

**MINUTES OF THE CITY OF DIAMOND BAR
REGULAR MEETING OF THE PLANNING COMMISSION
APRIL 13, 2010**

CALL TO ORDER:

Chairman Torng called the meeting to order at 7:05 p.m. in the South Coast Air Quality Management District/Government Center Auditorium, 21865 Copley Drive, Diamond Bar, CA 91765.

PLEDGE OF ALLEGIANCE: C/Shah led the Pledge of Allegiance.

1. ROLL CALL:

Present: Commissioners Steve Nelson, Jack Shah, Vice Chairman Kathy Nolan, and Chairman Tony Torng.

Absent: Commissioner Kwang Ho Lee was excused.

Also present: Greg Gubman, Community Development Director; Brad Wohlenberg, Assistant City Attorney; Grace Lee, Senior Planner; David Alvarez, Assistant Planner; and Stella Marquez, Senior Administrative Assistant.

Consultants: Mark Rogers and JoAnne Sturges, TRG Land; Peter Lewandowski, Environmental Impact Sciences.

2. MATTERS FROM THE AUDIENCE/PUBLIC COMMENTS: None

3. APPROVAL OF AGENDA: As presented.

4. CONSENT CALENDAR:

4.1 Minutes of the Regular Meeting of March 23, 2010.

C/Nelson moved, VC/Nolan seconded, to approve the Minutes of the Regular Meeting of March 23, 2010, as presented. Motion carried by the following Roll Call vote:

AYES:	COMMISSIONERS:	Nelson, Shah, VC/Nolan, Chair/Torng
NOES:	COMMISSIONERS:	None
ABSENT:	COMMISSIONERS:	Lee

5. OLD BUSINESS: None

6. NEW BUSINESS: None

7. PUBLIC HEARINGS:

7.1 **Site “D” Specific Plan** – Pursuant to the Subdivision Map Act; Title 21 – City’s Subdivision Ordinance; and Title 22 – Development Code Sections 22.60 and 22.70, the proposed project is to recommend approval of the following to the City Council:

General Plan Amendment No. 2007-03 – A request to change the land use designations from Public Facility (PF) and General Commercial (C-1) to Specific Plan (SP).

Zone Change No. 2007-04 – A request to change the zoning districts from Low Density Residential (RL) and Neighborhood Commercial (C-1) to Specific Plan (SP).

Specific Plan No. 2007-01 – A request to adopt the Site D Specific Plan for approximately 30.36-acre site for the construction of 202 residential dwelling units at a density of 20 units per acre; 153,985 gross square feet of commercial use at 10.35 floor area ratio; and approximately 10 acres of open space areas, easements and rights-of-way.

Tentative Tract Map No. 70687 – A request to establish separate residential, commercial, and open space parcels; create an internal circulation system and common open space areas; and establish easements and other rights-of-way for utility and other purposes.

Environmental Impact Report No. 2007-02 – A request to certify the Final EIR which provides a detailed analysis of potential environmental impacts associated with the development of the Specific Plan area.

Project Address: Site comprised of approximately 30.36-acres located at the southeast corner of Brea Canyon Road and Diamond Bar Boulevard (Los Angeles County Assessor’s Parcel Numbers 8714-002-900, 8714-002-901, 8714-002-902, 8714-002,093, and 8714-015-001.)

Applicant: Walnut Valley Unified School District and
City of Diamond Bar

Lead Agency: City of Diamond Bar
Community Development Department

C/Nelson said he would recuse himself from deliberation on this matter because the company he works for, PCR Services Corporation provided the archaeological and biological assessments for the project and he was

personally involved in the project.

Chair/Torng laid out the ground rules for the meeting protocol and public speaking.

CDD/Gubman presented staff's report and recommended that the Planning Commission open the public hearing, receive public testimony regarding the staff EIR and all land use entitlements, and continue the public hearing to the April 27, 2010, meeting.

Mark Rogers provided a history of the site and details of the proposed Site D Specific Plan that included lower level commercial stepping up to residential pads adjoining existing single-family residences. He described the planning principles that have been incorporated into the Specific Plan and supplemented his presentation with a PowerPoint presentation and display boards.

