking
13 with them and relaying the issues and concerns we
14 have with the wetlands and the wildlife that lives in
15 our wetlands.

16 All of the comments that we have provided,
17 including into the EIR, have been responded to, into
18 an area that has given us a positive feeling that
19 they are addressing our issues and are looking for
20 the future to make sure there is no harm to the
21 wetlands.

22 As the largest private landowner in
23 Huntington Beach, and also the largest one adjacent
24 to this property, we support this project. We think
25 that the impact it will give not only to the City but

1 also to that area, and providing the parks and the
2 ability for local citizens also to go into those
3 parks and into our marshes and into the wetlands, is
4 going to be something that not only the City needs
5 and wants but it also meets the requirements of the
6 State Coastal Commission, to be able to provide
7 public access to the wetlands and to the coastal
8 range.

9 So while we have looked at all of the things
10 that we feel are necessary to make sure that, again,
11 the habitat, the animals that live there, including
12 the endangered and threatened species of birds and
13 plant life that are in our marshes, we think that
14 the -- that our comments have reached Shopoff with an
15 open ear and they've come back and told us how
16 they're going to resolve those issues.

17 So I want to say thank you for the time.

18 Again, we, the Huntington Beach Wetlands
19 Conservancy, do support this.

20 MR. BASHORE: First I just want to say thank you
21 guys for being here and thank you for hosting us.

22 I'm speaking here tonight as one more
23 concerned member of the Southeast Huntington Beach
24 community.

25 I grew up in the Fashion Shores

1 neighborhood --

2 CHAIR GARCIA: Your name. Your name.

3 MR. BASHORE: Brett Bayshore.

4 I grew up in the Fashion Shores
5 neighborhood. My grandparents moved to Adelia Circle
6 in 1972. My parents moved us onto that same street
7 in 1989.

8 I went to Eader, I went to Sowers, I went to
9 Edison, as did my parents, my brother and my sister,
10 and maybe some day my future kids.

11 I proudly continue to call Southeast HB my
12 home.

13 I'm aware of its past as a dumping ground
14 and have dealt with noise pollution, dirt, oil spills
15 and oil showers after a pipeline burst at the current
16 Ascon site in roughly '03, '04 for years now and
17 it's -- it's nothing new to us.

18 While most of the environmental past of this
19 part of Huntington Beach is indeed horrific, I can
20 honestly say that the past is nothing compared to the
21 current condition of the Ascon site.

22 The new AES power plant continues to belch
23 out toxic green and yellow smoke. The 24/7 noise
24 pollution is unbearable for residents of the Fashion
25 Shores neighborhood and surrounding neighborhoods.

1 The smell of gasoline-like substances
2 permeates the air for hundreds of yards in all
3 directions of the site, including on my drive to see
4 you guys tonight.

5 I ask how does polluting our air, our land
6 and our most valuable assets of all, which I believe
7 to be human beings, improve our community? What say
8 do we have in our very health being compromised
9 without our consent?

10 You'll notice my voice is a little bit
11 hoarse now and I truly believe that it's
12 environmentally caused.

13 To most -- to most of us it feels like we
14 actually don't have a say at all.

15 I understand that you were overwhelmed with
16 residents' concerns regarding the current situation
17 at Magnolia and Hamilton. I understand that I'm just
18 another voice in the crowd, but I also know that if I
19 remain quiet you won't hear from people like me who
20 have been watching this travesty unfold for years and
21 the impact it would have on our community for several
22 years to come, especially during development years.

23 To be clear, I oppose the zoning change
24 application and especially the, quote, lowest
25 priority residential medium-density and

1 commercial-visitor aspects of the application.

2 That's all. Thank you, guys.

3 MS. MCCARTHY: Hi. My name is Ann McCarthy. I
4 live immediately adjacent to the project. I've lived
5 there over 20 years. I have kids that went to Eader
6 and Edison.

7 One thing I'd like to point out, the tank
8 farm property was privately owned when it was a tank
9 farm and it's currently privately owned. It's
10 currently zoned for Public/Semipublic.

11 I've looked through the zoning, I've studied
12 the zoning and I don't believe any of the current
13 uses that would be allowed under the zoning would
14 benefit the neighborhood. I think, in fact, the
15 industrial use as a utility would not have a positive
16 effect on the neighborhood at all.

17 I've heard people talk about a park. The
18 problem with that is you have to buy the land, you
19 have to develop the park and you have to maintain the
20 park. And I don't think the City is in a position to
21 do that and I don't think a private developer is
22 going to do that without any kind of return.

23 I've also studied the current proposal and I
24 think the current proposal will fit within the
25 community, I think it will benefit the community.

1 As a resident here, I've sat on the board of
2 the Huntington Beach Wetlands Conservancy for
3 20 years as a treasurer and board member. The
4 developer reached out to the Wetlands Conservancy,
5 they took all of our concerns into account.

6 They've built parks within the project as
7 well as buffer areas that address the wetlands. And
8 integrated the parks and the walkways within the
9 wetlands in a way that will positively effect both.

10 I think in general that's all I have to say.

11 Like I said, as a resident I would look
12 forward to the amenities it would offer.

13 Thank you.

14 MS. JAMES: Next speaker is Michelle Weedon.

15 Following Ms. Weedon is Nancy Buccholz, Tad
16 Buccholz, Trina Bilich, Shammy Dingus, with donation
17 of time from Les Messick and Andrew Morris,
18 Terra Barton, Sharon Messick, Stephanie Hanson and
19 Ryan Messick.

20 MS. WEEDON: Good?

21 Michele Weedon. I've been part of the
22 planning sessions, I've met several of you and
23 presented a demographic study that we worked on for
24 Shopoff as trying to understand Huntington Beach and
25 making sure that -- that we're building the right

1 thing for Huntington Beach.

2 Tonight I'm here, though, as a resident. I
3 live in the Southeast Huntington Beach community.
4 And I am here in support of Magnolia Tank Farm.

5 I am excited for the new supply of houses,
6 knowing from a professional that we are so in dire
7 need of that.

8 I'm excited for the new lodge personally
9 just so we've got new places to visit, to bike to, to
10 eat, drink, gather.

11 I'm excited for the value-add to our
12 neighborhood.

13 And, again, when we look at this piece of
14 property, it's blighted, it's nothing that we're
15 using currently. To look at what Shopoff is looking
16 you know, to do to improve, to be able to enjoy that
17 as a community, as a new amenity, I'm very much in
18 favor of that.

19 And I'm excited that it's Shopoff in
20 particular.

21 You've heard from some of the other people
22 here in support that -- you know, we are very
23 fortunate to have one of the most reputable
24 developers in our corner and that's a big deal. And
25 we've seen some bad ones.

1 They've already done a tremendous amount of
2 research -- of outreach to make sure that the project
3 is built for our community. And I know that they
4 will take every step necessary to make sure that it's
5 done right and that it's done for us.

6 So thank you. And I am in support of
7 Magnolia Tank Farm.

8 MS. BUCCHOLZ: Good evening. My name is Nancy
9 Buccholz. I am a 40-year resident of Southeast
10 Huntington Beach and I'm here to oppose the
11 certification of the EIR for the proposed Magnolia
12 Tank Farm as I believe it is woefully inadequate in
13 addressing the concerns of the community with regards
14 to hazardous materials, air quality and the
15 cumulative effects of ongoing and simultaneously
16 occurring major projects in the area.

17 I also believe the project in itself goes
18 directly against what the land use for the area was
19 specifically slated for by the City of Huntington
20 Beach with regards to our very newly updated General
21 Plan.

22 In the past two meetings you have heard all
23 the discrepancies with the Magnolia Tank Farm EIR
24 with regards to environmental hazards. Also you've
25 heard about many other issues, too, like the parking,

1 the noise, the air quality, too many to re-mention
2 here and now.

3 Since the last meeting there are still
4 questions environmentally that haven't been answered,
5 like is Ascon going to be fully remediated and is it
6 appropriate to build homes and residences next to it?

7 Tonight I would like to add to comments that
8 pertain to the fact this project seemingly wants to
9 change the entire character of an existing
10 residential neighbor -- neighborhood by rezoning it
11 to accommodate one developer's wish, who, in this
12 case, is taking an established residential
13 neighborhood and trying to make it into a premier
14 tourist destination with an excess of higher-density
15 homes that will create a new form of blight in the
16 area. I call it medium-density blight.

17 That's where all the homes look like
18 encyclopedias, all stacked one on top of the other.
19 They're either gray, brown or white. You might have
20 seen them in other areas in -- in Southern
21 California. They lack originality and completely are
22 out of character with this neighborhood.

23 The Huntington Beach General Plan update was
24 done in 2017 costing the City 1.8 million roughly.
25 "The General Plan is," quote, "the fundamental policy

1 document for the City of Huntington Beach...a (sic)
2 framework for management...providing a basis for
3 rational decision-making, this document guides civic
4 decisions regarding land use," quote.

5 "The General Plan also," quote, "clarify and
6 articulate the City's intention with respect to the
7 rights and expectations of the public, property
8 owners, and," finally, "prospective investors," in
9 that order.

10 "In addition to the written goals...the
11 General Plan contains a Land Use Plan that is a
12 prevailing determinant of land use in the City. The
13 Zoning Maps and development standards function to
14 implement our (sic) General Plan."

15 Well, Magnolia Tank Farm seeks to change the
16 zoning in the area, create a whole new neighborhood
17 that is out of character with the established
18 residential neighborhood by adding a hotel, a bar,
19 retail and 250 medium-density homes.

20 Also troubling is the fact that Magnolia
21 Tank Farm wants to build a hotel and residences next
22 to a hazardous materials toxic waste dump that will
23 only partially be remediated when completed. A large
24 portion of the hazardous waste in Ascon will remain
25 in Pit F, 50 yards from these homes, as well as other

1 lettered pits that are not any part of this
2 remediation that exist.

3 Ascon will continue to have toxic waste on
4 its property even after the remediation is done, we
5 know that for sure.

6 Also, this work has no timeframe currently
7 and it is at the mercy of what they find as they go.

8 DTSC has determined it will not continue
9 until very specific criteria is used to move forward.
10 Today it is at an almost six-month standstill because
11 of the complexity and dangerous nature of the
12 chemicals that they're working with.

13 Building homes on this land next to this
14 toxic site goes against our General Plan where it
15 states, regarding hazardous materials and the
16 Brownsfield (sic) sites, the policy reads, and you
17 heard it earlier, that sensitive land uses in close
18 proximity to hazardous materials are prohibited.

19 It also states in the General Plan, under
20 that same area, to avoid locating any uses that would
21 process, store, dispose of "hazardous materials near
22 a residential area or other sensitive uses."

23 I'm a sensitive use, so is my family.

24 Why would we put other people or a hotel
25 next to that kind of toxicity with what we know now?

1 It's not in our General Plan, either.

2 Our General Plan also speaks with regards
3 to land use and relationships to other elements, like
4 noise.

5 With reference to noise, the General Plan
6 states, quote, that the noise as it relates to
7 community quality of life has been linked to human
8 health factors. "Aside from general annoyance,
9 excessive noise is a source of discomfort, interferes
10 with sleep, and disrupts communication."

11 Noise by City compatibility standards is
12 based on land use designations, with noise being
13 measured in decibels.

14 Acceptable levels for low-density areas are
15 significantly lower than mixed-use and
16 visitor-serving areas, low density being up to
17 60 decibels and visitor-mixed use being up to
18 70 decibels.

19 Magnolia Tank Farm seeks to build a
20 higher-density and visitor-serving area in a
21 residential neighborhood, near a library and an
22 elementary school. This would create a much louder
23 environment for the existing established
24 neighborhoods. This goes against what our General
25 Plan states.

1 The General Plan for the City of Huntington
2 Beach is clearly well written and Shopoff has just
3 disregarded what it says. It's trying to rewrite the
4 General Plan for its own purposes.

5 There is no benefit for the property owners
6 in my neighborhood or in the surrounding
7 neighborhoods. The only benefit is that 2.5 million
8 dollars to help with the parks.

9 My neighborhood is worth more than
10 2.5 million.

11 The residents who purchased homes in this
12 area deserve to have their property rights protected,
13 too. This isn't just about what the -- what
14 Shopoff's rights are. It's about our General Plan
15 being dismissed and property rights being ignored.
16 And this type of -- and in this -- and in --

17 Basically what I'm trying to say is please
18 don't change the zoning, it's -- it's not right, it's
19 only one-sided and it -- and it's sure making it look
20 like the City is favoring the developer over the
21 residents.

22 Thank you.

23 MS. BILICH: Hi. Good evening. My name is
24 Trina Bilich. And I've been a resident of Huntington
25 Beach for over 30 years. I have a family and

1 grandchildren here.

2 I'm an alumni of Edison High School. My
3 children went to Edison High School. I recently took
4 a position at the high school, I'm an educator, so I
5 could be closer to home because my daughter is very
6 sick and it started because of the Ascon Landfill.

7 My neighborhood has been left a toxic
8 legacy. The AES Power Plant, Ascon Landfill and the
9 Huntington Beach Waste Management facility exposes
10 our community to toxins, noise and air pollution, and
11 ongoing construction activities that produce
12 emissions from diesel fuel and gasoline. In fact,
13 our DTSC Enviro score for toxic releases is
14 81 percent; our neighborhood has more toxic releases
15 than 81 percent of all California.

16 On top of all this, the City of Huntington
17 Beach currently has 34 major projects currently in
18 planning or under construction. That's just the
19 major projects.

20 The combined cumulative impacts of these are
21 significant and are unjustifiable. The cumulative
22 impacts these projects and the proposed Magnolia Tank
23 Farm will have affect the Cities of Huntington Beach,
24 Newport Beach, Costa Mesa and Fountain Valley.

25 The major projects mentioned above range

1 over a 20-plus year span and will mainly impact the
2 following streets and areas:

3 Brookhurst and Adams;
4 Hamilton Hill/Victoria Street;
5 Pacific Coast Highway and adjacent beach
6 areas;

7 Talbert Marsh and salt trails;
8 Scenic Highway;
9 Beach Boulevard;
10 Hamilton Street;
11 Banning Street;
12 Magnolia Street;
13 Atlanta Avenue;
14 Newland Avenue;
15 And Ellis Street.

16 Other impacts will be on the scenic bike
17 trails, the coastal wetlands.

18 Air quality, noise, traffic dust,
19 VOC particulate matter, light and glare, loss of
20 scenic vistas, migration of wildlife effects,
21 decreased community health, particularly high-risk
22 and sensitive populations, including myself, my
23 family, members of my -- pets, such as children, the
24 elderly, asthmatic or allergy-prone, pregnant women
25 and immunocompromised individuals as well.

1 Under California law the AQMD or California
2 Air Resources Board are responsible for controlling
3 air pollution from all sources except motor vehicles.
4 The Air District must adopt rules to "achieve and
5 maintain state and federal ambient air quality
6 standards" within their jurisdictions, Health &
7 Safety Code 40001.

8 The CEQA requires public agencies to perform
9 an environmental review and appropriate analysis for
10 projects that they implement or approve.

11 Why are we considering zoning before we
12 consider the impacts?

13 The cumulative impacts of the City's planned
14 major projects, in addition to the location of the
15 proposed Magnolia Tank Farm project on toxic land and
16 next to the Ascon Landfill Toxic Superfund site
17 exposes our community, wildlife, land and ocean to
18 unnecessary and avoidable risks for more toxins,
19 pollutions and chemical exposures.

20 We do not need this development. We
21 shouldn't change the rezoning before environmental
22 risks are considered.

23 Vote for no development. No on Shopoff.

24 We need to stop and slow down all of these
25 projects and protect our air quality.

1 Some of my slides showed the proximity to
2 the schools and the hospitals, the senior -- senior
3 living areas. And you should take a look at them
4 when you have a chance.

5 Thank you.

6 MS. DINGUS: Hi. My name is Shammy Dingus,
7 you've seen me before. This first slide explains
8 some of it. All talk and no answers.

9 I've been here before and it seems that it's
10 just pretty useless to go on talking about all the
11 errors, the inadequate information and the unknowns
12 in the EIR.

13 No matter what we bring up, no matter how
14 many facts we bring to the table, we never get any
15 response from the Commission and nothing ever
16 changes. It just keeps trucking along. And that's
17 all I have to say about that.

18 Slide.

19 Who changes the slides?

20 UNIDENTIFIED SPEAKER: I do.

21 MS. DINGUS: Oh, change the slide.

22 Oh, you did.

23 So now I'm going to move on and talk about
24 something new called spot zoning.

25 The term spot zoning is a touchy subject.

1 It talks about -- in planning and development.

2 It talks about rezoning a specific parcel,
3 one parcel, so that that builder can do something
4 that doesn't fit with the city's existing plans. A
5 classic example would be allowing a commercial
6 business in a residential zone. Nobody wants a night
7 club in the middle of their neighborhood. They may
8 not want a boutique hotel either.

9 Next slide.

10 Spot zoning, is that what's going on on
11 Magnolia Tank Farm?

12 Well, the City is planning to modify the
13 General Plan, create a new Specific Plan, an entirely
14 new Zoning Code and rezone this one lot just so the
15 Shopoff Realty Investments can build what it wants.

16 Now, we've listened to the Planning
17 Commission for years tell us, oh, they don't like it,
18 they know we don't like it, but they've got to
19 approve this project because it's within the rules.
20 Now we hear them saying, well, they know we don't
21 want it but they've got to change the rules to fit
22 this project.

23 You know, if that makes sense to you -- I
24 mean, it doesn't make sense to me.

25 Make no mistake, this is a residential

1 neighborhood. There are no other commercial
2 properties in this area. We don't want to have a
3 hotel in the middle of our residential area.

4 And as far as all of the money and so forth
5 that Shopoff has devoted to, you know, this project,
6 I want to point out that Shopoff is very involved as
7 an influential figure in the community. They've made
8 an awful lot of --

9 They're the major leader in the Chamber of
10 Commerce. They've donated a lot of money. They're
11 offering all of these gifts. They may have put
12 3 million dollars into the various things that
13 they've gotten involved with in favor of the -- to
14 curry favor within the community. They probably
15 spent a half a million on the EIR.

16 They bought -- paid 31 million for the --
17 for the property.

18 But on the day it gets approved, just
19 because you raise your hand and vote, that's all,
20 just because you raise your hand and vote, it will
21 probably be worth 100 million.

22 So spending 3 million dollars to -- you
23 know, around the community just to make things seem
24 better isn't really a lot of money. The money is in
25 the fact that at some point you guys are going to

1 raise your hand and say yes.

2 All he's doing is flipping the land. That's
3 what Shopoff's business is. He's not going to build
4 it, he's not going to run it, he's not going to
5 operate it, none of that. He's just going to flip
6 the land.

7 So in final -- final slide, just say no.
8 Don't rezone it.

9 One of the big problems here, I mean, it
10 doesn't belong. It doesn't fit in the community. We
11 don't want it. It was never in the plan.

12 I don't care what the Coastal Commission
13 wants. It's not a problem now. If you don't rezone
14 it, it won't be a problem.

15 There's a lot more to this. And -- and if
16 you approve this, you should be aware that it puts
17 the City at risk of litigation on the issue of spot
18 zoning. There's no question in my mind that somebody
19 isn't going to challenge that and it's something that
20 you ought to think about.

21 I'm going to say my piece for now because it
22 turns out I have more time but someone else has their
23 slides and then I'll come back; so I guess I have
24 four minutes and 54 seconds left?

25 MS. JAMES: Her time was do- --

1 Her second amount of time was donated but
2 it's after --

3 MS. DINGUS: It's donated but someone else's
4 slides are in the middle.

5 CHAIR GARCIA: What's the normal procedure on
6 that? Do we do that?

7 No?

8 You have to do it all at once he said.

9 MS. DINGUS: Okay. Well, then --

10 There we go.

11 CHAIR GARCIA: Sorry.

12 MS. DINGUS: Okay. There we go.

13 Okay. The next part of the presentation is
14 on alternatives.

15 Alternatives to the current zoning plan do
16 exist; so you don't --

17 Without rezoning this, without doing any of
18 that stuff, there are several things you can do.

19 Without, you know, rezoning -- rezoning
20 anything at all, you can build hospitals, cultural
21 centers, senior centers, lots of different kinds of
22 parks and so on.