Nancy Lyons, 22536 Ridge Line Road and President, Walnut Valley Unified School District (WVUSD) Board of Directors, stated that the original intent was to develop the site as a school. At this point, the district has enough school sites with a declining number of students. WVUSD needs money instead of another school because the district has received less money every year for the past three years with a total enrollment decrease of 20 percent. This substantial decrease in income has led to drastic cuts in programs, teacher layoffs, cancellation of programs including elementary music, etc. The district hopes to get the property entitled and sell it to provide the district with additional funds. She asked the Commission to recommend City Council approval.

Chair/Torng opened the public hearing.

Donald Daneault, 3154 Castle Rock Road, asked where students living in the 200 units this project would attend school. The school district says student enrollment is declining; however, the elementary school on Castle Rock Road is overcrowded. He was very concerned about additional student drop off and pickup congestion close to his home because he finds it very difficult to get to his house under the current conditions.

John Martin, 1249 S. Diamond Bar Boulevard #432, felt that since this project was on an entrance to the City, everyone in the City should have been provided the Notice of Public Hearing. He said he did not know who had been noticed but with the number of residents present at tonight's meeting, it seemed important to him that for the next meeting that everyone

in Diamond Bar should be noticed and given an opportunity to learn about the plans. This is the same plan that was presented previously as well as, a time prior. Nothing has been changed. It is obvious to him that the City and the school district want the most money possible from the sale of this land. The best way to get money for a property is to have commercial and residential property. However, if the commercial is eliminated, the berm with the 100 year old trees is kept in place, and the homes are set back about 135 feet from the street, it would solve many problems including elimination of neon lights from the commercial area. As stated in the report, the purpose of commercial is to have it at street level which would be an eyesore at a City entrance. The EIR contains one potentially significant impact; however, he counted eleven. The expectations he has for living in Diamond Bar is that it is a beautiful City and the City of Diamond Bar and WVUSD is saying it wants to put a commercial area at the heart and entrance of the City which in his opinion, was the wrong thing to do. He asked that the City consider some alternative to this Specific Plan because the DEIR states that of all of the alternatives, this plan is the worst environmental alternative.

Christopher Chung, 21470 Cold Spring Lane, said he saw two different desires and alternatives. He wondered if the motive and intent of a public hearing was to actually get public input or to do the minimal legal obligations the City is required to perform under CEQA. He felt the documents and reports this evening were telling in that normally a scoping meeting takes place prior to issuing of an EIR or any document and is intended to be a time for input from the community. In this case the document was prepared first and then the City asked for input. It is telling him that the applicant indicates its purpose is to make money. He understands development. He has 20 years in this business and understands EIR's, traffic studies, etc., and he is pro-development and pro this project. If his concerns were addressed he would not be speaking tonight. His concerns include a flawed, inconsistent and outdated traffic report that does not include impacts of the stadium in Industry, cumulative impact from tenants at the H-Mart shopping center; and impacts at school intersections like Cold Spring Place and Brea Canyon Road or Cold Spring Lane and Castle Rock. Anyone who drops their kids off in the morning knows there is a 10-15 minute wait. If 202 units are being added, there will be additional impact that has not been analyzed. He understood there was an applicant that had a desire and fully believe that people who own property have the right to develop their property as they see fit but they need to do it in such a way that it does not adversely impact everyone else. In addition, he saw no traffic analysis of ingress/egress from the site. Projects are market-driven and actual analysis cannot be done until the site has an actual development plan so there should be a project first before determining the impact of import/export of dirt, for example. Also, in

his opinion, certain assumptions about daily trips are incorrect. Under CEQA, the document needs to indicate that the mitigation measures will actually happen. The City cannot just say it will put money in a pot. Federation of Hillside and Canyon Associations versus City of Los Angeles has declared an EIR similar to the EIR for this project to be in violation of a CEQA mandate because the City did not include those mitigation measures. Chair/Torng asked the speaker to put his concerns in writing and present them to staff. Mr. Chung said he did not believe the Commission had sufficient information to move this project forward and should send the plan back to staff for further research.

Michael Hasegawa, 21502 Cold Spring Lane, felt there were a lot of questions that needed to be answered including the availability of mass transit to handle the increased demand and whether the trees and water canal would be retained. These questions are guidelines, and residents do not know whether the developer will follow these guidelines because this project is market driven. It seems to him that this is a very haphazard plan because he sees no guarantees for the people who live in the area. What will happen with the screening, for example. If the schools are over packed now, why not keep the site for future school use. He knows the City is down \$20 million; however, commercial real estate is not a sure thing. The large movie theater on Diamond Bar Boulevard is large commercial property that has not yet been purchased. There is no assurance anyone will buy this property. He was told by his Realtor when he purchased his home that the view was worth an additional \$40,000. Will the home values decline in the area once there is a commercial development and the views are gone? His grandfather was a planner for Los Angeles County and helped to design Rowland Heights and surrounding communities including Diamond Bar. He says that the planning was based on population feasibility studies in designated commercial and residential zoning. Has there been an analysis of how this plan would affect those studies.