23 Shopoff Realty has made two proposals,
24 they're basically the same. One of them includes the
25 proposed plan. In addition to 250 residences, it

1 incorporates commercial development, including a
2 hotel, a guest lodge, restaurants, bars, shops.

3 The lodge with the, you know, 40 rooms and
4 an entertainment area sounds like a great place to
5 have a party.

6 The Alternative One proposal includes only
7 the homes and none of the commercial elements; that
8 one probably wouldn't get approved by the Coastal
9 Commission.

10 So here's the thing: Once you rezone the
11 property, Shopoff isn't going to get Alternative One.
12 And if he doesn't, then he's already got the property
13 rezoned and he can basically do whatever he wants to
14 with it.

15 And my understanding, I didn't get -- I
16 wasn't clear on it, but that the Development
17 Agreement has some limit, 15 years or something on
18 the -- the amount of time that the City has control
19 over the property. I don't really understand that.

20 But it does concern me that even if we went
21 to, say, Option Two, we still wouldn't be precluding
22 commercial activity being added to the project on
23 down the road. And, in fact, we would have less
24 control over it because it's not explained now.

25 One of the things I'd like to point out is

1 that the -- the hotel itself is a huge burden to the
2 environment. The hotel creates 60 percent of the
3 traffic, more than 60 percent of the emissions. It
4 creates most of the parking burden, it creates most
5 of the issues. It's going to create most of the
6 problems. A hotel is fundamentally different than
7 the housing element.

8 Fortunately, CEQA requires the City to
9 consider alternatives to not rezoning the property.
10 And so the City decided to consider two alternatives;
11 one is nothing and the other one is a senior campus.

12 The senior campus would be feasible.

13 Because no one really proposed one, the
14 campus described in the EIR is sort of imaginary.
15 It's described as having 650 units, which is very
16 large, probably couldn't be anything nearly that
17 large. It would be up to three stories high. It
18 would have residential living, memory care, skilled
19 nursing and so on.

20 There are a couple of questionable things,
21 like 24-hour emergency response which I don't know of
22 any senior center that has.

23 That plan, in terms of jobs, would offer up
24 to 1,200 good jobs; so in terms of community benefit,
25 that's something that's important.

1 And it would have much less traffic. It
2 wouldn't have the problems with entertainment and
3 noise that a -- that a hotel would. And so --

4 And there's no particular --

5 I mean, the senior center includes -- within
6 itself includes parks, walking areas. These aren't
7 mentally ill people, these are just seniors.

8 So there's no reason you can't go forward
9 with whole Coastal Zone and wetlands and -- and
10 walkways and whatever we want in terms of visitor,
11 you know, attractions to enjoy the wetlands and so
12 forth and still have this senior center there.

13 So I guess what I'm saying is that we
14 need to pay a lot more attention to the things
15 that we can do, like this senior campus, and --
16 combined with a visitor center made up of a park
17 with wetlands and so forth, and not fall into the
18 spot-zoning-Shopoff-and-we-don't-care-about-the-EIR-
19 even-if-it's-not-done-and-we-think-it's-okay trap.

20 That's it.

21 MS. BARTON: I'm Terra Barton.

22 Lodge, family vacation units, they -- we can
23 call them whatever we like but at the end of the day
24 it's a hotel that's being proposed, surrounded by
25 medium-density housing, by Shopoff Realty.

1 And to put such a top -- this on such a
2 toxic, broken piece of land is just wrong.

3 There are so many reasons why putting a
4 hotel on this piece of land is irresponsible and
5 unsafe, but at the end of the day it's just not
6 wanted by our constituents of this community. It's
7 not needed. It isn't an appropriate land use.

8 I would like to discuss this evening some of
9 the reasons placing a hotel on the corner of Magnolia
10 and Banning is inappropriate. Number one is safety.

11 The land, soil, groundwater and air is known
12 to be contaminated and the community has not been
13 offered the results of an in-depth analysis of the
14 toxicity because such in-depth analyses have not been
15 completed.

16 The land is squished in between AES, which
17 is loud and has emissions, a delicate wetland, an
18 unremediated Superfund toxic landfill and a
19 school-based residential community. The land is
20 simply not safe to build a hotel or homes on and will
21 continue to be exposed to additional contamination as
22 there is no plan to fully remediate Ascon.

23 A hotel cannot even be built within 500 feet
24 of landfill now can it?

25 The cumulative effects of multiple projects

1 surrounding this area will continue to be
2 overwhelming as well.

3 Number two, traffic. As just said,
4 60 percent of the traffic generated by the proposed
5 project will be from hotel guests and employees.
6 This will decrease the quality of life of the
7 surrounding residents who enjoy our quiet, sleepy
8 neighborhoods. And cars coming in and out all day
9 and night is not conducive to the surrounding area.

10 Number three, land use. The hotel will
11 include a bar, restaurant, entertainment areas and
12 will probably be the host to many events; that is
13 24/7 noise. Most of all, a bar does not belong in a
14 neighborhood and is too close to our schools.

15 Number four, noise. Pile driving is loud,
16 it's very loud. 3,000 pilings are needed to be
17 driven deep into the ground to support the hotel.
18 These pilings will expose shallow groundwater to soil
19 contaminants and will and can affect the surrounding
20 areas negatively, including the wetlands and
21 residents.

22 And what about the kids? There's two
23 preschools, an elementary school and a high school
24 all in close proximity. And how are those kids
25 supposed to be focusing while there's pile driving

1 and loud construction noise and increased particulate
2 matter levels?

3 Eader Elementary and Edison Rec do not have
4 air conditioning and all the doors and windows are
5 always open.

6 And what about the autistic children at
7 Eader and Edison? They are known to have noise
8 sensitivities and how is pile driving going to affect
9 them?

10 Number five, spot zoning. It's illegal,
11 period.

12 Number six, current residents. The
13 constituents of Southeast Huntington Beach have
14 spoken and we will continue to speak up to our
15 elected officials here in Huntington Beach and
16 throughout the State.

17 The slides by O'Malley earlier tonight
18 clearly outlined how Shopoff plans to bribe this
19 community.

20 You have received hundreds of messages
21 citing concerns and opposition to this project.

22 There is not a single reason to recommend
23 the EIR in its current form be approved. And there's
24 not a single reason to recommend that the zoning and
25 planning changes be changed as requested.

1 Thank you.

2 MS. MESSICK: Hi. I'm Sharon Messick.

3 Good evening, Planning Commissioners. My
4 husband and I are residents of South Huntington Beach
5 and accidental activists when we became ill during
6 the Ascon remediation. We've also lost our fathers
7 this year.

8 Through my loss, an idea began to form about
9 privilege, destiny, responsibility, history and
10 legacy. And about Magnolia Tank Farm.

11 Have you ever thought that a piece of land
12 had a story to tell? I haven't until now.

13 I reflect on the hours sitting with my
14 father during the last year of his life and how he
15 told his hard, joyful, painful, surprising story that
16 culminated his 80 years on earth. I was destined and
17 privileged with the caring, listening and waiting
18 during this sorrowful but yet beautiful season. I
19 learned to be tender, accepting, accommodating, while
20 overwhelmed with the sense of his burden, his truth,
21 his story and his legacy.

22 It came to me that Magnolia Tank Farm is in
23 a season of latter years, a bruised and broken land,
24 abused by people that didn't know the consequences of
25 their rush into the oil fields, their dependence on

1 that oil and the dumping of all the by-products.

2 This precious elder, too, has a story to
3 tell, a late-season destiny and lesson to teach to
4 present to future generations.

5 Like my once strong father, this land cannot
6 endure the burdens of its youth. This land was --
7 has done its life's work and needs to rest. It
8 deserves to have its sacrifices remembered, honored
9 and dignified.

10 It needs to warn and educate the future and
11 point the way to remind us to leave a better legacy,
12 rather than covering and stressing contaminated land,
13 stacking more on top and leaving the ground beneath
14 to fester.

15 This land deserves to be a museum of the oil
16 rush that took place in Huntington Beach when the
17 horizon was blackened with oil horses.

18 A South Huntington Beach Community Library,
19 a place of environmental education and workshops with
20 an observation meditation deck that looks out over
21 our beautiful ocean. It should rest easy and tell
22 its story to school children, colleges and residents,
23 perfectly adjacent to restored wetlands, a toxic
24 landfill and a new power plant.

25 Providence has given the fate of this

1 bruised land and this community into the hands of
2 Mr. Shopoff.

3 Providence has bestowed wisdom upon this
4 City's elders to plan and zone this land for its
5 destined use, for a center such as this.

6 Providence now beckons this Planning
7 Commission to heed the call to wisdom.

8 Let the story be told, let the children
9 learn and inherit a legacy that is safer, kinder,
10 cleaner than the inheritance we were left with. We
11 can teach them to do better, better than ourselves.

12 And I thank you for listening from the
13 bottom of my heart.

14 MS. HANSON: Good evening. My name is Stephanie
15 Hanson.

16 On August 13th I stood up here and asked you
17 who was reading these reports because the Magnolia
18 Tank Farm and the Ascon reports have conflicting
19 data.

20 Let me remind you once again that in the
21 final Ascon Groundwater Remediation Report by
22 Geosyntec Consultants in 2007, page 48 states
23 "Potential lateral and vertical conduits in the
24 subsurface that could increase migration of
25 contaminants in the groundwater include trenches for

1 underground utilities and old well casings," yet in
2 the Magnolia Tank Farm EIR the utility section states
3 that "All new and existing public and private utility
4 lines and distribution facilities on both the street
5 and alley frontages, including, but not limited to
6 electronic communications, street lighting and cable
7 television lines, would be installed underground."

8 Now, I have heard people try to dismiss the
9 groundwater contamination at Ascon by saying we won't
10 be affected because it's not where our drinking water
11 supply comes from. But we cannot dismiss the
12 contaminated groundwater due to vapor intrusion.

13 Vapor intrusion was found to be a complete
14 pathway of exposure from the contaminants at Ascon.
15 We have an unlined landfill with serious hazardous
16 toxic waste leaching into the groundwater and
17 migrating. We have been warned that trenching the
18 perimeter of Ascon could increase the migration of
19 contamination.

20 Undergrounding these utilities will be
21 putting more residents, more children and staff at
22 Edison High, Edison Community Center, the firemen
23 across the street, all in harm's way, not to mention
24 the unsuspecting hotel guests and potential residents
25 of this proposed development.

1 The seriousness of this potential -- of the
2 potential health effects seems to be falling on deaf
3 ears, people have repeatedly brought this to your
4 attention, yet just as of yesterday, I saw a draft
5 agreement had already been drawn up ready to sign for
6 this proposed project.

7 Not only that, but page 38 of this agreement
8 states in bold, Exhibit E, "Magnolia/Hamilton
9 improvements to be revised to include undergrounding
10 of 12-kilovolt distribution line along Magnolia
11 adjacent to Ascon."

12 You know, it is frightening to know that the
13 City has intents to just move forward, despite all
14 the warnings, all the reminders and all the serious
15 health issues our community has already faced from
16 the broken Ascon remediation.

17 Money the City stands to gain from this
18 development should not trump the health of our
19 children, our neighbors, our teachers, our future
20 generations that will live here.

21 Please, ask your questions, do we really
22 need to be building homes and a hotel directly next
23 to a toxic hazardous waste landfill? Is it really
24 necessary?

25 Please put our residents' health first.

1 I respectfully ask that you do not approve
2 any of this. Please do the right thing and protect
3 us here in Southeast Huntington Beach.

4 MS. JAMES: Next speaker is Ryan Messick.

5 After Mr. Messick is --

6 CHAIR GARCIA: Oh, just a moment, ma'am.

7 MS. JAMES: Yes.

8 CHAIR GARCIA: I need to consult with my
9 colleagues here.

10 Does anybody need to take a break?

11 We've got another 45 minutes of speakers and
12 then deliberation.

13 COMMISSIONER SCANDURA: Okay. So how many more
14 speakers?

15 MS. JAMES: 16.

16 COMMISSIONER SCANDURA: I'm -- I'm good with
17 going forward.

18 CHAIR GARCIA: Is everybody good or do you want
19 to --

20 Okay. How about a five-minute break?

21 COMMISSIONER SCANDURA: Sounds good.

22 CHAIR GARCIA: Okay.

23 Were you ready to speak? Because we'll hear
24 you if you're ready to speak.

25 MR. MESSICK: Yeah. I can wait.

1 CHAIRMAN GARCIA: Yeah. Go ahead.

2 MR. MESSICK: Oh, you want me to go?

3 CHAIR GARCIA: Yeah. Go ahead.

4 MR. MESSICK: Okay.

5 CHAIR GARCIA: And then we'll take a five-minute
6 break.

7 MR. MESSICK: Okay.

8 My name is Ryan Messick. I'm here to speak
9 on the behalf of the Southeast Huntington Beach cause
10 to say no to any further development of the land.

11 Shopoff got a smoking deal. There is a
12 reason he got a smoking deal on this land, because it
13 cannot be developed on. That's why you get such a
14 great deal on beach front property, right?

15 So now he's got extra money to go around and
16 grease every -- all the wheels to get this thing
17 rolling.

18 He has one objective: To make money on this
19 deal.

20 He doesn't care about the people in the
21 community, he doesn't care about anything but making
22 the money and flipping this. That's why he got a
23 good deal. Okay?

24 When somebody mentioned -- a young man
25 mentioned that he was getting sick and he believed it

1 was from the environment, Mc- -- Mc- -- whatever
2 development guy, McMalley (sic) laughed at him.
3 Everyone scoffs at this but people are getting sick.

4 It's a human rights issue. You guys are
5 violating human rights.

6 The labor guys that come up here and talk
7 for their -- for their crew, that's great, I hope you
8 guys get lots of work, but just not here. I wouldn't
9 send your guys on this job, they will get sick, just
10 like the guys that worked on Ascon, they were getting
11 sick. All right?

12 Don't send your guys to work on this
13 project. They could get sick.

14 The young man wants to send his family down
15 here --

16 Yeah.

17 The young man that wants to send his family
18 to live there because, you know, the -- the housing
19 shortage or something like that, I wouldn't wish that
20 on his family or his children or all the families
21 that come to stay in some hotel on toxic land.

22 You can throw a rock into a giant pit of
23 death known as Pit F. It will kill you breathing
24 that stuff in.

25 You know what else will kill you? All the

1 pits that line the fence line that are not even
2 getting remediated, that nobody is talking about.
3 There is a bunch of pits that are even just as bad as
4 Pit F, unlined, unlined, seeping into that property.

5 Go down to Southeast Huntington Beach and
6 take a look around. It looks like something from
7 "Terminator" down there. You've got these big old
8 pipes blowing dirty smoke, everything is cranking,
9 grinding, just grinding out the money.

10 You've got to say no. You've got to stop
11 Shopoff.

12 You got the most expensive parking lot known
13 to man; congratulations. Because that's all you're
14 going to get in this town.

15 That's all I've got to say.

16 Thank you.

17 CHAIR GARCIA: Okay. We're going to recess for
18 five minutes and we'll be --

19 (Recess taken.)

20 CHAIR GARCIA: And Ms. James --

21 Can -- can we have order, please? You won't
22 be able to hear your name called.

23 Well, read them anyway and see if they can
24 hear you.

25 MS. JAMES: The next speakers -- the next

1 speakers are Robin Brogdon, Carrie Swan, with
2 donation of time from Yvonne Morrow, Debra Schales,
3 Milt Dardis, Adam Wood and Amber.

4 MS. BROGDON: Hi. My name is Robin Brogdon.

5 I've been coming -- been coming to these
6 meetings for quite some time and this is the first
7 time I'm actually standing up here to voice my
8 opinion.

9 I strongly oppose any change to the zoning
10 of this property for one simple reason, in that the
11 EIR is incomplete and all indications are that this
12 is an incredibly toxic piece of land.

13 You know, in theory this would be a lovely
14 addition to Huntington Beach. And I appreciate all
15 of your service to our great City in wanting to do
16 what you can to continue to grow the revenues,
17 housing and serve the people of Huntington Beach.

18 But this has far-reaching toxic
19 implications. And I don't believe the EIR
20 sufficiently covered the information, the scientific
21 data that you need to really accept the fact that
22 this is a toxic dump.

23 You know, I live across the street, I live
24 on Adelia Circle. I'm three -- four doors in from
25 the end of the cul-de-sac. I look at the temporary

1 wall, the tent, and AES as I walk out my door. That
2 is my view and that has been my view.

3 I've lived in Huntington Beach for 20 years.
4 My husband is a life-long resident.

5 And, frankly, with the wall, the tent, the
6 power plant and potentially Poseidon, it's simply too
7 much to ask one region of our City to bear.

8 In addition to the fact -- I will keep
9 coming back to the fact that this is simply unsafe
10 land to build on.

11 You know, the traffic in our neighborhood
12 today, I already can no longer exit my neighborhood
13 via Polynesian. I have to weave through the
14 neighborhood and exit Bermuda because the traffic is
15 so bad. And I cannot pull out on to Hamilton safely
16 most times of the day.

17 You add the additional traffic and
18 congestion of 250 homes that are only going to be
19 built with 1.5 cars per home, as well as the
20 additional hotel parking, and the additional
21 100 parking spaces that will quickly be eaten up by
22 beach goers, of course --

23 Who wouldn't go there versus paying for City
24 parking? It's just --

25 It is going to take away the quiet enjoyment

1 of our neighborhood.

2 You know, when we moved to the Fashion
3 Shores neighborhood we looked all over Huntington
4 Beach and we decided we wanted to be close enough to
5 downtown to enjoy the amenities but far enough away
6 to have quiet enjoyment of a residential neighborhood
7 and that's what we have today. I think adding this
8 level of activity would completely change that.

9 In addition to the fact that it's toxic land
10 and shouldn't be built on for the health and safety
11 of the residents there and the potential residents
12 and guests that would -- that would visit the region.

13 You know --

14 Thank you very much.

15 MS. SWAN: I have to lower this, sorry, way too
16 high.

17 Good evening, Chair Garcia and
18 Commissioners. My name is Carrie Swan. And I urge
19 you to oppose the Magnolia Tank Farm project and
20 reject the EIR based on what I'm going to cover.

21 But I'm going to go a little bit off script
22 here because I want to point something out.

23 We saw a presentation -- another -- another
24 one of the fluffy presentations by Shopoff tonight
25 and I always find that amusing. And I just don't

1 know if everybody in the audience understands that
2 that's smoke and mirrors.

3 Shopoff is not going to develop the project,
4 they're very clear on that. They don't try to hide
5 that except when they come before you; so they're
6 trying to hide it from somebody.

7 And clearly residents here who stood up and
8 said they want this beautiful project --

9 They're flipping the land, that's all
10 they're doing. They want a quick entitlement so they
11 can flip the land; so please don't be deceived by
12 that.

13 Now, my presentation.

14 First, as you know for months now we've been
15 examining the environmental impacts of the proposed
16 project and while the paperwork appears to dot all
17 the Is and cross the Ts, clearly in order to meet
18 their legal obligation to produce a clean report,
19 what has been uncovered by hundreds of hours by
20 research in the community is that the report is a
21 lie. It claims to have studied hazards and risks
22 when, in fact, they have done no such studies.

23 How do we know this?

24 Well, aside from the fact that they have
25 done only minimal site testing but no testing in the

1 actual risk areas. Everything this Commission needs
2 to know lies in the failed Ascon site.

3 The State's top -- top experts in Superfund
4 remediation shut the process down, admitting their
5 failure, and are desperately trying to scramble
6 together a plan for proper remediation. But keep in
7 mind, this is after years of preparation with,
8 supposedly, the experts.

9 And I think they're a little more expert
10 than Mr. O'Malley's little paid monkeys.

11 The State's top --

12 And without a doubt, we know that Ascon and
13 MTF were essentially one property for decades --

14 CHAIR GARCIA: Okay. Just --

15 MS. SWAN: -- so at the very least this EIR --

16 CHAIR GARCIA: Carrie --

17 MS. SWAN: -- should have been put on ice --

18 CHAIR GARCIA: -- hang on a second.

19 Are we okay up there?

20 UNIDENTIFIED MALE SPEAKER: Not yet.

21 MS. SWAN: Okay. Sorry about that.

22 I don't know why I'm apologizing to him.

23 Without a doubt, we know that Ascon and MTF
24 were essentially one property for decades; so at the
25 very least, this EIR should have been put on ice and

1 revisited only after Ascon was fully resolved.

2 But most important of all, and where I
3 really wish to focus your attention tonight, is our
4 General Plan. And I E-mailed all of you this
5 afternoon to share this section from the General
6 Plan.

7 Our General Plan was written with a very
8 important tidbit of wisdom.

9 From page 22, Chapter 5, under "Goal HAZ,"
10 H-A-Z, dash 5, item C --

11 VICE CHAIR GRANT: Time here.

12 MS. SWAN: I have donated time.

13 CHAIR GARCIA: I was going to ask, do you have
14 donated time --

15 MS. SWAN: I do.

16 CHAIR GARCIA: Okay.

17 -- because I think it started with three
18 minutes?

19 MS. SWAN: Okay. Let me read that.

20 Reading again from HAZ-5, item C.

21 "Prohibit the future placement of sensitive
22 land uses in close proximity to hazardous material
23 and waste sites."

24 That, in a nutshell, is 100 percent of the
25 reason this Commission must reject this EIR and deny

1 the project.

2 The project is in direct violation of the
3 General Plan. And for good reason.

4 Obviously, we have a number of so-called
5 Brownstone (sic) sites in Huntington Beach due to our
6 heritage as an oil town. But as you've been
7 presented over several weeks, the mounds of evidence
8 by folks living the current Ascon nightmare isn't
9 just your ordinary Brownstone site.

10 And Mr. Shopoff knew this when he purchased
11 the Magnolia Tank Farm. This is the mother of toxic
12 sites in our community that earned national acclaim
13 as a Superfund toxic site.

14 So Mr. Shopoff either thinks we, or the
15 seven of you, are either really stupid or easy
16 targets for his next scam.

17 Let's not forget, Mr. Shopoff is under
18 indictment for fraud. Is this his next fraud?

19 The negative impacts to our community posed
20 by this project are simple and unmitigatable.

21 Noise. We know the new Ascon -- AES plant
22 construction was built to industrial levels, a mere
23 few yards away from the proposed development. And
24 the noise levels are already playing out in realtime.
25 Ask anybody that lives --

1 I can hear it out of my window. It's
2 insane.

3 Traffic. Despite the -- the word "salad"
4 dedicated to traffic in the EIR, there is no possible
5 way to mitigate traffic at a site given its location,
6 backing PCH, with one single egress and ingress on
7 Magnolia that is a small residential street.

8 This is a massive safety hazard in the
9 works.

10 Add to all of this that the project is
11 nowhere near compatible with the adjacent
12 single-family low-density existing community.

13 There are simply no reasons to even consider
14 the proposed project, let alone approve it.

15 Again, I urge that you deny this EIR,
16 17-001, the General Plan Amendment, the Zoning Map
17 Amendment, the Zoning Text Amendment, Local Coastal
18 Program Amendment and Development Agreement.

19 Thank you.

20 MS. SCHALES: Hello. I am Debra Schales. I am
21 a resident of Huntington Beach. I live in the
22 Pacific Sands area. I've been here for 28 years.

23 I've actually done quite a bit of
24 development because I'm also the project manager and
25 the civil engineer for the project Magnolia Tank

1 Farms.

2 And of course I have a vested interest in
3 the design of the project because that's part of
4 my -- part of my project.

5 But I don't have to come here and talk
6 before you. Shopoff didn't pay me to come up here
7 and talk to you.

8 The area is zoned for public and semipublic.
9 Personally, I do not want the 29 acres to be a public
10 and semipublic planning zone area. I don't want to
11 see any of those requirements that could be there.

12 I know this project is beautiful and it can
13 be a great asset to the City itself. I understand
14 the concerns that everyone has for the Ascon
15 property. I, too, have those concerns. But -- as
16 they're being cleaned.

17 But I do know they're going to follow all
18 the regulations and that you have all the reports
19 there. You're going to follow through and make sure
20 that the Ascon property is cleaned before the
21 Magnolia Tank Farms project is being built. I
22 understand that.

23 In regards for the whole area, it's an
24 asset. I love Pacific City. I will love going to a
25 lodge area that's a smaller type of hotel; it's not

1 really a hotel, it's a lodge. It will provide
2 basically a place to stay for my family when it comes
3 to visit.

4 I, too, have children in the area; they both
5 went to Edison High School, they grew up there. I
6 have a grandbaby who's three months old who lives
7 with me who will be in the area and grow -- and grow
8 up.

9 I do support this project 100 percent out of
10 my own free will and no one bought me to come up here
11 and say these words.

12 Thank you.

13 MR. WOOD: Evening, Commission and staff, Adam
14 Wood with the Building Industry Association and a
15 Huntington Beach resident. Thanks for letting me
16 come up here and speak tonight.

17 We've gone through multiple rounds of study
18 sessions so I don't think there's a lot of new
19 information to add to this; so I'll keep it as short
20 as possible.

21 We've heard from the experts, hundreds of
22 tests have been conducted on this site, in-depth
23 analysis; this soil has been deemed safe by the
24 people who have put their professional license on the
25 line. That is what has to be considered here.

1 I appreciate that there's a lot of concerns
2 but the science on this has been settled. We have to
3 refer -- we have to rely on our experts; so we have
4 to move past the opposition talking points that the
5 soil is contaminated, we know it is not.

6 Let's look at all the good things that we
7 can get out of this.

8 Now, there's a hotel being proposed; there's
9 TOT included in that. There's 19,000 square feet of
10 retail and restaurant, which I'm very interested in
11 seeing happen; I look forward to shopping and eating
12 there.

13 There's multiple acres of wetland --
14 bolstering the adjacent wetlands.

15 There's new park land and trails. And this
16 all comes with 250 new homes.

17 I think we're pretty famous statewide for
18 our housing crisis situation. Failure to plan for
19 new housing pushes people like me out of this
20 community.

21 We need to get, you know, serious about
22 finding new housing stock. I think this is an
23 excellent opportunity to see homes added to our
24 community.

25 Again, we've seen -- we've gone through the

1 merits, we've studied this ad nauseam. I look
2 forward to moving forward with your support.

3 I also want to add, because I've got just a
4 couple minutes, on a more personal note, it's a
5 little bit interesting.

6 Just for context, I know there is concern
7 about the character of the community.

8 Let's remember what was there. Giant rusty
9 tanks in the past; so just a little perspective on
10 what it is we're talking about here.

11 Anyway, appreciate your consideration and
12 look forward to seeing you all in the future.

13 MR. DARDIS: Thank you, Mr. Shopoff, developer.

14 My name is Milt Dardis, Southeast Huntington
15 Beach.

16 Distinguished Huntington Beach Planning
17 Commissioners, I just have several questions
18 concerning the Magnolia Tank Farm.

19 How come to Huntington Beach, which paid for
20 the ERA (sic), did not take into consideration the
21 Santa Ana wind conditions that are going to be
22 blowing from the north right through the homes and
23 into the sports chalet/lodge and the dining area and
24 the food preparation area? For some reason, that was
25 not taken into consideration.

1 We have actually demanded --

2 This gentleman referred to believe what we
3 have to say but did he give you any proof? No.

4 Are there any core samples? No.

5 We have requested that core samples be taken
6 every 100 meters to a minimum of 10 feet down to let
7 us know what carcinogens are in that area and what's
8 under that ground.

9 They, themselves, don't know. The Ascon
10 people don't know. The Department of Toxic Waste
11 doesn't even know.

12 I've lived there since 1972 and I have seen
13 the trucks go right up the hill and drop various
14 chemicals, various products into those various
15 lagoons.

16 The fact is we want International Harvester,
17 red little tractor, that is in one of those lagoons
18 picked up and we want to see how it's been eaten away
19 by the various chemicals.

20 In addition, why was no consideration given
21 to the traffic pattern on Hamilton between Magnolia
22 and Newland? At 4:30 in the afternoon, there is a
23 backup from Newland to Magnolia.

24 You're going to have increased traffic
25 condition -- increased traffic congestion. It's two

1 lanes.

2 Why? Because half the -- half the Ascon
3 dump site is still sitting -- sitting on the -- the
4 land.

5 We have asked previous City Councils why
6 isn't it curbed, why isn't it paved? Duh, we don't
7 know.

8 It is better to do nothing than do
9 something.

10 Basically this is nothing more than a
11 bait-and-switch project.

12 It has been exposed by George Mason, at a
13 Southeast Huntington Beach meeting, that Shopoff is
14 not, I repeat, is not the builder. What's to prevent
15 this nonbinding, and I repeat, nonbinding contract to
16 be implemented?

17 We have -- we're going to depend upon the
18 Huntington Beach City Council? They're going to
19 get --

20 They're extending entitlements. And what do
21 we the peasant taxpayers get out of this? Nothing.

22 We get more traffic congestion. We get --
23 we get major problems as far as crime.

24 This has got to stop. And we need to stop
25 it now.

1 What's to prevent the -- the granting of
2 these entitlements? There's no guarantee. Is it
3 written in the EIR? No.

4 We've had entitlements granted by the
5 Huntington Beach City Council on previous HDD (sic)
6 projects. What's it going to prevent?

7 CHAIR GARCIA: Thank you.

8 MR. DARDIS: Last comment.

9 Just remember, Shopoff is only going to flip
10 this property. They're not the builder.

11 Thank you and good night.

12 MS. JAMES: Next speaker is Amber, John Ely,
13 Season Baker, Robyn Sladek, Bill Halligan and
14 Jacqueline Brodt.

15 AMBER: Am I ready? Is it time?

16 CHAIR GARCIA: Go ahead.

17 AMBER: Oh, hi. I'm Amber and I am a resident
18 of Southeast Huntington Beach.

19 Good evening, Huntington Beach and good
20 evening, Commission.

21 I just wanted to say that I think this is an
22 absolute horrible horrific idea. I -- I cannot
23 believe that we would even think about putting homes
24 right near a toxic dumpsite.

25 Are we going back in time? Are we going

1 back in time? I'm serious.

2 This is -- this -- building homes right near
3 a toxic dumpsite?

4 We are suffering in our area. We have Ascon
5 working, not right now, you guys know the whole deal,
6 what's going on over there.

7 Ascon was working on the land for months.

8 We have children at Edison High School. We
9 have children at Eader. We have children all around
10 the community. We are living in that community. I
11 am a resident, I live right by it. I can't move, I
12 can't sell my home right now.

13 We know that it's a toxic dumpsite. We know
14 it's dangerous. It's being unearthed right now. I
15 mean, not right this second, pretty soon they are
16 going to start back up to work. We have no idea what
17 they're going to do. We do not want more work being
18 done.

19 The AES plant that just recently was firing
20 off doing its thing, I never get headaches and I
21 promise up to God I had headaches, migraines, for
22 four days because I was walking my animals -- I
23 didn't want to be walking around the area but I have
24 to.

25 This is so, so sad. It's not even a joke.

1 If you don't live in the area, you do not
2 know what Southeast Huntington Beach has been going
3 through in the last year or few years.

4 We are fed up. We need you to help us. We
5 do not want this land to be built on.

6 Homes? I cannot believe that homes would be
7 built near a toxic dumpsite. This is insanity. This
8 is really insane.

9 Seriously, people are dying of cancer in our
10 area, people have cancer. I know little kids who
11 have had cancer. It is a fact. This is real.

12 I'm not angry at you, I want your help. I'm
13 not --

14 I don't -- I don't -- I don't understand.
15 I'm a passionate mom, I love my children with all my
16 heart.

17 I have children who go to school in the
18 nearby area, actually right across the street from
19 the toxic dump site. I can't move my child, she
20 doesn't want to move. She's a junior. She's
21 dedicated. She's a scholar. She loves her
22 community. She loves her friends.

23 It's very frightening. I can't imagine to
24 even have children have a playground.

25 I heard that there could be a playground.

1 Really? We have children on the playground at the
2 community park, they shouldn't even be there,
3 especially while Ascon is working on the fields.

4 There's little babies out there crawling.
5 There's babies playing in the sand. Why would we
6 ever build a park behind a toxic dumpsite? Does that
7 make sense?

8 Common sense. Let's have some common sense.
9 Let's evolve in this world.

10 MR. ELY: All right. Am I up?

11 CHAIR GARCIA: Yes, sir.

12 MR. ELY: My name is John Ely, resident of
13 Huntington Beach, not far from the proposed project.

14 I do oppose the certification very
15 vehemently because, you know --

16 Well, first of all, I'd like to say that --
17 and recognize that the EIR that was done for what it
18 is, it is a big boilerplate document that is -- looks
19 a lot like other developments. You build houses,
20 you're going to create dust. Okay.

21 What really this didn't have and really
22 needs is the holistic picture. I mean, we're
23 dump- -- we're putting -- we're putting something in
24 the middle of -- of things that are going to affect
25 it, not what it's going to throw dust around for six

1 months.

2 These residents that live around this
3 project are used to dust. Toxic stuff. We've heard
4 a lot about that.

5 But I'm talking about the fact that it's
6 next to a power plant which is under construction.
7 We already know it's loud.

8 Nobody -- nobody in the EIR even talks about
9 the power plant's EIR, which is in my garage in three
10 full binders from 15, 16 years ago. Okay?

11 So that -- stuff is coming out of that.
12 It's going to be noisy.

13 And, yes, you do have the Ascon thing,
14 though I -- presumably in 20 years when this is maybe
15 even built, maybe that will be cleaned up. But
16 whatever.

17 The fact is, is that we need a comprehensive
18 look on this and that's you guys' -- that's your job.

19 I mean, look at this thing like another city
20 would look at it. You know, what's the long-term
21 play here?

22 I saw a 15-year plan or something that you
23 should consider.

24 Look -- look toward 20 or 30 years from now.
25 You know, look at the Slater Slums where -- you know

1 that thing is next to a Rainbow Disposal Plant.
2 Well, look what happened there, you know; it's a
3 bunch of investors that own a bunch of apartments.
4 Okay? Same thing could happen here.

5 You throw in high-density homes on this
6 site. Well, who's going to buy that stuff? You
7 know, probably a bunch of investors and about
8 30 years now from now it will look pretty run-down
9 next to a neighborhood which is pretty well kept on
10 6,000-square-foot lots.

11 Look at this overall use. This is the first
12 step. We realize we're going to have a lot of these
13 meetings and, quite frankly, you're going to have a
14 hell of a meeting or two, the City Council is, if
15 this moves forward with an actual plan. But we'll --
16 we'll deal with that like we've dealt with things
17 like the bridge and everything else.

18 And I just have to say, nobody has shown a
19 picture on the wall here, maybe I should have brought
20 one, of actually standing on the site looking at the
21 gigantic power plant. Okay?

22 We're all looking at a bunch of pretty
23 aerial views from Shopoff and everything else but you
24 guys go down there, peak through the fence and go --

25 You know what, because all I can say is that

1 if a residential project or anything is ultimately
2 built there and people are walking down, walking past
3 that, they're going to go, wow, who the hell built --
4 who the hell approved that?

5 I mean -- and I think -- I think that you
6 should all --

7 You and the Commission -- you and the City
8 Council, if it ever does, should put a big, fat
9 plaque right there with their names because when my
10 kids and grandkids actually ask me, I'll go, "Well,
11 there are their names," okay. Who in the hell
12 approved this? Okay?

13 So anyway, that's just that.

14 MS. SLADEK: Hi. I'm Robyn Sladek and I'm a
15 life-long resident of Huntington Beach.

16 I'm here tonight to ask that you deny the
17 rezoning and development of the Magnolia Tank Farm.
18 We don't need to develop that land.

19 South Huntington Beach has been beat up by
20 the current projects at EAS (sic) and Ascon and it's
21 been sickening to many.

22 The Magnolia Tank Farm development will
23 cause more issues in our community. There will be no
24 parking in the area which will cause overcrowding in
25 our neighborhoods. We already have beach parking in

1 the neighborhoods; so it's just going to contribute
2 to more of that.

3 We don't need a hotel, a hotel is not an
4 appropriate land use, we have them downtown, plenty
5 of rooms for people to go and stay at.

6 We don't need 250 more homes in our
7 community, especially on toxic land, or near toxic
8 land.

9 We don't need more out-of-towners abusing
10 and littering our -- our communities. That happens
11 frequently.

12 And we definitely don't need more traffic
13 with the Fourth of July, the US Open, the Air Show,
14 along with a ton of concerts on the beach, our town
15 doesn't need it. We don't want it.

16 And we don't need Shopoff's money either.

17 We've had enough and I'm asking that you
18 please deny the rezoning and the development of the
19 tank farm.

20 Thank you.

21 MS. BAKER: Hi. My name is Season Baker. I'm a
22 mom and a real resident of Southeast Huntington
23 Beach. I haven't been bought by Shopoff like some of
24 these people, just for clarification.

25 I've sat here numerous times listening to

1 these paid experts tell you lie after lie, presenting
2 these fairy-tale-like slides. And every time I watch
3 people in the community poke holes in all of it and
4 expose the truth with sources and facts.

5 There's no doubt about it, the EIR is
6 flawed.

7 You've received the risks that this project
8 poses to the community. The developer was fully
9 aware of the risk that -- when -- he was fully aware
10 of the risk he was taking when he bought that
11 troublesome land next to a toxic dump.

12 I don't care how much money he donates, that
13 doesn't wash away the sins of putting our community
14 in danger for his own personal gain. Tell him no.

15 The community has raised valid health risk
16 concerns regarding Magnolia Tank Farm. We've made it
17 very clear we do not want this project approved.

18 You have received the serious risks this
19 project proposes to the community. We need you to
20 think as moms, dads, uncles, sons, daughters,
21 et cetera.

22 Would you want your family living in shoebox
23 homes on top of contaminated soil?

24 Would you want to take that risk with your
25 family?

1 Would you want your children going to school
2 next to a site that's pile driving near pits of
3 combustibile chemicals?

4 Come on, Mr. Scandura, you know about all of
5 this; please help enlighten the rest of them.

6 Approving this project will have a negative
7 impact on our community, not only now but for many
8 years to come. It's imperative that you use your
9 moral compass and better judgment tonight.

10 Look at all those little faces of Huntington
11 Beach children in the pictures behind you, that's who
12 you'll be letting down if you approve this, that's
13 whose health you'll be putting at risk, all for the
14 sake of money.

15 All of Huntington Beach is watching. Choose
16 wisely because you will be held accountable.

17 Please protect us. Do not approve the EIR
18 as it is written. There are too many inaccuracies
19 and inconsistencies.

20 This is our community and that fraudster
21 developer and his evil scheme are unwelcome.

22 Thank you.

23 MS. BRODT: Hi. My name is Jacqueline Brodt. I
24 am a resident of South Huntington Beach. And I am on
25 the board with the Wetlands of Huntington Beach

1 Conservancy. I'm also on the board with the Friends
2 of the Library here in Huntington Beach. And I love
3 Huntington Beach.

4 I've raised my family here and we've had a
5 great life and I love it and I love Huntington. And
6 I am in favor of Shopoff developing that tank farm.

7 It's an ugly property, it's an eyesore. And
8 what Shopoff wants to do for us, it's amazing.

9 They're going to beautify the area, our
10 roads, our parks, our sidewalks. It's just --

11 I feel it's just a welcome addition to our
12 area. It's -- it's needed and I appreciate it.

13 I don't feel there's enough housing. I
14 don't think my kids can live here because we don't
15 have enough housing. And I would love to have the
16 chance for them to be able to live near me so I can
17 watch my grandkids grow when I have them.

18 And it would be nice to have the hotel there
19 so when I have family visiting they can stay, because
20 I have the 1,200-square-foot home which is tiny; so I
21 don't have room for them. And I like to know they
22 can be down the street from me. I can give them some
23 bikes, they can ride around, they can explore our
24 great area.

25 So thanks for letting me speak, I appreciate

1 it.

2 And thank you.

3 MR. HALLIGAN: Good evening, Chair Garcia and
4 members of the Commission. My name is Bill Halligan.
5 I've been a resident of Huntington Beach for
6 18 years. And I just want to say that I'm in favor
7 of this project.

8 It will clean up a -- a former tank farm
9 that has been an eyesore in the community for
10 decades. And -- and create a new residential
11 community with -- with landscaping and really improve
12 the -- the -- the neighborhood.

13 It provides new recreational amenities for
14 all of Huntington Beach residents. It provides
15 much-needed housing opportunities and provides
16 additional tax revenues for this City; so I support
17 this project.