Judy Leung, 21175 Running Branch Road, said that according to what she understood, proceeds of the sale of this land could be used for capital improvements only, therefore, would not help the district with operating expenses. There have been no public information meetings on the EIR and the plan, and its details, and she feels the City and school district owe it to the residents to explain this plan in greater detail. Only the residents living within 1000 feet of the site receive meeting notices and the people she has spoken with who live across the street from the project did not receive notices. Only 200 residents received the notice. She believed that many more residents would have come to the meeting tonight to express their feelings if they knew about this project. She wants to know why this project

has been kept a secret. The consultant forgot to mention the 1991 DBIA Resolution about this plan that was discussed and declined. The EIR is a large document that requires a college degree to understand and comprehend. She is just an ordinary resident and three week's notice about this meeting is not a sufficient amount of time to try and understand a 1000 page document. Again, where is the public information meeting that should have explained more in depth about what this proposed project is all about. Section 7.0 of the Specific Plan (General Plan Consistency Analysis) states that "this specific plan provides a site specific detailed description of regulations, standards and guidelines for implementing General Plan goals and policies. To achieve this, the specific plan must be in conformance with and be consistent with the General Plan. The California government code states that a specific plan shall include a statement of the relationship of the specific plan to the General Plan and further, that it may not be adopted and amended unless found to be consistent with the General Plan." The vision statement under land use reads "It is the overall goal of the land use element to ensure that the land uses and development decisions of Diamond Bar maintain and enhance the quality of life for its residents." Does anyone actually believe that this project will enhance the quality of life? If so, she and others would not be here. Residents are trying to let the Commissioners know that this particular plan is going to decrease and lower the residents' quality of life. With very limited notice to the residents, everyone cannot be present tonight to let the Commissioners know how they really feel and this is very, very sad. She said she hoped the response from the City about public comments would not be a comment that the response was "acknowledged" only, because that will serve no purpose.

Mary Rodriguez, 3419 Pasado Drive, said she would like to know about the 1991 DBIA Resolution as well and would like to see alternative plans that would not include destruction of 100 year old California Walnut trees. At the August 2009 meeting she asked about Copper Canyon not showing up in the traffic report and it is not included in this report. Since 1991 it seems like the Commission and Council are not listening to the people. Members of the public speak up and no one pays attention because the same plans continue to be presented with no alternative plan to save the area.

David Busse, 21455 Ambushers Street, owns commercial property in the San Gabriel Valley and wanted to warn the Commission that the commercial real estate business is no place for a school board or a City Council to be messing around at this time. The WVSUD Public Hearing Site D report from March 11, 1991, when there was an attempt to build homes in the area, the timing of the school board speculating on that land was so bad that if that had gone through the school board would have lost a great deal of money.

He asked that the WVUSD Site D Public Hearing report from March 11, 1991, be entered into the record which clearly indicates that people in the neighborhood wanted this property used for public use. Politics is the art of compromise and he has not seen any compromise on this plan or in discussions. The EIR is impressive but full of errors. The traffic study is flawed. One can hire a traffic engineer to say anything they want him to say. Common sense tells one that 220 units of housing traffic cannot be made better by using a bunch of stoplights. Section 4.9 of the EIR, page 4.9-12, the Angeles National Forest is a national forest under the US Department of Agriculture, not the National Parks Service (Department of the Interior). When he opened the EIR to the first page and saw that mistake he wondered how many others were included in the report that he did not know about. Every time one drives the SR60 and experiences the debacle at the SR57/60 they should remember that a registered professional traffic engineer signed off on that project. Traffic is a nightmare and the concept of putting more cars on the street and saying that everything will be fine, it has not been addressed in this EIR and it makes no sense. There needs to be a lot more thought put into the project and more importantly, from the property owner and the developers and everyone else, he wants to see plan alternatives. He understands the schools need money. Kids live in the neighborhood already and there needs to be a lot more thought given to what is being proposed other than making the most money possible. He has served on jury duty many times and he has always been impressed by others who serve at their ability to use common sense to solve complex problems. Don't be fooled by a bunch of material in an EIR compiled by people who allegedly know what they are talking about. He urged the Commissioners to look for themselves and ask themselves if this proposal makes sense and is it for the betterment of the community.