18 Thank you very much.

19 MS. JAMES: James O'Malley.

20 CHAIR GARCIA: Yeah, just James O'Malley.

21 MR. O'MALLEY: I guess I'm the closer here.

22 CHAIR GARCIA: Are you James O'Malley?

23 MR. O'MALLEY: Do you have a comment, Ms. James?

24 Hey, I just want to thank you all for
25 sitting through this and thank you everybody that

1 made comments tonight and input. And we received
2 some good ideas and I think the process is working
3 well.

4 Again, we have people here to answer those
5 questions of a technical need and accuracy and
6 they're available for your -- for your questions and
7 responses.

8 Thank you.

9 CHAIR GARCIA: Was that it?

10 MR. O'MALLEY: Yes, sir.

11 CHAIR GARCIA: Okay. Do any Commissioners have
12 questions of the Applicant?

13 Close the public --

14 Thank you.

15 Okay. I'm advised that I need to close the
16 public hearing.

17 I thought I was going to do it as part of
18 the public hearing? No? No? That's a bad idea.

19 Okay. Do any of the Commissioners have --

20 Commissioner Scandura, you're up on my board
21 here. I know you have something to say.

22 COMMISSIONER SCANDURA: Sure. All right.

23 Well, now it's time for deliberations, time
24 where we share thoughts, opinions, ideas and
25 especially where we want to go on -- on these

1 particular documents.

2 One of the big issues that's been raised,
3 not only here tonight by quite a number of speakers
4 but also in our past study sessions, is the presence
5 of hazardous substances, toxic waste, contaminants,
6 what have you.

7 I regard all of the comments that have been
8 presented by all the speakers as very legitimate
9 comments, very important comments, comments that have
10 to be taken into very strong consideration.

11 What we as a Planning Commission have to
12 remember is that we have no authority, no
13 jurisdiction in terms of making determinations
14 whether or not property is safe or not from a
15 hazardous waste standpoint.

16 We can't require developers or property
17 owners or responsible parties to go out and take
18 samples. And we can't determine whether or not a
19 site is clean enough for development. That authority
20 lies within the California Department of Toxic
21 Substances Control and they are and they continue to
22 be the lead agency for the site.

23 So certainly any kind of issues that have
24 been raised about hazardous waste and whether this
25 sampling is adequate or not, whether there's been

1 enough characterization, whether they've looked at
2 all the parameters, groundwater, soils and soil
3 vapors, needs to be taken to the -- to the Department
4 of Toxic Substances Control.

5 A key thing to remember is that absolutely
6 no development on this property can occur until DTSC
7 has issued their certification of this site, that
8 this site is properly remediated and clean. We don't
9 know when that's going to occur.

10 DTSC will be working on their timeframe,
11 they will not be pushed by the development schedules
12 or the City's priorities. And certainly the books
13 have not been closed by DTSC on this project; so
14 certainly they need to be made aware of any concerns
15 that have been -- have been raised here.

16 Furthermore, the site cannot be developed
17 until the Fire Department makes a determination that
18 all hazards related to methane and other hazardous
19 materials have been adequately remediated. That's a
20 very key and that's a very -- that's a very critical
21 point here.

22 Finally, and, you know, I credit
23 Commissioner Ray for bringing this up a few weeks ago
24 in meetings, there is a policy in the General Plan,
25 it's HAZ-5, Policy B, that states "Future place- --

1 "Prohibit the future placement of sensitive land
2 uses (sic) in close proximity to hazardous material
3 and hazardous waste sites." At least a couple of
4 speakers have also mentioned that.

5 As I see it, this is not a deal breaker for
6 our proceedings tonight because all we would be doing
7 is recommending to City Council whether to approve or
8 not approve this Specific Plan.

9 But at the end of the day, even if it gets
10 approved by the Coastal Commission, no development
11 can take place until a Conditional Use Permit and a
12 Coastal Development Permit gets issued. And that is
13 the time when you have to make that General Plan
14 conformance.

15 Now, given what I know about the Ascon site
16 and what's currently going on out there, there is no
17 way anybody can make a General Plan conformance
18 determination for any housing development without
19 DTSC's certification that the Ascon site is clean.
20 And so that -- that's another very important --
21 that's another very important aspect to consider.

22 So, basically, our purview looks at what is
23 the land use that should be placed in this? Is the
24 proposed land use appropriate for this property,
25 assuming the property has been certified as clean by

1 the regulatory agencies? And have they done the
2 appropriate environmental analysis?

3 Have they disclosed all of the impacts?
4 Have they -- have they identified all the mitigation
5 measures that are necessary? That is what our
6 purview is tonight.

7 It's not to downplay or minimize the
8 hazardous waste issues, but it's to put this in
9 perspective as to what the Planning Commission's
10 authority is here.

11 We are all -- we are all basically land use
12 decision-makers. We're not toxic waste or hazardous
13 waste decision-makers. I did that in my former life
14 but that's not what I'm up here today and that's not
15 what the rest of us are here today; so I do want to
16 at least set the record straight.

17 I think any kind of discussion at this point
18 about hazardous waste, hazardous substances, is
19 really moot because we don't have any control over
20 it.

21 We need to look at is this land use
22 appropriate that's been proposed as appropriate,
23 have they -- have they disclosed the environmental
24 impacts?

25 CHAIR GARCIA: Commissioner Kalmick.

1 COMMISSIONER KALMICK: Thank you.

2 I think John spoke eloquently on the issue
3 and I look to him for guidance on a lot of the issues
4 on this project, primarily because of his expertise
5 in the subject.

6 I think in my discussions with staff and
7 everyone on this project over the last several
8 months, we -- we need to look at the horizontal
9 surface here. And the Environmental Impact Report,
10 which is part of what we're discussing tonight, I
11 think really plays to the point that there's
12 potentially something on this property.

13 And I think that it didn't say that
14 everything is great and there's no history of -- of
15 toxic chemicals on the property, from either oil
16 production or anything. It states that they were
17 there. DTSC will have to -- will create a program
18 for them to go in and test that.

19 Now, I think the difference between
20 conflating this with Ascon is that we know that Ascon
21 is a dirty project. What -- what the issue is, is
22 the cleanup of that was at fault here. Like, there
23 are --

24 No one is, I think, questioning the fact
25 that there's toxic substances on -- on Ascon; so

1 we're a step behind on this project. Right?

2 This -- this site is looking at -- or the
3 EIR is looking at, yes, there were toxic chemicals on
4 the site, some were removed when they removed the
5 tanks. And I think that the discussion that --

6 One of my questions was did we got a lot of
7 complaints when the tanks were taken down?

8 Did we get calls from residents when the
9 tanks came down for dust or contamination or
10 anything -- I mean, any issues that --

11 I mean, any issues that -- any calls for
12 service?

13 MR. RAMOS: Not -- not that I recall.

14 COMMISSIONER KALMICK: Right.

15 MR. RAMOS: I think there may have been a
16 question about notification that I can't recall right
17 off without my --

18 COMMISSIONER KALMICK: Right. But it wasn't --

19 I mean, it wasn't to the fact that we're
20 seeing now for the Ascon cleanup site?

21 MR. RAMOS: No.

22 COMMISSIONER KALMICK: So I just look at, yes,
23 we --

24 The EIR, essentially what we're being asked
25 is did it give us enough information to make a

1 determination about the appropriate land use here.

2 I think it -- it went through a volume of
3 issues and I think it really -- it -- it denoted
4 that, yeah, there could be contamination. The
5 mitigation measure says you can't do anything on it
6 unless DTSC signs off on it and the Fire Department
7 signs off on it.

8 So the question, I think, is we have to
9 trust that our regulators in -- in both the City and
10 the State, are going to do their jobs. And I think
11 that's the question for certifying the Environmental
12 Impact Report at this point.

13 I think we've mitigated the noise issue. I
14 think that the -- the developer has said that, hey,
15 we can look at alternative ways and we can crack that
16 when we come back -- if we come back for the
17 Conditional Use Permit and Coastal Development Permit
18 and the Tentative Tract Map. That's --

19 What I wanted to hear tonight,
20 unfortunately, was does the Specific -- let's put
21 certain things aside and compartmentalize, what's the
22 Specific Plan and in that Specific Plan is the
23 development within that appropriate?

24 If you say no, we don't want any
25 development, that's a -- I think a reasonable

1 argument to say, like, we want fenced-off open space.

2 You know, talking with the police, you know,
3 they think that that's going to become a major issue
4 if you've got fenced-off open space.

5 You look at the other alternatives, we start
6 talking about an assisted living facility. We don't
7 get any of the community benefits, there's no park
8 anymore, the coastal development stuff is not --

9 It's just -- it's basically just set back at
10 this point and you've got a very large building on
11 that land.

12 So the question tonight is, is
13 Public/Semipublic appropriate use?

14 I -- I --

15 Looking through the uses there that somebody
16 could come back with, a cemetery, convention center,
17 temporary uses available for that property include
18 fairs, all sorts of things that would be --

19 The findings for that are pretty low.
20 That's a pretty low bar to meet.

21 And I think that if the property were to be
22 rezoned for the Specific Plan, the come-back from the
23 next meeting for a Development Plan is where I think
24 that's -- the City has the conversation.

25 Or we have the conversation for the

1 Public/Semipublic development, which has a much lower
2 bar to reach, because it's a Conditional Use
3 Permit/Coastal Development Permit essentially. Or if
4 they're some of the permitted uses which would just
5 require a Coastal Development Permit.

6 So, yeah. I mean, I'm -- I look at this
7 as -- as today we're talking about the horizontal
8 surface. And the idea that they're going to flip the
9 property or anything like that, I don't know if
10 that even --

11 What I wanted to hear is, well, if they do
12 flip the property, what's -- what's the mitigation
13 for that? What's our -- what's our belts and
14 suspenders?

15 It's the Specific Plan. The Specific Plan
16 dictates what you can build on the property.

17 And I didn't hear, really, any comments
18 about that, other than I think comments that weren't
19 read into it, saying, you know, it's high density.

20 It's not high density.

21 Do we want --

22 I mean, I didn't hear any comments that said
23 "Well, we want to show on a scenic low-density
24 housing on that." There wasn't specific comments.

25 The setbacks, the discussion.

1 The document sets out the policies for what
2 would be seen there and I was hoping to hear from
3 residents commenting on -- on the actual Specific
4 Plan itself with --

5 The comments are great. You know,
6 everyone --

7 I'm so glad we had a room full of people
8 that are concerned about this. Right? This would
9 have been very scary to come through with nobody here
10 talking -- nobody having any comments or -- or going
11 through the process.

12 And I've been at the Southeast Area meetings
13 for years now to hear about the different concerns
14 about this project and the different concerns in
15 Southeast Huntington.

16 There's a funding mechanism attached to
17 this.

18 So, you know, I've heard that the -- Chris
19 Young complain about the -- the courts are sinking
20 and he's very concerned about that. There's enough
21 money in this to -- to deal with that.

22 So, you know, I think -- I think a concern
23 is is it better to have a housing zone here, not
24 actual housing, that's a different meeting to have
25 that conversation, and it -- you know, it's a

1 determination of DTSC, or is it better to have an
2 assisted living facility? Because I don't think this
3 property is going to lay fallow.

4 All the data in the Environmental Impact
5 Report says that -- it seems seemingly relatively
6 clean; so that --

7 I mean, what is the -- what do people want
8 to see there? What does "no" get us?

9 The City doesn't own the property.

10 We heard "condemnation" in previous
11 meetings. And I don't think the City is in any
12 position to -- to buy the property. And I think that
13 it's -- it's --

14 I can get -- it can get shoved into weird
15 position of private property rights. Right? That
16 they own the land, they're going through their Fifth
17 Amendment right here for due process. And it's --

18 I don't feel that it's spot zoning in the
19 fact that it's a rather large piece of property.

20 And then you look at the property to the
21 north. Right?

22 The current zoning on Ascon is -- is
23 residential medium-density; so are we going to have
24 the same conversation when that project comes through
25 for somebody who wants to build a golf course on it

1 and say no, no, we want to keep the zoning on this
2 property RM because we don't change the zoning for a
3 General Plan designation. We want -- and everyone is
4 going to say we want it to be Public/Semipublic
5 because we want a golf course, or we want it to be
6 open space.

7 So I'm just trying to go through the edge
8 cases here to make sure that we're protecting our
9 residents and that we are looking at what the
10 horizontal surface is for this proj- -- for what is
11 proposed.

12 And to hear comments on the Specific Plan
13 tonight, specifically from other Commissioners, to
14 say, yeah, the Specific -- we -- we think that
15 housing is -- is -- is sufficient for this and it
16 shouldn't be Public/Semipublic.

17 The issue, I think, involving residential
18 being built on it is a DTSC issue.

19 And that the juxtaposition of it to Ascon, I
20 think, is --

21 And, again, I'll ask John on this.

22 Does DTSC have -- do they take each project
23 separately, that --

24 Like the impact of, you know, Ascon has to
25 be remediated before they sign off a letter for

1 housing? Or they just look at --

2 Is it --

3 Are there vertical walls around it and
4 it's -- it's just not --

5 In your experience. I'm not asking you to
6 testify specifically.

7 I'm just saying in your experience does DTSC
8 have a policy of looking at externalities to a
9 specific site? Or do they just look at the dirt to
10 the property line and say, yeah, you're clean?

11 COMMISSIONER SCANDURA: Yeah.

12 Basically for sites, not only did we look
13 at -- did they --

14 DTSC looks at what's within the property
15 boundaries but any time contamination leaves the
16 site, no matter how far down it goes, and I've worked
17 on plumes that have gone as far as two miles away,
18 they do also look at that.

19 So when they issue a final certification of
20 the project, they are saying that all hazardous
21 substance releases have been remediated, have been
22 controlled, are no longer -- are no longer posing a
23 threat.

24 And, for instance, groundwater contamination
25 plumes, they're no longer moving or they're being

1 pulled back, and they're definitely not threatening
2 drinking water supplies or exposing -- or exposing
3 people.

4 Now, the interesting here -- interesting
5 thing here at this particular site is that the
6 groundwater flows from the Magnolia Tank Farm north
7 towards the -- towards the Ascon site, not the other
8 way.

9 And the reason that is, is because we have
10 the Huntington Beach Channel. And what that does is
11 it causes -- it creates hydraulic pressure upon the
12 groundwater which causes the groundwater to move
13 north.

14 Why is that important?

15 Because what happens is as contaminants
16 leach through the ground, you know, they're carried
17 by rainwater down into the groundwater, you have your
18 soluble contaminants, they then, once they get into
19 the groundwater, move with the groundwater, whichever
20 direction that groundwater flows.

21 If you have volatile organic compounds,
22 that's the stuff that causes the soil gas issues,
23 then what happens is it will equil- -- equilibrate
24 and go back into the soil gas. And, again, soil gas
25 moves in the direction of the groundwater plume; so

1 everything I've seen, and especially from the reports
2 I've reviewed here on Magnolia Tank Farm, I'm not
3 seeing impacts of Ascon on the Magnolia Tank Farm.

4 COMMISSIONER KALMICK: Thank you. Thank you for
5 that. That's a fantastic explanation.

6 So, then, I guess the question for staff is
7 if the environmental impact is certified as -- as --
8 as it is, right, as a Program EIR, do we have
9 potential for more environmental review at the next
10 phase for the -- if the Tract Map comes through
11 with -- with Conditional Use Permits?

12 And if it's not approved and the zoning --
13 the City Council thinks that the zoning for
14 Public/Semipublic is appropriate, is there another
15 environmental document that would be prepared for
16 some sort of assisted living facility?

17 MR. RAMOS: So the EIR is sufficient to cover
18 the actual development of the -- of the project,
19 assuming that the legislative components are actually
20 approved. And the EIR does include some analysis for
21 an assisted living project.

22 So I think what will probably happen is if
23 we do get an application for one, we'll have to do a
24 consistency analysis to make sure that there's no
25 issues with the -- the analysis that's been done in

1 the EIR.

2 COMMISSIONER KALMICK: Okay. Thank you.

3 FEMALE SPEAKER ON DAIS: Commissioner Kalmick,
4 just to add -- just to add on to that.

5 So as Ricky explained, we would do a
6 consistency analysis for any project-specific
7 development against the -- the EIR. And there could
8 be potential, if there are impacts that are not
9 covered in the EIR, to have to do a subsequent
10 environmental review.

11 COMMISSIONER KALMICK: Okay.

12 FEMALE SPEAKER ON DAIS: And that would be for
13 any development project consistent with the Specific
14 Plan or an assisted living project.

15 COMMISSIONER KALMICK: Okay. Right. Okay.
16 That -- that tracks.

17 Yeah. So I guess that my next question
18 would be on the Development Agreement itself, it's a
19 little squishy as to where funding would go and we
20 want to make sure that --

21 Is there any way that we can protect that
22 money -- have a -- some sort of public hearing so
23 that that money can't be transferred out?

24 Because we have a history of money just kind
25 of going to the General Fund and everyone --

1 Is it going to be up to residents to keep
2 Council on that or --

3 MR. VIGLIOTTA: So we've had this issue come up
4 in the past and generally we don't tie Council's
5 hands when it comes to development -- fees that we
6 get from development agreements; so we -- we
7 recommend but we don't require. And essentially we'd
8 be having Council negotiate against itself and tying
9 its own hands as to how -- how it was going to spend
10 the money.

11 COMMISSIONER KALMICK: Okay. Thank you.

12 Because it seemed -- it seemed a little
13 vague but if that's essentially the way we have to do
14 it in order to make it work, then that makes sense.

15 And then it's up to the policy makers and
16 residents to make sure that policy makers kind of
17 keep the City's word, in a sense?

18 MR. VIGLIOTTA: Correct.

19 COMMISSIONER KALMICK: Okay. That's all I have
20 for now.

21 Thank you.

22 CHAIR GARCIA: Okay. Commissioner Grant. Or
23 Vice Chair Grant. Sorry.

24 VICE CHAIR GRANT: No problem.

25 CHAIR GARCIA: I'll get it by the end of the

1 year.

2 VICE CHAIR GRANT: Commissioner Scandura and
3 Commissioner Kalmick, thank you for your wonderful
4 presentation, as it were, when it comes to helping
5 all of us decipher the -- the technical aspects of
6 this project here because, you know, there's a lot
7 here to take into consideration and it's very easy to
8 get pushed off the mark.

9 You know, we are not here this evening to
10 discuss a lot of those -- a lot of those issues. And
11 the question here is really what is it that we do
12 want to see on this -- on this site?

13 We have somebody that has taken a risk and
14 has -- and continues to spend a substantial amount of
15 money to offer ideas as to, you know, what they feel
16 this site could potentially bring to the residents of
17 Huntington Beach.

18 If, you know, people in the neighborhood,
19 they don't like that or would like to see something
20 different, it's nice to hear, you know, constructive
21 arguments.

22 You know, for myself, I would argue that
23 a -- an assisted living facility or a hospital of any
24 type, I -- I would argue that that's going to have
25 some significant impacts and it's not going to be as

1 quiet as, you know, residents might hope that it
2 would be.

3 My personal history with the Ascon site goes
4 back to the 1970s. I -- I remember it in action as a
5 young person beginning a career in construction and
6 have followed its goings-on ever since. We live in
7 the neighborhood.

8 My daughter grew up on Edison Field, every
9 night, playing, being a cheerleader, doing sports,
10 you know, at the school; so we have very deep roots
11 in the neighborhood. We love the neighborhood. We
12 love all of the people in there. And -- and I do
13 understand all of the concerns that -- that people
14 have because safety is very, very important.

15 I keep circling around on what is it that we
16 would like to see there? Is it something --

17 And I -- I still keep seeing the -- the
18 "No Hotel" signs up there. But if -- if not a hotel,
19 then what?

20 And then keep in mind again, as has been
21 very clearly brought forth, is that nothing happens
22 on the site until DTSC determines that the site is
23 clear; who knows when that's going to happen.

24 And so, in essence, the site next door
25 still, you know, controls the success or failure of

1 any project that goes forward out there.

2 So I'd like to hear from some of the other
3 Commissioners as to their thoughts on, you know,
4 where this could potentially go. I don't know that
5 leaving it with the current zoning is the best thing
6 to -- to put in there.

7 We have talked about, you know, I -- things
8 like convention centers and cemeteries and other uses
9 that, you know, the current land use would allow for.
10 And, again, I don't know that that's the highest and
11 best use of the property either.