Mary Hasegawa, 21502 Cold Spring Lane, said she has a beautiful view from her home and does not want to wake up every morning to look at a development. And to think the area will be filled with apartments is disheartening. She said she intended to die in her home and will most likely be killed by the smog. Where are the animals going to go? She gardens on her hill and it is like sand. The earth comes down and what assurance is there that when a developer starts grading the hill, those houses won't tumble down? When she bought her home there was apparently a disclosure about Site D which she never bothered to read because she was enthusiastic about her house. She would not have bought her house if she had taken a minute to read the disclosure. She walks every day and she has to go very early or very late because of the smog. It is dangerous at night and she wants to feel safe and secure walking in her neighborhood.

Jeff Leighton, 3703 Crooked Creek, said when he was before the Commission a year ago he saw the same presentation and agreed that no one was listening to the residents. He agreed that there are fewer people present tonight because fewer people were notified. He sent a letter to CDD/Gubman after the last meeting and was told he would be notified of tonight's meeting. However, he did not receive a notice about tonight's meeting. He said he was concerned about the increase in traffic generated by this proposed high density housing and commercial use plan. In essence, Diamond Bar is a single traffic thoroughfare City. Because of its geography, the City will always be in this condition. The added congestion that will be generated on the south end of town will dominate the southern gateway to the City. The proposed 202 plus units and the 800-900 additional cars, 400 rush-hour cars, will likely occur at the same time that the commercial area may see the most traffic. Another concern is increased air pollution as pointed out on ES-11. Statements like "violation of air quality standards and considerable increase in criteria pollutants" are bone-chilling and should be enough to stop the Alternate 5 project plan now. How can the City that houses the AQMD facility consciously support a plan that increases bad air at a portion of the City that is already severely affected by a parallel freeway a block away from the proposed site? Again, it can only be assumed that the intent is to maximize sale price and I think that fact has been made apparent tonight. The northerly view on Diamond Bar Boulevard will change dramatically from the country living atmosphere present today. The proposed plan for Site D calls for abrupt changes at the southern gateway to the City. In order to accommodate a large commercial area on the south tip of the site, the hills must be reduced to street level in order to achieve this and still maintain the maximum area above the strip mall for housing. This plan must call for huge retaining walls as shown on the plans. The plan must call for a huge retaining wall behind the commercial buildings similar to the midtown Target location. Although the Target wall is somewhat camouflaged and set back from the street it is still unsightly and an eyesore. The wall that will need to be planned for Site D will be much less pleasing and more of a focal point than the Target wall. The site of it will be the first thing seen by people entering the City from the south. In addition, the plan calls for removal of 75 100-year old trees that border Site D. In all, it would be a horrific sight and give a lasting impression of how Diamond Bar chooses to represent itself to its residents and visitors. In summary, the residents understand the need for progress but the City must remember that it needs to take into account the need to give preference to the residents who live in Diamond Bar, pay their taxes and elect the officials who are supposed to represent them. A short-sighted plan to maximize revenue generated at the expense of the residents as voiced by every speaker here tonight and also by speakers who spoke a year ago is an indication of the

disdain felt by the residents who will most be affected by the proposed project. The City needs to take another look, please.

Gregory Shockley, 3711 Crooked Creek, said it is pretty bad when a City throws out CEQA in order to accommodate the goal of obtaining money. Over the years the school district has had its ups and downs and the student population increases and decreases. The school district will continue to survive and will continue to be a good school district with or without the sale of this property because of the teachers and administrators. If people want to live in a place that looks like Irvine they can move there. Other cities like Anaheim and Brea seem to be following suit. People who live here want open space. He does not see where the consultants tried to minimize anything. The Commission does not have to recommend that this be approved by the City Council. In fact, he believes it is the Commission's responsibility not to recommend approval. He has heard it said that if this master plan is not accepted 2200 homes will be built on the site. He said he felt it was the Commission's responsibility was to decline this plan. This is land designated for general public use and no one can put anything on the land without the Council's approval. He believed the City could develop a plan that met the intent of the General Plan and meet the CEQA requirements. The seller may not get as much money for the property but at least it would be more user-friendly to Diamond Bar. I think the City can do a better job.