12 Imagine, for a moment, if a convention
13 center came in there. That would, you know, very --
14 create a very significant impact on -- on traffic; so
15 I would hope that we can have a little further
16 deliberation on that and let's see where we can go.

17 CHAIR GARCIA: Commissioner Scandura.

18 COMMISSIONER SCANDURA: My suggestion, as far as
19 going forward with tonight's discussion, is we, first
20 of all, take up the question about the EIR and
21 whether we should recommend certification of the EIR
22 to the City Council or not. And -- and then once
23 we've -- once we've gotten past that, I would
24 recommend we take a vote on just that one specific
25 item alone, then we get into all the other -- get

1 into the other documents because they're all
2 interrelated.

3 And that's the question -- that's where we
4 get into, okay, do we want to see the project that's
5 been proposed by Shopoff? Do we -- would we rather
6 see Alternative One, which is just exclusively
7 housing? Or do we think that some other kind of
8 project should be approved here?

9 And just bear in mind, just because we would
10 recommend certification of the EIR to City Council
11 doesn't necessarily mean we have to recommend the
12 proposed project.

13 What we have --

14 COMMISSIONER KALMICK: I've got a point of order
15 on that.

16 I don't think we can recommend a different
17 project that's not been analyzed by the EIR if we
18 certify the EIR as complete; is that correct?

19 MR. VIGLIOTTA: Right.

20 So, again, we're -- we're not recommending
21 any specific project. The project is the Specific
22 Plan; so there's not --

23 Perhaps I'm missing --

24 COMMISSIONER SCANDURA: Yeah.

25 Let me -- let me -- let me clarify that

1 because you've got to remember the EIR, that's this
2 little teeny-tiny 800-page document, didn't analyze
3 one alternative, it analyzed two alternatives, fully
4 and side by side; so we have the option of either
5 recommending that the Specific Plan be only -- or be
6 the proposed project, or it be the -- the -- the
7 Alternative One.

8 Now, as far as other kinds of developments
9 like, you know, the senior housing or the senior
10 complex and parks and all those other kinds of
11 things, because that -- those kinds of things haven't
12 been fully analyzed by the EIR, we can't recommend
13 City Council those kinds of projects.

14 I think we're only limited -- and I asked
15 this in past study sessions. We are really limited
16 to just either the proposed project or Alternative
17 One, or no project.

18 MS. LUNA-REYNOSA: Chair Garcia, if I may, if
19 the inclination of the Planning Commission is to deny
20 the request, you should not recommend certification
21 of the EIR.

22 CHAIR GARCIA: So all or nothing, is that what
23 you're saying, sort of speak?

24 COMMISSIONER SCANDURA: And, again, I --

25 You know, I have to respectfully disagree

1 because Alternative One has been fully analyzed in
2 the EIR. It has been fully analyzed in the EIR. The
3 other alternatives have not.

4 COMMISSIONER KALMICK: I think -- I think she
5 meant that if we were going to deny -- if we're going
6 to deny the zone change, that we also don't certify
7 the EIR.

8 That's what I think -- that's what the
9 Planning Director meant, right?

10 COMMISSIONER SCANDURA: Yeah. No.

11 Okay. Now, the zone change, it would only
12 cover just the one portion of the property, though,
13 if we decided to go with Alternative --

14 And I'm not saying I'm for --

15 COMMISSIONER KALMICK: No. No.

16 I'm saying that if you -- if you were to --
17 say to deny the -- the -- everything but the local --
18 or the CEQA document, to say we don't want any zone
19 change at all, staff is recommending we do not
20 certify the EIR in that respect.

21 VICE CHAIR GRANT: Correct.

22 COMMISSIONER SCANDURA: Okay. You know, I'll go
23 along with that but I do suggest we at least talk
24 about the EIR first.

25 Is it adequate and complete? Are there

1 other things that need to be done, that kind of
2 thing, then move on to the other -- other documents
3 that constitute the preferred project.

4 CHAIR GARCIA: Okay. Finished?

5 I've got -- I've got --

6 Everybody that isn't ready to speak or
7 doesn't want to speak needs to clear their name.

8 And Commissioner Mandic is next.

9 COMMISSIONER MANDIC: Okay. If we're just
10 speaking about the EIR, I would say in my mind the
11 EIR is adequate.

12 It's gone through all the agencies, the
13 experts, the public, and any other remaining
14 questions are going to be dealt with as it goes
15 along, as we've been told. There won't be anything
16 built until it's signed off by the Department of
17 Toxic Substances.

18 And I just look at it as that -- that the
19 project we're talking about is totally separate from
20 Ascon.

21 You know, Ascon is its own issue. Gosh,
22 it's been going on, you know, for 40 years in
23 Huntington Beach. I remember back in the '70s the
24 Council Chambers were packed with people from
25 Southeast Huntington Beach, you know, afraid of

1 Ascon. And, you know, it just --

2 I would just like to --

3 Ascon is separate. They need to get on it
4 and get it done.

5 And then I -- and I think this project, you
6 know, needs to be dealt with on its own. And I think
7 the EIR for that project is -- is adequate in my
8 mind.

9 CHAIR GARCIA: Okay. Commissioner Perkins.

10 COMMISSIONER PERKINS: Yeah. Yes. I -- I -- I
11 need clarification on process.

12 So Commissioner Scandura had mentioned
13 that -- and maybe I didn't quite get the nuances of
14 the discussion, but you had mentioned we were
15 choosing between the two alternatives that were --
16 that were proposed, but what we're actually voting on
17 is to recommend a land use, right?

18 So it could actually accommodate both of the
19 proposed alternatives that were analyzed; is that
20 correct?

21 Or are we actually making a recommendation
22 to City Council for one or the other?

23 MS. LUNA-REYNOSA: The -- the request, the
24 proposed project is the --

25 The main project, while I understand that

1 alternatives have been analyzed under the EIR as
2 required, does adopt a General Plan Amendment, a
3 Zoning Map Amendment. That Zoning Map Amendment does
4 include the lodge, visitor-serving land use. It
5 includes residential, it includes some open
6 space/conservation space. That is the project.

7 In approving that, those changes, along with
8 the Specific Plan and the Local Coastal Program, it
9 does preclude an all-residential option because
10 you've zoned some of the land as visitor-serving.

11 COMMISSIONER PERKINS: Okay. That's all I have
12 for right now.

13 CHAIR GARCIA: Okay. Commissioner Ray.

14 COMMISSIONER RAY: Thank you.

15 In -- in just speaking about the EIR, I -- I
16 will just say right now that I don't think it is
17 adequate at -- at this point. And one of the -- for
18 a couple of reasons.

19 And one is Ascon is part -- part of this in
20 my view. And it's been brought up, and I brought it
21 up awhile back, about in the EIR (sic) on page 4.9-30
22 where it says "Prohibit the future placement of
23 sensitive land uses in close proximity to hazardous
24 material and waste sites."

25 Now, I understand that no building would

1 take place until the DTSC certifies that it's okay.

2 And -- and -- and I --

3 However, I -- I -- I think that as it stands
4 right now the EIR says that it's -- that it is okay,
5 it's based on what the plan is.

6 The plan is to remediate it. And I think
7 everyone wants to make sure that --

8 We do want that to happen, that is the plan.
9 But until it actually happens, I'm not really in --
10 in favor of this.

11 Once it happens, I think we can readdress
12 all of these issues. But as it stands right now,
13 there -- we should not be building right next to
14 Ascon until it is -- until -- and -- and un- -- and
15 we should not certify it until after it has actually
16 been taken care of.

17 It's been -- according to the report last
18 night at the City Council meeting, since June there's
19 been no cleanup activity. We don't know how much
20 longer that's still going to take; so hopefully it --
21 hopefully it will be cleaned up and we can readdress
22 this issue.

23 But as it stands right now, I -- I don't
24 think the EIR is -- is sufficient.

25 And the other reason is what was just

1 brought up, the zone change, because I -- and I'll
2 address that later on, I guess, when we address the
3 zoning changes.

4 But to be consistent on that, I probably
5 wouldn't -- I will not be in favor of certifying the
6 EIR.

7 CHAIR GARCIA: Okay. Thank you.

8 Thank you for your enthusiasm but we're
9 trying to deliberate down here.

10 So I'm going to jump in with a question.

11 What? Oh, great. Well, I didn't push --

12 Anyway, I guess for staff or Commissioner
13 Scandura, the DTSC certification, when does that
14 usually happen?

15 COMMISSIONER SCANDURA: Basically when the
16 responsible party, whoever is responsible for
17 cleaning up the site, has demonstrated that all the
18 releases of hazardous wastes into soil, into air,
19 into groundwater, into surface waters, they've all
20 been mitigated, they've all been addressed, either by
21 removing all of the substances or by treating those
22 substances with some kind of technology or, as in the
23 case of Ascon, the intent is to cap off the site; so
24 basically contain the chemicals so they can't move
25 off anywhere.

1 CHAIR GARCIA: So -- so we're not talking about
2 the tank farm property, we're talking about Ascon?

3 COMMISSIONER SCANDURA: That's Ascon.

4 Now, on this -- on the Magnolia Tank Farm
5 property, and bear in mind I was never involved in
6 that project while I was with DTSC, but here what
7 they're going for is removing all of the hazardous
8 substances from the site. Or released -- or at least
9 handle it -- at least remediating the site to a point
10 where all the hazardous substances are below
11 health-based action levels; in other words, they're
12 now safe. That's the whole intent.

13 And that's -- and at that point, once DTSC
14 is -- is satisfied that the levels of hazardous
15 substance on those -- on the Magnolia Tank Farm is
16 safe, then they will certify that site.

17 CHAIR GARCIA: So where in the process does that
18 usually happen?

19 MS. LUNA-REYNOSA: If I may.

20 CHAIR GARCIA: Go ahead.

21 MS. LUNA-REYNOSA: Chair Garcia, there are
22 different divisions of DTSC. And I just want to make
23 it clear that the division that's overseeing the
24 Ascon cleanup is different from the division that
25 will basically issue the -- the no further action

1 letter on the Magnolia Tank Farm.

2 The Ascon property was forced to remediate.
3 It was -- as you know, it was declared as a -- as a
4 dirty site and remediation was -- was forced upon
5 the -- the parties.

6 In the case of the Magnolia Tank Farm, it --
7 permits were issued to remove those tanks and things
8 like that. And so it goes to a different division of
9 DTSC.

10 It was considered as -- from DTSC's
11 perspective, it's considered one site with AES
12 because those tanks had been facilitating AES's
13 operations; so there's a bifurcation process that's
14 underway right now to bifur- --

15 So once the site sold and moved on, the
16 Applicant is going through a bifurcation process to
17 indicate that Magnolia Tank Farm is no longer
18 associated with AES. And as part of that, DTSC has
19 been requiring testing; so testing has been going on
20 for, I think, at least four years at this point, to
21 go through this bifurcation process.

22 There were samples that were recently taken
23 that are -- have been sent to the lab and are being
24 analyzed. And if those come back clean after
25 everything else that's come back clean, it's moving

1 that process along.

2 So it is a fairly long, arduous process
3 that is currently underway right now. I cannot
4 tell you how long that will take because, as
5 Chair (sic) Scandura said, DTSC marches on (sic) its
6 own drum.

7 COMMISSIONER SCANDURA: Yeah, that's correct.

8 MS. LUNA-REYNOSA: And --

9 But it is underway and I would say it's
10 probably at the 90 -- 90 percent sort of completion.

11 CHAIR GARCIA: So how -- how can we move forward
12 without the DTSC certification?

13 COMMISSIONER SCANDURA: Yeah. And maybe if I
14 can, you know, just jump in.

15 So, yes. I mean, you know, different
16 divisions -- you know, there are different divisions
17 in DTSC and they, you know, certify sites. But they
18 certify at the end -- they certify at the end
19 process.

20 Basically a report is submitted by the
21 responsible party that has all the data and
22 information of the latest sampling --

23 CHAIR GARCIA: They certify at the end of what
24 process?

25 COMMISSIONER SCANDURA: The cleanup process, the

1 remediation process.

2 CHAIR GARCIA: Okay. That makes sense.

3 COMMISSIONER SCANDURA: And there's an actual
4 regulatory process, a very detailed step-by-step
5 regulatory process the remediation follows.

6 At the end of that process, the responsible
7 party submits a report to DTSC which lays out what --
8 all the work that's been done out there and what the
9 levels of hazardous substances are. And they have to
10 be able to demonstrate in that report that the levels
11 of hazardous substances are now safe, safe for the
12 public, safe for water supplies, the whole gamut.

13 Once they are satis- --

14 Once DTSC is satisfied with the information
15 in that report, a lot of times they have to go back
16 and forth with a lot of it perhaps, then they -- then
17 they issue, well, in this case, a certification
18 letter that all necessary remedial actions have been
19 completed and the site is now -- and the site is now
20 safe for reuse or redevelopment.

21 CHAIR GARCIA: So maybe staff or Commissioner
22 Scandura can answer why we're moving forward without
23 a DTSC certification so that we know the property is
24 clean?

25 No, no, no, no.

1 COMMISSIONER SCANDURA: Here's the key thing to
2 remember --

3 COMMISSIONER KALMICK: Or not.

4 COMMISSIONER SCANDURA: Here's the key thing to
5 remember.

6 What we are recommending to City Council is
7 a Specific Plan for future development. But as I
8 said before the public hearing, just because the
9 Coastal Commission and City Council approve the
10 Specific Plan doesn't mean that construction occurs
11 the very next day.

12 CHAIR GARCIA: Uh-huh.

13 COMMISSIONER SCANDURA: What has to happen is
14 the developer then has to submit a development
15 application to the City and for the City, at the end
16 of the day, to issue both a Conditional Use Permit
17 and a Conditional -- and a Coastal Development
18 Permit. At that point it is critical that the
19 certification from DTSC be in place.

20 These -- and remember, these mitigation
21 measures are upon the project that's covered in the
22 CUP, not on -- not on the Specific Plan.

23 The Specific Plan is just a land use plan.
24 That's all it is. But the project itself that's laid
25 out in the CUP and CDP must meet those mitigation

1 measures. And if DTSC hasn't certified that the
2 Magnolia Tank Farm is clean, that project is dead in
3 the water.

4 COMMISSIONER KALMICK: John, let me, if I can,
5 jump in --

6 CHAIR GARCIA: Well, I might be more confused
7 now than I was before.

8 COMMISSIONER KALMICK: Actually, if I can jump
9 in with a comment.

10 CHAIR GARCIA: Go ahead.

11 COMMISSIONER KALMICK: So we've had this happen
12 before, right? Like The Cove --

13 I asked staff this question, and maybe the
14 converse can help make more sense of that, so if you
15 can give a little --

16 FEMALE SPEAKER ON DAIS: Well, I would say it's
17 happened pretty much everywhere in the City because
18 every piece of property in the City has a land use
19 designation and a zoning designation which sets forth
20 what uses can go on it, but it doesn't necessarily
21 grant entitlement for those uses to be developed
22 until such conditions are satis- -- of that
23 development may be satisfied.

24 A good example of this would be the Magnolia
25 Pacific Specific Plan, which is the actual land use

1 designation and zoning for the Ascon property, it was
2 approved several decades ago now, that allows for
3 medium-density residential uses to be developed on
4 the Ascon property.

5 It -- only if it were remediated. If the
6 remediation never occurs to the level that would
7 allow residential, that land use plan doesn't go
8 beyond a paper plan.

9 Similarly, the City adopted the
10 Holly-Seacliff Specific Plan which is -- was once
11 essentially oil fields and now, you know, we have
12 Seacliff Village and -- and all of the Holly-Seacliff
13 developments.

14 But that happened over, I don't know,
15 15 years because some sites were ready for
16 development, they were clean, and some had to go
17 through years of remediation. And there are some
18 that are still not developed today to the
19 residential -- with the residential uses that are
20 permitted on the site because they still have
21 remediation that is required prior to any
22 development.

23 One example is Gothard and Garfield, which
24 is The -- what we all The Cove property.

25 CHAIR GARCIA: So -- so you guys are saying the

1 certification and remediation, if necessary, often
2 comes after the zoning change?

3 COMMISSIONER SCANDURA: Right.

4 FEMALE SPEAKER ON DAIS: It can. And those are
5 the examples.

6 CHAIR GARCIA: But does it have to? Does it
7 have to be that way?

8 FEMALE SPEAKER ON DAIS: It doesn't necessarily
9 have to be. There's zoning that's in place on the
10 property now --

11 CHAIR GARCIA: Sure.

12 FEMALE SPEAKER ON DAIS: -- that would allow for
13 a development to occur as long as it were
14 remediated -- you know, whatever the condition of the
15 property were remediated in order to allow that
16 development to occur.

17 MS. LUNA-REYNOSA: If I can add on, every single
18 piece of property in the City is zoned today; so
19 as --

20 There's current zoning in place today
21 without the certification. We could receive a
22 development application tomorrow under the current
23 zoning and we would still need that certification
24 letter.

25 CHAIR GARCIA: So I have a question for

1 Commissioner Scandura then.

2 And so how good is this certification, this
3 DTSC --

4 Can we really -- actually rely on it --

5 COMMISSIONER SCANDURA: The certification --

6 Yes. Well, I mean the certification --

7 In order for DTSC to arrive at its
8 conclusions about the contamination --

9 CHAIR GARCIA: Given the fact that it's a
10 government organization, I mean, can we --

11 COMMISSIONER SCANDURA: But it's a government
12 organization that consists of toxicologists,
13 geologists, hydrogeologists, engineers; all of their
14 collective expertise goes into that final
15 certification.

16 So this is not just, you know, some staff
17 person working at their desk saying, yeah, it looks
18 good to me. It has gone through a very rigorous
19 technical review for DTSC to come up with that
20 conclusion that the site is safe.

21 CHAIR GARCIA: Okay. You're still on my list
22 here.

23 Did you want to speak again?

24 COMMISSIONER SCANDURA: Yeah.

25 So I guess the question here is about -- you

1 know, about the adequacy of the EIR and, you know,
2 I'll make no bones about it. I mean, this is a
3 document -- this 800-page document is a document I've
4 struggled with and I had to read this darn thing
5 twice.

6 I did have some meetings with staff about
7 the length of the EIR and the extraneous information;
8 so hopefully our future EIRs won't have as much what
9 I call extraneous information. But when --

10 You know, I took a step back and said, okay,
11 is this document adequate and complete?

12 And the question is did they identify all
13 the potential -- all the potential impacts? Did they
14 identify all the applicable standards and
15 requirements and regulations? And did they identify
16 all the appropriate mitigation measures? And in that
17 regard, as long as this darn thing was, it did.

18 Now, there were a couple of areas that I did
19 struggle with. And one of them I would like to talk
20 about a slight change to the mitigation measure. But
21 one of them was the traffic impacts.

22 And you all remember those crazy questions I
23 asked a couple study sessions ago. And what I saw in
24 the Cumulative Impacts Analysis, and it just blew me
25 away, was that these huge intersections in Newport

1 Beach and Costa Mesa under this Cumulative Impacts
2 Analysis was going to Level E and F.

3 And when I looked at, well, what project is
4 causing that, it appeared to me that it was the
5 Hoag Hospital expansion project which generated
6 4,800 trips. And I said my God, is that project
7 causing these intersections to fail? And if that's
8 true, then this other -- this project that we have
9 tonight, which generates 5,300 trips around much
10 smaller intersections, something is not right.

11 And so what I asked the staff to do, and
12 they got the consultant to do that, was they went
13 back and they redid the Cumulative Impacts Analysis.
14 And what they do is they pulled out the -- the
15 Hoag Hospital expansion because if pulling out the
16 Hoag Hospital expansion showed that now those
17 intersections in Costa Mesa and -- and Newport Beach
18 were, instead, staying at Levels C and D, then that
19 meant that that Hoag Hospital had a major impact upon
20 those intersections. And with the other -- this
21 project having more trips, it would be expected to
22 have much more significant impacts than was described
23 in the EIR.

24 What the outcome was was that pulling out
25 the Hoag Hospital trips did not change the level of

1 service, they still wound up failing; so in that
2 regard I concluded --

3 And thank -- and I thank the staff, I thank
4 the consultant for doing this.

5 -- the Transportation Impacts Analysis was
6 adequate.

7 Now, the other thing that I've struggled
8 with is pile driving. And, you know, I have some
9 personal experience with this because I live -- I
10 live close to the Parkside Development project where
11 there was pile driving there.

12 And also there was pile driving of the sheet
13 pilings going into the East Garden Grove Wintersburg
14 Channel; so I'm darn sensitive to the noise that's
15 generated by those things. It literally can drive
16 you up a wall.

17 And so that's one of the things, if I can
18 accomplish anything on this project, I do not want to
19 see these residents subjected to the stress by the
20 noise caused by this pile driving.

21 And so what we have are mitigation measures
22 on page 31 and 32 of Attachment -- I think it's 17 or
23 18. And one of them actually talks about requiring
24 the consultant -- the Applicant to submit an analysis
25 that -- that not only identifies how they're going to

1 do pile driving but what feasible alternatives are
2 available. And so it's going to require that they
3 come up with other measures that can avoid the pile
4 driving and all of the impacts.

5 What I would like to see is, first of all, I
6 want the City staff to go through that report very
7 carefully. If they don't have the expertise to be
8 able to, you know, really review this document, then
9 they can have access to an outside consultant that
10 can -- that's -- that's expert in this area to help
11 back up whether or not other alternatives should be
12 used rather than pile driving.

13 So, you know, maybe something -- I mean, you
14 know, if it has to be paid for by the -- by the
15 Applicant, it's definitely worthwhile because at the
16 end of the day the residents, people of Huntington
17 Beach, have to have comfort that pile -- pile driving
18 is the only alternative out there, and that all other
19 measures just didn't pan out, if that's the case. Or
20 we identified a measure that would avoid pile
21 driving.

22 COMMISSIONER PERKINS: So are you recommending
23 that as -- as part of -- as a condition of the EIR
24 certification?

25 COMMISSIONER SCANDURA: Yeah, basically.

1 Yeah, just basically.

2 COMMISSIONER PERKINS: Or -- or when a
3 project -- when a project -- an actual project comes
4 forward?

5 COMMISSIONER SCANDURA: You know, I think
6 however the best way is.

7 I mean, it would have to be -- I mean, you
8 could add a sentence to the mitigation measure. The
9 Applicant is going to have to agree with that, of
10 course.

11 MS. LUNA-REYNOSA: Chair Garcia, I seem to
12 recall the representative of Shopoff, James O'Malley,
13 mentioning that they had some sort of solution for
14 the pile driving. And you might want to reopen the
15 public hearing and ask him or the appropriate
16 consultant to share that with the Commission.

17 I am not aware --

18 CHAIR GARCIA: I recall the alternatives being
19 offered up, don't --

20 Yeah. We already know about those so --

21 COMMISSIONER PERKINS: It was auger -- auger
22 driving.

23 VICE CHAIR GRANT: Yes. The auger driving would
24 drill and install the rebar and then push concrete
25 in, which would push any water out.

1 CHAIR GARCIA: Yeah. I don't think that's
2 necessary.

3 MS. LUNA-REYNOSA: Okay. I wasn't --
4 Okay. I wasn't clear if it was another
5 alternative beyond that one or not, but I just
6 thought I'd --

7 CHAIR GARCIA: Well, that one along would be --

8 MS. LUNA-REYNOSA: -- mention --

9 CHAIR GARCIA: I don't really want to do that.

10 COMMISSIONER SCANDURA: So, yeah.

11 Here's the problem I'm having with that. If
12 you read the response to comments, you know, the EIR
13 comments and when they got into the concern, the
14 comments raised about the pile driving, what the
15 response said was that pile driving was the only
16 viable alternative out there.

17 CHAIR GARCIA: Oh, okay.

18 COMMISSIONER SCANDURA: And that's -- that's
19 what's causing me consternation.

20 And I don't want that assumption to be
21 guiding the future decisions about whether -- about,
22 you know, how to address the pile driving.

23 CHAIR GARCIA: If -- if we were to approve
24 the EIR, could we -- could we omit that as the only
25 solution?

1 COMMISSIONER KALMICK: Can I interject?

2 I want -- if we could hear staff's -- their
3 response to comments on that, did that come in before
4 or after when you guys completed that after the last
5 study session where they had their expert come?

6 MR. RAMOS: I don't know when we completed it at
7 this point.

8 But what I can say is that Commissioner
9 Scandura and I had a discussion this morning on this
10 issue and I read that response a little bit
11 differently; I don't think it precluded alternative
12 methods to pile driving.

13 But my suggestion was to send that
14 information to the Applicant's consultant for
15 feedback. And I think that consultant is here, in
16 case you wanted to hear from him.

17 CHAIR GARCIA: Okay. I guess we have to have a
18 vote. I wasn't going to do it.

19 Who wants to hear from the -- the expert?

20 Okay. I'll reopen the public hearing, then.
21 I hope he's here now.

22 So do we have a specific question or do you
23 think you have it already?

24 MR. LAWSON: I think I have the question.

25 CHAIR GARCIA: Okay.

1 MR. LAWSON: My name is Tim Lawson. I was here
2 a couple meetings ago. And we heard the concerns of
3 the residents about pile driving, also the
4 Commissioner's concern about pile driving.

5 We looked into other alternatives. And the
6 developer has changed from pile driving; so the
7 project will not have pile driving. It will be a
8 cast auger pile or another alternative pile which
9 does not involve pile driving.

10 So I believe pile driving is off the table
11 and all other methods considered. But predominantly,
12 as the other Commissioner -- Commissioner mentioned,
13 a cast auger pile, which does not have the driving.
14 Driving is out of the question.

15 CHAIR GARCIA: Are -- I have one question.

16 Are any of these alternative methods
17 affected by the high water table?

18 COMMISSIONER SCANDURA: That's a good question.

19 MR. LAWSON: All the other methods considered
20 can be used with a high groundwater table.

21 CHAIR GARCIA: Okay. Thank you.

22 COMMISSIONER PERKINS: Can we ask that in a more
23 open-ended way?

24 Is there anything that would preclude use of
25 auger driving or any specific method that if -- if

1 there was a condition put in the EIR, or as a
2 condition of the project going forward, that could
3 prevent the project from actually going forward
4 because it's just not a suitable technology to be
5 used in that circumstance that could be discovered
6 later when you -- when you go to actually do the
7 building?

8 MR. LAWSON: There's -- there's enough
9 alternatives that, without doubt, you could build the
10 hotel without using driven piles.

11 So if the Commission wants to say we
12 disallow driven piles or we don't want to approve
13 driven piles, you can say that and there are other
14 alternatives, the principal one being a cast auger
15 pile.

16 COMMISSIONER PERKINS: Yes.

17 And then I'd like to make a suggestion. If
18 we're going to put any conditional provision in,
19 really the issue, I think, was vibration and noise;
20 so specify it in terms of an acceptable level of
21 vibration and noise as opposed to a specific
22 technology.

23 COMMISSIONER SCANDURA: Yeah.

24 I guess my question for the staff is, you
25 know, given that they're now willing to take pile

1 driving off the table, how do we reflect that in the
2 record here?

3 FEMALE SPEAKER ON DAIS: Commissioner Scandura,
4 there's already a mitigation measure that requires
5 noise-reducing measures to include alternative pile
6 driving methods.

7 We could probably expand upon that
8 mitigation measure to include what you were
9 suggesting earlier, which is to have a third-party
10 reviewer look at that plan for alternative pile
11 driving methods and to provide assurances that it's a
12 feasible plan.

13 COMMISSIONER SCANDURA: Yes. That's what I was
14 looking at, a sentence basically reflecting that.

15 COMMISSIONER KALMICK: I have a technical
16 question then on this because there's -- the
17 Statement of Overriding Consideration says that
18 doesn't matter.

19 Is that specifically for that mitigation
20 measure or is that for the other noise? Because the
21 mitigation measure doesn't mit- -- allows the
22 exemption of -- of noise and vibration during
23 construction, right?

24 MR. RAMOS: I'm sorry, did --

25 Was your question whether that would impact

1 the Statement of Overriding Considerations?

2 COMMISSIONER KALMICK: That --

3 Well, kind of. It's backed -- backed into
4 it, though.

5 MR. RAMOS: There are other impacts that would
6 require an SOC besides the pile driving. There's the
7 traffic impacts because we can't --

8 COMMISSIONER KALMICK: That wasn't -- that
9 wasn't my question. I get that.

10 It's the noise Statement of Overriding
11 Consideration negates the noise mitigation measure,
12 because the mitigation measure doesn't bring it below
13 thresholds, right; so the Statement of Overriding
14 Consideration gives you an out so you can essentially
15 do that.

16 So what am I -- what am I missing?

17 MS. LUNA-REYNOSA: You wouldn't need a Statement
18 of Overrides (sic) for noise if --

19 COMMISSIONER KALMICK: But we -- but the current
20 approval is to over -- do a Statement of Overriding
21 Consideration, right, that says noise can't be
22 mitigated -- noise and vibration can't be mitigated
23 below a certain level.

24 If we pass it as is, they could
25 essentially -- and it's not "they."

1 It's if the project happens to move to a
2 different party, to codify that, to get to John's
3 point, now they can ignore that because they can just
4 say, well, we've got a Statement of Overriding
5 Consideration, we don't have a mitigation measure.

6 FEMALE SPEAKER ON DAIS: No. The mitigation
7 measure still has to be implemented.

8 The Statement of Overriding Considerations
9 allows the EIR to be certified with the worst-case
10 scenario, which is the pile driving. But the -- the
11 mitigation measure already requires, as feasibly as
12 possible, reducing noise impacts from pile driving,
13 including potentially not using pile driving as your
14 construction method.

15 COMMISSIONER KALMICK: Right. I just see that
16 it's a little squishy at the edge there, right?

17 That if somebody else comes in and says,
18 well, we don't have -- we can't hire -- we can't
19 afford them, we're going to go pile driving.

20 MR. VIGLIOTTA: At this point -- if I could jump
21 in.

22 At this point, when you're coming forward
23 with the project CUP or --

24 COMMISSIONER KALMICK: That's my --

25 That's where --

1 MR. VIGLIOTTA: -- one of the other
2 discretionary approvals --

3 COMMISSIONER KALMICK: That's my next
4 question --

5 MR. VIGLIOTTA: -- you could raise that --

6 COMMISSIONER KALMICK: -- is you get to that
7 point?

8 MR. VIGLIOTTA: Correct. Yeah.

9 COMMISSIONER KALMICK: Okay.

10 VICE CHAIR GRANT: We could request that. Yeah.

11 COMMISSIONER KALMICK: Okay. That was -- that
12 was my --

13 That was the end-around that; if that was
14 not an issue than, yeah, you could put it -- we just
15 have to write a note --

16 Somebody has got to write a note to say --

17 VICE CHAIR GRANT: Just have to condition it,
18 yeah.

19 COMMISSIONER KALMICK: -- that it would be
20 under --

21 When it comes for the project, you say we're
22 not going to allow pile driving.

23 VICE CHAIR GRANT: Right.

24 COMMISSIONER KALMICK: But someone has got to
25 remember that.

1 So I think to John's point --

2 MR. VIGLIOTTA: It's in the record.

3 COMMISSIONER KALMICK: But someone has still got
4 to remember it, right? Like --

5 I mean, there's a lot of things where it's,
6 like, did some --

7 The institutional knowledge turns around
8 pretty quick but I can --

9 CHAIR GARCIA: Well, hopefully the neighborhood
10 will remind us.

11 COMMISSIONER KALMICK: That's --

12 But I -- I don't necessarily want it to be
13 on them.

14 CHAIR GARCIA: Right.

15 COMMISSIONER KALMICK: Right?

16 Like that's -- that's the same thing that I
17 had the discussion with the DA, right? That it's
18 going to be on the neighborhood to enforce the stuff
19 and I don't like that. I like it to be in a box that
20 says you have to do this or we're going to go --
21 we're -- we're going to have a problem, so --

22 CHAIR GARCIA: Do we have any more pile driving
23 questions?

24 COMMISSIONER KALMICK: Yeah. I don't know if
25 John --

1 Does that satisfy you, John? It's your -- I
2 mean, you're the one that brought it up so I wanted
3 to make sure that --

4 COMMISSIONER SCANDURA: Yeah. I mean, basically
5 as long as we can add the sentence that the Deputy
6 Director was suggesting, I'm good with that.

7 And I don't have -- you know, I'm ready to
8 make a motion on the EIR and Statement of Overriding
9 Considerations. But certainly if other Commissioners
10 have some comments.

11 CHAIR GARCIA: Well, let me --

12 I want to get to the -- closing the hearing
13 first.

14 COMMISSIONER SCANDURA: Oh.

15 CHAIR GARCIA: So any other questions --

16 COMMISSIONER SCANDURA: No.

17 CHAIR GARCIA: -- for the -- for the witness?

18 Okay. Public hearing is closed.

19 Sorry. I've been in jury duty for, like,
20 five weeks, so --

21 Commissioner Kalmick.

22 COMMISSIONER KALMICK: Well, thank you.

23 I just wanted to pick up on the tail end of
24 the conversation here for the CEQA documents.

25 So I've been doing this now for almost

1 seven -- or more than seven years, past seven -- a
2 long time. My first project was a giant
3 environmental impact report, about the same size as
4 this, when I came onboard and I voted to not certify
5 that document. That was a big deal.

6 It turns out I was right because the Court
7 agreed with me, that was the Wintersburg project,
8 that the rezoning of that property and demolition of
9 the project didn't jive properly with CEQA, it was
10 piecemealing or something to that --

11 I don't remember the exact outcome but I was
12 right.

13 So looking at how -- at what a complete EIR
14 is, right, it's an informational document. And to
15 say that it's not complete you have -- you
16 necessarily have to say why, right?

17 You have to say it's not complete because
18 it's missing the five -- following study. It's not
19 complete because it doesn't give me enough
20 information. It's meant to help us make a policy
21 discussion.

22 And I think the -- the -- the document has
23 gone through and said here's a bunch of different
24 things that could potentially have impacts to the
25 environment, the community. Mitigation -- it imposes

1 legal mitigation measures in there and then kicks --

2 I think the biggest issue, right, is the
3 hazardous materials section. And those two
4 mitigation measures in there state that you're not
5 going to be able to do anything until the
6 organization that knows how to do this, DTSC, signs
7 off on the property. Right?

8 Now, I think the community is right to have
9 concerns with DTSC, to say that they don't have
10 confidence in them, but that was confidence in not
11 identifying the toxic chemicals. And that -- there's
12 a long -- multiple pages, you know, thousands and
13 thousands of pages of -- of documents on those, that
14 was on the engineering side of it.

15 What we're looking at here is is the site
16 clean.

17 There's a bunch of steps in between that I'm
18 assuming could potentially involve a RAP that could
19 get us there. But right now we're looking at --

20 The document I think -- I -- the document
21 gives us, I think, all the information to make a
22 rezone -- to make an intelligent determination on the
23 rezone of the property. Right?

24 It goes through everything, including the
25 land use section, which is what we're basically being

1 asked to tonight; so to say that it's -- it doesn't
2 give us enough information, it's not complete.

3 Again, like, I heard a lot of testimony
4 with -- a lot of residents and a lot of emails making
5 claims on things, and I ran a lot of them down. I
6 spent hours and hours --

7 I mean, there's several people in the
8 audience that I got on the phone with to say, you
9 know, what's -- you made -- you made statements about
10 there being 23 oil -- oil rigs on this -- on this
11 property. And where is the information for this?

12 You know, I need -- I want to be able to see
13 that. I want to be able to say, look, this is wrong,
14 let's kick this back, let's get more information.

15 But the 23 oil wells were on the wetlands
16 property and part of that EIR; so we're conflating
17 different things. And so I -- I'm looking --

18 You know, I ran -- I ran down a lot of
19 different information that was brought up at public
20 hearing or at the -- at the study sessions. I sat
21 with a couple of residents to go through their
22 documents to -- to ask all of the questions on -- on
23 some of this, I think way past the scope of what we
24 even needed to do, just to see if -- you know, where
25 a -- little mistake/big mistake type thing and I -- I

1 didn't see it in there.

2 And I think we have to hand this off to
3 experts to say, look, that you're not going to be
4 able to do anything on this until the ground is clean
5 for what level of development you want there.

6 So that takes us to the next question,
7 right?

8 So it's -- if we can assume that there's --
9 I can't see anything else I'd like to see in this
10 report. And we asked a lot of questions. Right? I
11 think everyone has been to these meetings and heard
12 me talk enough.

13 So it goes down to what's the next land use?
14 What do we want to see there, Right?

15 I, for years doing this, have said what does
16 "no" get us?

17 "No" gets us --

18 COMMISSIONER SCANDURA: Actually, just as a
19 point of order, could we go ahead and take up the
20 EIR first and then the Statement of Overriding
21 Considerations and then --

22 CHAIR GARCIA: Well, we have several other
23 Commissioners that want to speak --

24 COMMISSIONER SCANDURA: Okay.

25 CHAIR GARCIA: -- so we probably should get

1 through those guys --

2 My microphone is not --

3 We probably should get through the list of
4 Commissioners that are requesting to speak first.

5 COMMISSIONER KALMICK: But at the -- to say,
6 though --

7 Again, to -- to answer that point, then get
8 back to my point then, but to answer your point is
9 that I think we need to have a straw vote on
10 something before we take full action because, again,
11 if the majority of the Commission doesn't want to
12 certify the zone change, staff is recommending that
13 we -- or, excuse me, vote for the zone change, staff
14 is recommending we don't certify the EIR; so we can't
15 take the EIR first and then take a vote on the other
16 one.

17 I think we need a straw vote at least to get
18 where we're going, right?

19 COMMISSIONER SCANDURA: Okay.

20 COMMISSIONER KALMICK: Is that probably --

21 COMMISSIONER SCANDURA: That makes sense.

22 COMMISSIONER KALMICK: Okay. So to the point of
23 the rezone, right, like that's really what we're here
24 for tonight. We're going to -- if it --

25 Either way, vote yes on the Zoning Text

1 Amendment, vote no on it for the Specific Plan,
2 again, as -- as the Planning Director stated --
3 Community Services -- Community Development Director
4 stated, an application gets submitted tomorrow for --
5 and we're back here in 60 days, 90 days, on a
6 complete project saying do we want any of a number of
7 things in the Public/Semipublic zone?

8 So recurse out of that.

9 What do we want to see on this? What's the
10 appropriate land use here?

11 I looked through the Public/Semipublic
12 stuff. There's too much heavy industry that can go
13 into that, right?

14 That's -- by right, by Conditional Use
15 Permit. Again, the findings for that Conditional Use
16 Permit are pretty low.

17 To address the General Plan discussion, we
18 update the General Plan --

19 You can't do it more than four times a year
20 or something like that. We do it -- we get pretty
21 close --

22 Per element, yeah.

23 We get --

24 We've updated our General Plan,
25 subsequently, other than the big one, multiple times

1 in my tenure on the Planning Commission.

2 It -- the General Plan document, and I
3 remember this specifically, has -- holds -- no
4 section holds more weight than any other section, no
5 clause in the General Plan holds any more weight than
6 any other section.

7 Is that -- is that correct, that each policy
8 is all taken an even keel? So --

9 And there's conflicting policies in this.

10 For those of you that were here when we beat
11 our heads against the wall on that, there's stuff in
12 that document that conflicts.

13 I think that the section that was brought up
14 by Commissioner Ray and -- and some of our commenters
15 tonight that talks about that, I think is met using
16 a -- keeping a couple of spinning plates in the air.
17 Right?

18 That basically says, yeah, that you can't
19 build next to that because DTSC has to sign off on
20 it. Right?

21 And talking to Commissioner Scandura earlier
22 in the -- in the hearing here that you -- they don't
23 take the property by itself, right? It takes all of
24 the impacts that could potentially impact that in
25 order to certify the property as clean, so --

1 And if you recurse out of this, Ascon has to
2 be clean -- has to basically not have any potential
3 to mit- -- to -- to percolate onto the tank farm site
4 and the tank farm site has to be certified clean,
5 which means I'm assuming they will do more testing on
6 the property to produce a clean document, so then --

7 Yeah, so then it's Residential --

8 I mean, the -- the plan before us is either
9 leave it Public/Semipublic or Residential -- the
10 Residential with hotel project.

11 Now, to put somebody forward with -- when
12 Coastal Commission, the letters, all of their stuff
13 and all of history of Coastal Commission says you
14 need to have a commercial/visitor-serving to meet the
15 Coastal Act, to push forward a project that's all
16 residential doesn't make any sense. Right? That's
17 just going to get us back here with a failed project
18 coming back.

19 The project will still be zoned
20 Public/Semipublic and then we start the whole process
21 over again. Right? It's a -- it doesn't seem like
22 something that's going to get through.

23 And I -- I think most of the planners, the
24 Coastal people that we've talked to, are like, no,
25 they're not going to let you just do -- do

1 residential in a Coastal Zone.

2 Now, wait a couple years, maybe, to -- that
3 housing policy doesn't conflict with the Coastal
4 policy anymore, who knows? Like, they're not going
5 to require parking if you have residential in a
6 Coastal Zone anymore if you're within a Transit Zone;
7 so stuff changes. But we're looking at what the
8 current policy is tonight.

9 And then so the -- the next question is is
10 the hotel height too high? Is it -- are the setbacks
11 wrong? Or do you not like the walls? Do you not
12 like the -- the building components?

13 Those are the conversations that I don't
14 think we've had at all. Right?

15 I think everyone has looked at the Specific
16 Plan and not really said, you know, parking in the
17 Coastal Zone has got to be two spots minimum no
18 matter what; so the one and a half spots that was
19 spoke about tonight is -- it can't happen, right?
20 You have to have two parking spots per -- per
21 dwelling unit in the Coastal Zone.

22 So it really comes down to what do we want
23 to see move forward? Do you have any problems with
24 the specifics of the hotel itself?

25 You know, the Marketing Visitors' Bureau

1 tells us we're still short keys for hotels here.

2 Everybody that's got their grandkids and
3 kids, I heard people telling me that their grandkids
4 were living with them. Obviously, we have a need for
5 housing.

6 I know, as Commissioner Grant and I joke,
7 that we have high-density housing already in our
8 single-family homes, just go look at the lack of
9 parking on your street. Everyone has got their kids
10 living with them. You have multiple people living in
11 a home because housing is unaffordable.

12 Now, the difference here, and we've heard --
13 you know, we had a saying about -- a group talking
14 about we want the same housing. 6,000-square-foot
15 lot, 7,000-square-foot lots, 2,400-square-foot homes,
16 I live in one, a humble brag. But it's too --

17 I don't want to keep a yard. My friends
18 don't want to have that big property. It's too
19 expensive. I couldn't -- you know, trying to buy my
20 house now, I don't know if I could afford it.

21 And you look at the fact that we have, what,
22 55,000 other single-family homes on 20- -- on
23 6,000-square-foot lots. This is a different product.
24 It's not for everyone. It's a -- it's a diverse
25 product. And I think that the fact that there will

1 be diverse products within the product itself is an
2 interesting and unique concept.

3 And I think on our tour we looked at several
4 products in Costa Mesa that will be different.

5 And -- and I think that the diverse zoning gives a --
6 a home builder some tools to be able to put a unique
7 product in there.

8 But to build 4-million-dollar homes, if you
9 wanted all homes and no hotel, they're going to
10 sit -- they're not -- the market doesn't bear that.

11 The market doesn't look like what it did in
12 1960 in Huntington Beach, in 1970. The market is not
13 tract homes anymore, it's a different product with a
14 different type of, I think, person buying that.

15 I mean, we own a house in Silverlake that's
16 in a condo community. It's neat. There's a bunch --
17 there's nobody over 40 living in there. And it's --
18 it's a different community for a different home
19 buyer.

20 And so I think that the zoning here -- and
21 I -- you know, I think we'll pick this up on the
22 Tentative Tract Map and the Conditional Use Permit,
23 but there could be concerns, you know, with the
24 housing against the power plant. But, again, that
25 will be done during the Tract Map. And then, you

1 know, whatever DTSC says for housing against the --
2 against the Ascon site.

3 But, I mean, looking at all the different
4 uses now, they're way more intense under
5 Public/Semipublic. And I think that some of the
6 permitted uses there are -- are a little scary for --
7 for --

8 Having ambulances coming in and out all day.
9 None of the Development Agreement stuff, right?
10 Like, I think that's -- I think it's a sweetener to
11 the pot that is an extraction from the developer by
12 the City in order to have community benefit.

13 So, yeah. I mean, I look at this from just
14 the zone --

15 We haven't seen any of the, you know,
16 what -- what actually goes in, what the vertical is
17 of this. But I think that the -- the base zoning,
18 after reading the Specific Plan, going through all
19 the parking requirement setbacks, I think provides a
20 buffer that this is not going to remain open space.

21 Like, this is not a park. It's not zoned a
22 park. It's privately owned. This isn't the
23 Bolsa Chica Land Trust buying 200 acres down in
24 Bolsa Chica through grant money because it's
25 wetlands. This is an upland former industrial site

1 that's looking for adaptive -- looking for reuse.

2 And so the question I think to all of us is,
3 is the property use a hotel and homes or is it
4 Public/Semipublic? Because those are the two options
5 before us tonight.

6 It's not fallow Brownfield site with a fence
7 around it because an application could come through
8 and then you have to make -- to deny something like
9 that, you have to make the findings for denial or we
10 end up in court and the magistrate takes our -- our
11 building rights away from us; so it's do it on our
12 own terms or end up in court fighting some project
13 that nobody likes and a judge makes a determination
14 on it.

15 So, you know, I'm -- I'm looking at this as
16 a whole, having spent months reading everything,
17 consuming everything. Staff is tired of hearing from
18 me on questions for this for the nuances.

19 All the edge case, trying to get the belts
20 and suspenders on this to protect the community, to
21 make sure that what Shopoff says is going to happen
22 and -- and if -- if they turn it over to someone else
23 for financial reasons, because they're not -- they
24 don't have to keep it, we just want to make sure that
25 all of the rules that they agreed to are codified in

1 there. And I think we've managed to do that through
2 the DA and the Specific Plan.

3 And then we have this whole conversation
4 again when it comes back for what the hotel looks
5 like and what a -- and what the residential looks
6 like. And if we don't like the tall condos that are
7 white and brown and blue or whatever, we can make all
8 those determinations in Design Review Board and we
9 can make those determinations at the -- at the
10 Tentative Tract Map. We have that --

11 All of the findings for that are for us, we
12 have a lot of latitude, I'm assuming, for that,
13 correct?

14 For tract mapping and things like that, we
15 have the ability to kind of move that around a bit?

16 MR. RAMOS: Yes, you do.

17 COMMISSIONER KALMICK: Okay. That's all I need.
18 Perfect. Thank you.

19 So that's all I have. I think that -- you
20 know, I wish we didn't have any of the issues that we
21 had potentially with -- with Ascon. And I think if
22 you take this as a whole out and look at the benefits
23 to the City, I think we're good; so I'll be
24 supporting the -- the change.

25 CHAIR GARCIA: All right. Thank you.

1 Commissioner Perkins.

2 COMMISSIONER PERKINS: Yes.

3 So Dan just made a lot of the same points
4 that I've been wanting to make for a while. But, you
5 know, just to simplify it, I do agree with his
6 reasoning. I do believe that the land use plan that
7 is proposed is the best that we're going to get,
8 given the constraints that we have to work with,
9 specifically Coastal Commission approval.

10 And then I did want to go back and address
11 again -- revisit the toxic waste site that Alan had
12 talked about. And I wanted to make a -- just a
13 simple point.

14 So nothing in the EIR actually has to be
15 resolved in order to certify it. It -- there has to
16 be mitigation plans in there that say how it is going
17 to be handled. And so in certifying a --

18 To me, the -- the challenge is do we think
19 those mitigation plans are sufficient, not whether
20 they've been actually mitigated by the time that we
21 do the certification.

22 So in terms of, you know, DTSC signing off
23 on -- on the land use, I don't -- that doesn't
24 present any problems, given that -- that logic. I
25 don't think it's different than any other -- any

1 other part of the EIR. I think if you look at
2 mitigation plans throughout the EIR, you're going to
3 find plenty of examples of things that just have not
4 been resolved as of now.

5 And I do have one question on that front,
6 so -- and I think it might have been mentioned
7 earlier but I just want to make sure.

8 So is there any official designation of what
9 a toxic waste site is that's made by any governmental
10 entity at any level? Or is it truly a decision
11 that's made based on the interpretation when it goes
12 to City Council for -- for final approval?

13 I just want to make sure that that term
14 isn't loaded in the provision.

15 MR. RAMOS: So I would say, once again, that
16 each Commissioner and Council can look at the policy
17 and digest it and apply it the way that you read it.

18 COMMISSIONER SCANDURA: And I can answer that
19 question.

20 Yes. There are -- there is a designation --
21 there is --

22 There's two actual databases that designate
23 hazardous waste sites up and down the State. The
24 first one, of course, is the one maintained by the
25 Department of Toxic Substances call- -- Control

1 called EnviroStor. And that has a listing of all the
2 sites that DTSC has ever worked on going back --

3 I've worked on several hundred of those
4 sites, I can say -- I can say that.

5 COMMISSIONER PERKINS: Yeah.

6 And it --

7 COMMISSIONER SCANDURA: The other list is called
8 the Cortese List, which is actually everything in
9 EnviroStor. It also includes all the sites overseen
10 by the Regional Water Quality Control Boards. It
11 also oversees (sic) the sites that -- the solid waste
12 sites overseen by Cal Recycle, the old -- formerly
13 the Solid Waste Management Board or Integrated Waste
14 Management Board.

15 So, yes, there are lists and there is a
16 process for, you know, designating those sites for
17 those lists.

18 COMMISSIONER PERKINS: So my question would be
19 then do we believe the provision was relying on that
20 knowledge and that terminology as the designation for
21 whether you can build next to such a site? And then
22 is it possible that once something -- a site has been
23 designated as a toxic waste site, that that
24 designation is taken away once it's cleaned up or
25 mitigated or whatever?

1 COMMISSIONER SCANDURA: Yes.

2 COMMISSIONER PERKINS: Okay.

3 COMMISSIONER SCANDURA: And EnviroStor shows us
4 the site is certified as clean.

5 COMMISSIONER PERKINS: Okay.

6 COMMISSIONER SCANDURA: Or --

7 Yeah.

8 COMMISSIONER PERKINS: So based on all of that
9 reasoning, I would say the EIR is sufficient with
10 having mitigation plans, even though DTSC has not
11 signed off on the land use yet.

12 COMMISSIONER SCANDURA: Yeah.

13 COMMISSIONER PERKINS: Okay.

14 CHAIR GARCIA: Okay. Commissioner Grant.

15 VICE CHAIR GRANT: Okay. I don't think there's
16 a whole lot more to add other than in my opinion I
17 think it's appropriate to change the zoning of the
18 subject site, whether this project gets built
19 ultimately or not, because the -- changing this to a
20 new Specific Plan would be compatible with the zoning
21 in the surrounding areas.

22 This is going to give us four new planning
23 areas that will provide for conservation. It will
24 provide for homes. And, you know -- and I've got to
25 think with the buffer in there, you know, we have

1 a -- an area that would be compatible with the power
2 plant next door and --

3 And, again, nothing gets built until the
4 DTSC signs off on that. And if that takes years and
5 this particular project doesn't get built, at least,
6 you know, the residents wouldn't be looking at
7 another large industrial complex or some other such
8 type of commercial operation to potentially go in
9 there. And we have no idea what that might be.

10 So I think this actually provides some cover
11 for the -- the residents in the neighborhood because,
12 again, there is no guarantee that the DTSC is going
13 to sign off on this thing any time soon, so --

14 CHAIR GARCIA: Commissioner Scandura.

15 COMMISSIONER SCANDURA: Okay. Well, as -- as
16 for myself, and I'm going to have to say I've
17 struggled with -- struggled with this for a long time
18 and I saw all of those "No Hotel" signs up there,
19 they're still being held up there, I mean, there was
20 a time when I wanted to literally hold up one of
21 those signs. And especially when I saw the traffic
22 impacts and the potential for -- and what I saw was
23 the potential for excessive trips generated by the
24 hotel.

25 But once the staff provided the information

1 to me about the impacts of Hoag Hospital and the --
2 and that that -- and those major intersections are
3 going to Level E and F, I was satis- -- I was
4 satisfied that the transportation impacts associated
5 with the hotel and the housing was -- was adequate.

6 Now, the other question I had, because,
7 again, for me I -- I have struggled with the hotel
8 because, let's face it, there's no other hotels in
9 this area, the nearest hotels are one or two miles
10 away; so it seems like a planning anomaly to put a
11 hotel right in that location.

12 But what I had -- what I also looked at was
13 our own Local Coastal Plan. And it's very clear in
14 the Local Coastal Plan, the designation -- the
15 priority goes towards visitor-serving uses. It's
16 also a priority of the Coastal Commission and it's
17 something the Coastal Commission expects us to hold
18 up.

19 And so with that and, you know, I did have
20 a little bit of reluctance about the hotel but I do
21 support the proposed project as -- as has been
22 designated.

23 And I think we've got to look at few other
24 things, that if the project goes through, and I think
25 as has been made abundantly clear here, after DTSC

1 certifies, after the Fire Department clears and after
2 DTSC certifies Ascon as clean, what we're going to
3 get is a tremendous upgrade in the area. I mean,
4 when you drive by there right now there is a degraded
5 park where three-quarters of all tree -- trees are
6 unhealthy. And it's, in many ways, an eyesore.

7 The Applicant is proposing to build a park,
8 an actual usable park in that area, in addition to
9 another park that's right along the wetlands.

10 We're going to have 250 housing units. I'm
11 sorry, we have a major housing shortage here in
12 Huntington Beach as well as Southern California.
13 This is going to help alleviate that shortage, not a
14 whole lot but it's going to help alleviate.

15 The other thing is it's going to provide
16 10 percent -- 10 percent units which are affordable.

17 And as a father of two now adult children in
18 their early 20's who basically can't find housing
19 because they don't make enough money, I mean, this is
20 something that's near and dear to my heart. We need
21 more affordable housing in this area.

22 I mentioned about the hotel and associated
23 retail. Not only is it going to meet the LCP but as
24 one of the speakers indicated, it will generate
25 transient occupancy -- transient occupancy tax, the

1 TOT, that can then go towards services here in the
2 City.

3 And then also access to the wetlands.

4 And then finally, and if we recommend that
5 the City Council, that they sign this Development
6 Agreement, it's going to provide for a number of
7 improvements outside of the area.

8 This Applicant has shown that they're
9 willing to make improvements to beautify Banning
10 Street, to make improvements in front of Ascon,
11 installing curb and gutter, undergrounding the
12 utilities, donations to Banning Library, which will
13 really enhance the area, and then improvements to
14 Edison Park and Seely Park; so, overall, if this
15 project ultimately is implemented, it will be a
16 win/win for the City.

17 And I recognize a lot of residents are not
18 entirely happy about that. But, once this gets in,
19 and it's going to be a long time, I think they're
20 going to change their mind; so I will be supporting
21 this project.

22 CHAIR GARCIA: Okay. Commissioner Grant.

23 VICE CHAIR GRANT: Okay. And Commissioner
24 Scandura, that's exactly what I was going to bring up
25 and -- but since you've already gone through Banning

1 Library, Edison Park and all of the other
2 improvements that would come forward, maybe if we can
3 get a brief explanation from staff on how these
4 larger projects work when they go through the system,
5 that there's always a public benefit component, and
6 exactly what that means when those dollars are put
7 into -- you know, into the General Fund in order to
8 make some of these -- these things happen.

9 FEMALE SPEAKER ON DAIS: Well, the public
10 benefit is part of the Development Agreement which
11 was requested by the Applicant.

12 VICE CHAIR GRANT: Okay.

13 FEMALE SPEAKER ON DAIS: The allocation of the
14 funds will be completely up to the City Council as
15 part of the budget process.

16 VICE CHAIR GRANT: But proposing this and -- and
17 at least having the money in there gives these
18 opportunities, you know, life when -- you know, when
19 or if this project is ever constructed, right?

20 FEMALE SPEAKER ON DAIS: The improvements that
21 are listed in the Development Agreement are
22 improvements that have been identified by the other
23 City departments and are likely in their own master
24 plans or improvement plans already.

25 VICE CHAIR GRANT: And then this is not an

1 uncommon occurrence, this has happened with other
2 projects in the City as well, correct?

3 FEMALE SPEAKER ON DAIS: There are several
4 development agreements that have been approved.

5 VICE CHAIR GRANT: Perfect. Thank you.

6 That answers my question.

7 CHAIR GARCIA: Commissioner Ray.

8 COMMISSIONER RAY: Thank you.

9 Since we're -- we're talking about zoning
10 now, so I'll address that one.

11 And believe me I see there is a lot of good
12 things to -- to this project but I think the current
13 zoning gives us enough -- gives enough options, it
14 has options, cultural institutions, cemeteries,
15 hospitals, offices, park and recreation facilities,
16 religious assembly, et cetera, et cetera, that they
17 have available under the current zoning and land use.

18 I do want -- I want to make sure that we're
19 not changing the zoning simply because we -- we --
20 there was one application for a change. I want to
21 make sure that it makes sense overall in the -- in
22 the overall general plan since it -- I mean changing
23 the General Plan is pretty significant in my view.

24 And so changing this one, it has to make
25 sense overall so we don't have just kind of piecemeal

1 changes to -- to zoning and land use; so for that
2 reason, I think the -- the current zoning and land
3 use designations are appropriate in my -- in my view.

4 Thank you.

5 CHAIR GARCIA: Oh, I saw your name,
6 Commissioner Mandic.

7 Did you change your mind?

8 COMMISSIONER MANDIC: No.

9 CHAIR GARCIA: Oh.

10 COMMISSIONER MANDIC: Am I allowed to speak?

11 CHAIR GARCIA: Would you like to speak?

12 COMMISSIONER MANDIC: I would.

13 CHAIR GARCIA: Because your name is not up here
14 now.

15 COMMISSIONER MANDIC: Thank you.

16 CHAIR GARCIA: Okay.

17 COMMISSIONER MANDIC: Yes.

18 I think the project -- this project deserves
19 a chance.

20 You know, I had -- looking at it, I saw a
21 lot of reasons to vote for it and a lot of reasons to
22 vote against it. But kind of overriding, I think,
23 you know, it's in our control this way. And, you
24 know, a big institution could come in under the
25 existing zoning and I don't think it's what anybody

1 wants, I don't think it's the best thing for the
2 City; so I think this deserves a chance to -- to go
3 forward.

4 It has a lot of hoops to jump through before
5 anything, of course, can happen, a lot of hoops; so,
6 you know, it's still very doubtful but I think it's a
7 unique concept. I really like the eco hotel.

8 I look at so many advertisements and people
9 are going to destinations -- you know, destinations
10 all over the country and the world for these
11 eco experiences. And I think this really capitalizes
12 on -- on part of what Surf City is about, not just
13 the ocean but it is our wetlands that run from one
14 border to the other in the City.

15 And staff has negotiated, I think -- you
16 know, thank you to staff. You negotiated some great,
17 you know, improvements. I don't think they all the
18 came from the developer independently. I think, you
19 know, it went through several meetings to -- to get
20 these improvements that the City needs.

21 And the State is mandating that we build
22 more housing. And the medium-density that's
23 presented, that's historically been what we buffer
24 the more intense uses with. And so I think that's
25 very appropriate.

1 The project isn't perfect but I think it's
2 pretty good. It offers the City a lot.

3 And I think the State of California, you
4 know, they could come in and dictate -- you know,
5 take it out of our hands. They could dictate a
6 high-density low-income project on that site and we
7 would have no say over it at all; so I think this is
8 something that we have the say in.

9 And I think Coastal Commission has even
10 expressed their preference for high-density; so to me
11 this is -- this -- this gets more things that I think
12 I would like to see.

13 Whether this is the ultimate project that
14 will go in or not, I don't know. But -- but I think
15 for that reason the positives outweigh the negatives
16 in my opinion.

17 CHAIR GARCIA: Okay. Seeing no one else, I
18 guess I would really like to see this project built
19 but I would also like to see and know for certain
20 that the -- the -- the site is cleaned up and clean;
21 so I don't think I can support it at this point based
22 on that.

23 But --

24 That's not appropriate, guys.

25 Although it looks like it may pass anyway,

1 but --

2 That's basically all I have. But I -- I do
3 like the project but I'm concerned about the -- the
4 cleanup.

5 COMMISSIONER SCANDURA: When the time is right,
6 I'm ready to make a motion.

7 CHAIR GARCIA: Okay.

8 COMMISSIONER SCANDURA: Okay. Motion time.

9 And what I'm going to do is -- and for those
10 following along with what the motion is, go to the
11 bottom of page 2 in the staff report, page 2 of 21,
12 and I'm going to go with the staff's revisions, with
13 the exception of one revision to item number 1.

14 And so, first of all, my motion is going to
15 be consisting of three parts:

16 First of all, to recommend certification of
17 EIR Number 17-001 as adequate and complete, in
18 accordance with CEQA.

19 And by approving City Council Resolution
20 2019-68 and forwarding to the City Council for
21 adoption, which is in Attachment 2, with a change to
22 the mitigation measure related to pile driving, which
23 we talked about, which allows staff for outside peer
24 review of the pile driving report.

25 So that be would the first part of my

1 motion.

2 The second part would be to recommend
3 approval of -- recommend to City Council approval of
4 CEQA Findings of Fact with a Statement of Overriding
5 Considerations, Attachment Number 18.

6 By the way, the longest Statement of
7 Overriding Considerations I've ever seen.

8 And then, finally, recommend to City Council
9 approval with modifications of General Plan Amendment
10 Number 17-001, approving Draft City Council
11 Resolution 2019-67, Zoning Map Amendment
12 Number 17-001 with the findings, by approving Draft
13 City Council Ordinance Number 4188, Zoning Text
14 Amendment Number 17-005 with findings and staff
15 revisions, and by approving Draft City Council
16 Resolution 2019-66.

17 I also recommend approval of Local Coastal
18 Program Amendment Number 17-001 with findings. And
19 by approving Draft City Council Resolution Number
20 2019-65 and Development Agreement Number 19-001 with
21 findings, by approving Draft City Council Ordinance
22 Number 4187.

23 COMMISSIONER PERKINS: I second.

24 CHAIR GARCIA: Oh, I'm sorry. Was there a
25 second?

1 COMMISSIONER PERKINS: Yes.

2 CHAIR GARCIA: I thought there was a second.

3 Discussion? Okay. We'll have discussion.

4 Ma'am.

5 COMMISSIONER MANDIC: A little bit, we never got
6 really around to asking -- we never really --

7 We never really got around to asking small
8 questions and I don't know if these are appropriate
9 to get in now. But for one of the things, we did
10 this over on -- where they were going to put the car
11 dealer parking next to the railroad tracks and we
12 highly recommended to City Council that they use the
13 in lieu fees in that specific area; so I'd like to
14 see that included if this is the proper time, I don't
15 know.

16 There was a small thing about the Pesticide
17 Management Plan, and maybe this is all going to come
18 up when it comes back to the -- to us, I don't know,
19 but they gave rodenticides, pesticides, herbicides,
20 and I thought there should be some specifics in there
21 of examples, because a lot of people --

22 I think these are young -- a lot of young
23 people moving in maybe, they don't know what those
24 are exactly; so I thought they might give a few
25 examples.

1 Parking for Marsh Park. I thought there
2 should be -- I know there's parking along the loop
3 road but I thought there should be some designated
4 parking, it doesn't have to be huge, but some parking
5 for Marsh Park. I think a few independent people
6 will come and -- and not be part of a group or
7 whatever. I think we need some parking spaces there.

8 And then the Mello-Roos District is -- is in
9 there as one of the mechanisms for financing. And,
10 you know, to me that is an evil that has caused so
11 much trouble in South County and some of the other
12 areas that have bankrupted people and so forth down
13 there. And I would like to see --

14 I think the -- the Applicant was agreeable
15 to taking out the Mello-Roos as was one of the
16 mechanisms for financing.

17 So those are my comments.

18 CHAIR GARCIA: So is that all stuff for now or
19 for later?

20 Anybody?

21 COMMISSIONER SCANDURA: With that, I guess the
22 question for staff is can we incorporate what
23 Commissioner Mandic brought up into this motion? Or
24 how do we incorporate that into the motion?

25 MR. RAMOS: Yeah.

1 I think for the -- for the Marsh parking, I
2 think it might involve some language in the
3 Specific Plan requiring parking for Marsh Park as
4 Commissioner Mandic had stated.

5 The examples of the pesticide, I think
6 there's language in the Specific Plan that we can --
7 we can add to address that.

8 COMMISSIONER MANDIC: Okay.

9 MR. RAMOS: The Mello-Roos, yeah, I guess that's
10 one thing we can eliminate from -- from the Specific
11 Plan if that's what the Planning Commission would
12 like.

13 The open space on the railroad, perhaps it
14 could be part of your recommendation to City Council
15 that they consider that as where the funding could
16 go.

17 COMMISSIONER MANDIC: Okay. Thank you.

18 MS. JAMES: And I would just clarify that I
19 believe that's already in the Development Agreement,
20 that it's highly recommended to be used within the
21 area.

22 COMMISSIONER MANDIC: Okay. Let's put it
23 "highly, highly" in the area.

24 COMMISSIONER KALMICK: I have a -- I have a -- I
25 have a minute action that may cover that for you.

1 I have a minute action after the -- after
2 the vote --

3 COMMISSIONER MANDIC: Okay.

4 COMMISSIONER KALMICK: -- to cover some of that.

5 COMMISSIONER MANDIC: Okay.

6 COMMISSIONER KALMICK: Mello-Roos --

7 Actually, the Mello-Roos thing seemed like a
8 rather large change in scope that --

9 Do we need someone to talk --

10 I mean, that's -- that's a big financing
11 mechanism; so I don't --

12 COMMISSIONER MANDIC: We can ask the Applicant.

13 COMMISSIONER KALMICK: Yes, could we ask --

14 Staff -- everyone looks very panicked all of
15 the sudden.

16 MS. LUNA-REYNOSA: I think that we can't
17 preclude the Applicant from requesting that and it
18 goes to the City Council; so whether it's in the
19 Specific Plan or not, it's a -- it's a mechanism that
20 ends up being a request that goes to the City
21 Council. And through a -- there's a process. And it
22 would be --

23 It's a public hearing. It would be their
24 decision.

25 So, I mean, we can remove it from the

1 Specific Plan, I think that's fine, and I guess I
2 would just say that it doesn't preclude an applicant
3 from requesting that process.

4 CHAIR GARCIA: Okay. So are we incorporating
5 those things into our motion?

6 COMMISSIONER SCANDURA: So as the maker of the
7 motion, I agree with those changes, provided the
8 seconder agrees with those changes.

9 COMMISSIONER PERKINS: Everything but -- but the
10 Mello-Roos.

11 COMMISSIONER SCANDURA: Okay.

12 COMMISSIONER MANDIC: Even if the Applicant
13 agrees?

14 COMMISSIONER PERKINS: If the Applicant agrees,
15 I'm okay with that.

16 COMMISSIONER MANDIC: Let's just ask them, yeah.

17 COMMISSIONER SCANDURA: James O'Malley, we want
18 to clarify that, too.

19 We'd like to take the -- any potential CFD
20 or Mello-Roos, make it a decision of the City
21 Council; so we could move that forward to them and
22 have it make -- it be their decision.

23 CHAIR GARCIA: Well, they make the decision
24 anyway, right?

25 COMMISSIONER MANDIC: Okay. We won't strike it

1 out at this point, then.

2 COMMISSIONER SCANDURA: Okay. Yes.

3 Good with all the other changes?

4 COMMISSIONER PERKINS: Yep.

5 COMMISSIONER SCANDURA: Okay.

6 CHAIR GARCIA: All right. Any other discussion?

7 I think -- I don't have any speakers so

8 I'm -- I'm guessing that's a no.

9 COMMISSIONER KALMICK: I'm done.

10 CHAIR GARCIA: All right. Let's vote.

11 MS. JAMES: Five ayes, Chair Garcia --

12 Sorry, the screen went blank.

13 Five ayes, Chair Garcia and Commissioner Ray

14 voting no. Motion carries.

15 And all of these items, the General Plan

16 Amendment, the EIR, the Zoning Map Amendment, the

17 Zoning Text Amendment, the Local Coastal Program

18 Amendment and the Development Agreement will be

19 automatically forwarded to the City Council for a

20 public hearing.

21 CHAIR GARCIA: Good.

22 COMMISSIONER KALMICK: I have a thing.

23 CHAIR GARCIA: You're not on my list.

24 COMMISSIONER KALMICK: I pushed the button, it

25 disappeared on me.

1 I had my hand up.

2 CHAIR GARCIA: Well, you're going to have to
3 raise your hand to get -- to speak now; so what would
4 you like to say?

5 COMMISSIONER KALMICK: I'd like to make a motion
6 for a minute action to attach to this item for the
7 City Council to ask essentially about the Development
8 Agreement, to potentially find a mechanism to keep
9 that money within the area so it doesn't just
10 disappear in the General Fund. It sounds like we
11 can't do that but potentially Council can take a look
12 at it.

13 But I'd just like to have that -- have us
14 make a recommendation to say we'd like to see that
15 money stay within, as best possible.

16 So, again, we have a history of stuff just
17 kind of flickering off. And then --

18 CHAIR GARCIA: Well, we can ask.

19 COMMISSIONER KALMICK: Yeah.

20 So that would be -- that would be my motion.

21 And then I was -- we were going to attach
22 something to that --

23 Oh, the in lieu fees as well.

24 So maybe just add the in lieu fees into
25 that -- into that motion.

1 VICE CHAIR GRANT: Commissioner Kalmick, I'll
2 second that motion. I think that's a great idea.

3 COMMISSIONER KALMICK: Okay.

4 MS. JAMES: Could you clarify what the --

5 COMMISSIONER KALMICK: It was a minute action to
6 request that Council see if there's a plausible way
7 to keep the DA money in the area -- to -- to be what
8 they are for, and then the in lieu fees be used
9 currently, even though it's possibly redundant in the
10 DA, but just to make it clear that that's our
11 entitle- -- that's our view.

12 MS. JAMES: Which in lieu fees?

13 COMMISSIONER KALMICK: The in lieu fees -- the
14 in lieu fees that are generated from the project that
15 would try to be spent within the area; so park --

16 MS. JAMES: So the money -- the public benefit
17 money?

18 COMMISSIONER KALMICK: In addition to the DA,
19 so all the other fees that are -- that are exacted,
20 so --

21 But parking --

22 CHAIR GARCIA: Okay. Hang on.

23 Everybody that's leaving could you not talk
24 in the -- in here? Go out into the hallway and talk.

25 Thank you.

1 MR. VIGLIOTTA: Commissioner Kalmick, I think
2 the other fees will -- the other fees will be
3 restricted.

4 COMMISSIONER KALMICK: But just be used within
5 the area, to, say, like the parking --

6 MR. VIGLIOTTA: Be used within the area.

7 COMMISSIONER KALMICK: Right.

8 MR. VIGLIOTTA: You can't --

9 Depending on what fee it is, it's got to be
10 used in the area.

11 COMMISSIONER KALMICK: Right. But some of them
12 don't --

13 Maybe the affordable housing fees, if they
14 decide to pay that, that they be used in -- you know,
15 something --

16 Just the general idea that we'd like to see
17 those fees spent in the area.

18 It's just a minute action, just a light
19 request, an inference, if you will, if we have to go
20 to that.

21 Is that a problem?

22 MR. VIGLIOTTA: I'm going to look to our
23 director, she seems fidgety over there.

24 MS. LUNA-REYNOSA: I mean, I have a --

25 That's going to be problematic for the

1 affordable housing in lieu fees, if that --

2 That's really difficult to further --

3 I mean, we have a really hard time --

4 COMMISSIONER KALMICK: Commissioner Mandic, can
5 we get rid of the in lieu fees in this conversation?

6 COMMISSIONER MANDIC: What?

7 COMMISSIONER KALMICK: Can we get rid of the in
8 lieu --

9 COMMISSIONER MANDIC: It was the park -- it was
10 the park and the park impact fees are the in lieu
11 fees.

12 COMMISSIONER KALMICK: But didn't we have that
13 problem with the senior center park fees, so doesn't
14 that have to stay within so many --

15 Yeah. Okay.

16 COMMISSIONER MANDIC: It's recommended but they
17 can use them, I think, in other ways.

18 CHAIR GARCIA: Is somebody going to represent
19 the Planning Commission at the City Council meeting?

20 COMMISSIONER KALMICK: You are.

21 CHAIR GARCIA: No. I voted no.

22 MR. VIGLIOTTA: So if I could make a
23 recommendation, perhaps we could say something like
24 to the extent --

25 CHAIR GARCIA: I would not be a good

1 representative. Sorry.

2 MR. VIGLIOTTA: That's okay.

3 So we've got the development fees, the
4 motion is that the development fees stay where
5 they're --

6 COMMISSIONER KALMICK: Stay -- stay where
7 they're being suggested to be used.

8 MR. VIGLIOTTA: Stay where they're suggested to
9 be used. And then the --

10 COMMISSIONER KALMICK: And then the other -- the
11 piece --

12 MR. VIGLIOTTA: The other fees, the best
13 possible to be used as allowed by the law or
14 something like that.

15 CHAIR GARCIA: I was going to recommend that our
16 representative, if there is one at the City Council
17 meeting, make that representation when they --

18 MS. LUNA-REYNOSA: So those development impact
19 fees that we have, we have a Nexus report, they're
20 required to go toward improvements within the Nexus
21 report.

22 I don't think we can -- I think these other
23 exactions that have --

24 CHAIR GARCIA: Sure.

25 MS. LUNA-REYNOSA: -- that we were deriving

1 through the Development Agreement, there's language
2 in there to say that they'll be spent within --

3 COMMISSIONER KALMICK: I'm just saying a light
4 inference that we ask them to do that.

5 MS. LUNA-REYNOSA: We can ask them to do that.

6 Yes.

7 COMMISSIONER KALMICK: That's my motion, I'm
8 done.

9 COMMISSIONER SCANDURA: So what is the motion?

10 COMMISSIONER KALMICK: To make a recommendation
11 to the Council to ask them to keep the development
12 fees -- excuse me, to keep the Development Agreement
13 fees that have been exacted to go to what they say
14 they go to as opposed to just disappearing in the
15 General Fund, to the best extent possible, or
16 whatever is legal.

17 COMMISSIONER PERKINS: That's a very squishy
18 motion that I've seconded.

19 CHAIR GARCIA: If you're going to make the
20 recommendation then just make it, like --

21 COMMISSIONER KALMICK: You don't want to get --

22 COMMISSIONER PERKINS: Keep it in the City.

23 COMMISSIONER KALMICK: Does staff have the gist
24 of what we're trying to get in won't get us in
25 trouble?

1 MS. JAMES: Yes.

2 COMMISSIONER KALMICK: Okay.

3 CHAIR GARCIA: Do you have a second on that
4 motion? Do we have a second?

5 COMMISSIONER PERKINS: I did make a second on
6 but that but I'm thinking -- I'm thinking about that
7 now.

8 COMMISSIONER KALMICK: You already made the
9 second, too late.

10 CHAIR GARCIA: All eyes, raise your hand.

11 Okay. Okay.

12 Oh --

13 COMMISSIONER SCANDURA: Yes, we need to --

14 CHAIR GARCIA: Our computers are starting to die
15 here. They're disconnecting randomly.

16 MS. JAMES: Commissioner Mandic, we're still
17 looking for a vote from you.

18 Thank you.

19 Seven eyes, motion carries.

20 COMMISSIONER SCANDURA: And then I have another
21 motion, that is the question, of course, who
22 represents the Planning -- the majority opinion of
23 the Planning Commission at the City Council meeting?

24 And I would make a motion that the
25 next-ranking member of this body make that, and that

1 would be Vice Chair Grant.

2 COMMISSIONER KALMICK: That's December 16th.

3 COMMISSIONER SCANDURA: That's my motion, that
4 he represent the Planning Commission.

5 VICE CHAIR GRANT: That's fine with me.

6 COMMISSIONER SCANDURA: Do I have a second?

7 CHAIR GARCIA: What's that look on your face?

8 COMMISSIONER KALMICK: That's so close to the
9 holidays.

10 MS. JAMES: The Chair can appoint.

11 CHAIR GARCIA: Okay. Commissioner Grant, do you
12 want to volunteer for that job?

13 VICE CHAIR GRANT: Consider me volunteered.

14 CHAIR GARCIA: Okay. Done.

15 Ma'am?

16 COMMISSIONER MANDIC: Although I think
17 Commissioner Grant is wonderful, I think the Council
18 may have specific questions that probably only
19 Commissioner Scandura could answer.

20 COMMISSIONER SCANDURA: Who?

21 CHAIR GARCIA: Well, I -- I think we're only
22 there representing our recommendation, which is
23 pretty clear-cut.

24 COMMISSIONER SCANDURA: I mean, if the City
25 Council wants me there, you know, I can be there.

1 The only condition is I cannot discuss Ascon.

2 I can discuss this particular project and
3 whether there's -- whether this site is being
4 impacted by the Ascon site, but I cannot discuss
5 Ascon.

6 CHAIR GARCIA: Does that disqualify him, do you
7 think maybe?

8 COMMISSIONER MANDIC: No, no, but I think other
9 times we've had Commissioner Kalmick and Commissioner
10 Scandura --

11 CHAIR GARCIA: So you want to send two people?

12 COMMISSIONER MANDIC: I think so.

13 CHAIR GARCIA: Okay. Well, if you can make it,
14 show up.

15 Okay. I think we're done with that.

16 Any other comments? Motions?

17 COMMISSIONER SCANDURA: Let's see, do we have --

18 I don't know. Are we into Planning
19 Commission --

20 It's been a long night.

21 Okay. So we're into planning items, so
22 that's the staff --

23 CHAIR GARCIA: Oh, I'm sorry.

24 MS. JAMES: At the last City Council meeting,
25 which was yesterday, there were no specific Planning

1 Commission-related items on the agenda but there were
2 a couple of items to note.

3 One is that the Environmental Board
4 appointments were made, the Uniform Building Code
5 adoption was successfully completed and staff
6 provided an update to the RHNA members and the
7 six-cycle housing element that's coming up next year.

8 Coming up on the next City Council meeting
9 of November 4th the Planning Division currently has
10 no items scheduled on that meeting.

11 Coming up on the next meeting for Planning
12 Commission, which is November 12th, we do have a
13 study session item, it is a General Plan Amendment,
14 Zoning Map Amendment, Local Coastal Program Amendment
15 and environmental assessment for the Park Avenue
16 Marina site. And that is a proposal to change those
17 land use designations to low-density residential.

18 On the public hearing side we have the
19 Zoning Text Amendment, the Phase 2 Zoning Code update
20 that was introduced to you at the October 8th study
21 session.

22 We also have a Zoning Map Amendment,
23 Tentative Parcel map and Conditional Use Permit for
24 Utica Townhome Project.

25 And we have the item that was continued from

1 this evening which is the Coastal Development Permit
2 and Conditional Use Permit for the 3rd Street Retail
3 and Office Building.

4 CHAIR GARCIA: Okay.

5 COMMISSIONER KALMICK: Is there a subdivision --

6 CHAIR GARCIA: Go ahead, sir.

7 COMMISSIONER KALMICK: Is there a subdivision
8 committee for that and who's still on that?

9 CHAIR GARCIA: Okay.

10 MS. JAMES: For the Utica project?

11 COMMISSIONER KALMICK: Yeah.

12 MS. JAMES: No, it's only three units --

13 COMMISSIONER KALMICK: Okay.

14 MS. JAMES: -- so it's -- it doesn't warrant
15 that.

16 CHAIR GARCIA: Okay. All the staff is leaving
17 on us; is that fair that they get to leave?

18 Yeah, I think so.

19 Planning Commission items, that's -- is that
20 us?

21 COMMISSIONER SCANDURA: Yeah.

22 CHAIR GARCIA: Okay.

23 COMMISSIONER SCANDURA: So I've got a request
24 for staff.

25 I -- I read that recently the Governor

1 signed AB68, and according to this article that I
2 read, basically what it does is allows people --
3 allows people who have houses on single-family lots
4 to build as many as two additional units on that lot
5 with at the most, apparently, just a desk review.

6 And so what I wanted us to do is see if we
7 could get a report back at a study session on what
8 this bill is, how does it impact us, how is that
9 going to change things here in Huntington Beach.

10 CHAIR GARCIA: Do you guys know yet?

11 MS. JAMES: We've started to read the bill as
12 well but I think that's something that we could
13 certainly schedule for a study session.

14 CHAIR GARCIA: Thank you.

15 Anybody else? Okay. Meeting adjourned.

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