Robert Velasquez, 24336 Seagreen Drive, said the Planning Commission and City Council have done a lot of good things for Diamond Bar. It is a safe place to live; there are nice trails and a brand new recreation center and he believes residents appreciate the City's efforts. Diamond Bar was based on a country living style with more open space and reduction of traffic and the trend of more building is disturbing. The NFL Stadium will affect the City and he believed that the City should have a long term goal of what it wants to look like 10 years from now and he believed it was the job of the Planning Commission to plan ahead. Walnut was up in arms about the NFL Stadium and they should understand that the residents of Diamond Bar will be left to the consequences of a project like this proposal.

Christopher Chung returned to the podium to state that the mitigation monitoring report must, when approved, include all mitigation measures that are required of the project. What he stated previously about not including the mitigation measures, if those are not included in the document and more mitigation measures are found the document will have to be re-circulated. He said he truly believed that the document is very full of holes and is easily challenged. Residents do not want to have to challenge this project and

hope that the Commissioners determine that the document poorly considers all of the ramifications. If all of the comments that were provided did not make it into the mitigation report, something is wrong.

Mary Rodriguez returned to the podium to ask if the Commissioners had read all of the letters and comments that were submitted and Chair/Torng responded yes, that the document under consideration includes “response to comments on the DEIR Site D Specific Plan.” Chair/Torng said that Ms. Rodriguez’s letter is in the document. VC/Nolan assured Mary Rodriguez that she read all public comments, emails and letters that have been provided to the Commission.

Chair/Torng closed the public hearing.

RECESS: Chair/Torng recessed the meeting at 8:40 p.m.

RECONVENE: Chair/Torng reconvened the meeting at 8:50 p.m.

8. CONTINUED PUBLIC HEARING:

8.1 Development Code Amendment No. PL2010-78 – An Ordinance of the City of Diamond Bar amending the zoning regulations governing group residential uses in residential zones and amending the Diamond Bar Municipal Code, and providing reasonable accommodation provisions for the disabled, pursuant to Government Code Section 65858(d). (Continued from March 23, 2010)

Applicant: City of Diamond Bar

CDD/Gubman stated that at the March 23 meeting, the Commission expressed concerns primarily having to do with the “distance” criteria proposed for group homes and separately for parolee or probation housing. With respect to group homes, staff proposed that not only would a Conditional Use Permit be required for group residential and group homes for more than six clients, staff also limited zones for those uses to the multi-family districts and specified a 300-foot minimum separation between such uses. The Commission was concerned with the 300-foot distance in that it might facilitate an over-proliferation of such uses. Staff based the 300-foot separation on state licensing criteria for group homes like daycare or adult daycare facilities licensed by the State Department of Social Services. The City is not bound by that criteria and looked at pushing the buffers wider. Staff is comfortable recommending that the distance separation be increased from 300 feet to 1320 feet which significantly reduces the overall number of

group homes that would be potentially available for those uses.

CDD/Gubman reported that the Commission's second issue was the recommended spacing of 5000 feet between parolee/probationer housing. Staff learned that with the additional requirement that such uses be located no closer than a quarter of a mile from schools, parks and the library, it effectively resulted in not being able to get them closer than 10,000 feet apart. As a result, staff changed the distance requirement from 5,000 to 10,000 feet and added a requirement that there shall be no more than two (2) parolee/probationer housing facilities operating in the City at any one time.

CDD/Gubman indicated that the third issue voiced by the Commission was that there was not any ongoing monitoring of group homes in the ordinance. Staff responded that conditions of approval could be included that would mandate ongoing monitoring. However, staff added a standard that states "these shall be subject to periodic monitoring" so all Conditional Use Permits will need to specify how frequently the facilities are monitored and what kind of reporting requirements would be included. Still left to the discretion of the Commission on a case by case basis is the matter of how frequently it would like a facility to be monitored.

The fourth and final issue from the Commission was about the lack or absence of the requirement for onsite security at parolee/probationer homes. The ordinance stipulates onsite supervision but not onsite security. After conferring with the City Attorney, staff believes that to require security for these facilities would detract from the residential character of the neighborhoods in which these facilities are located and staff is concerned that that perception of an unsecure environment that would require officers or security personnel would in themselves be a detriment to the community so staff would recommend that the standard previously endorsed for onsite supervision rather than security would be the most appropriate measure to be taken if the Commission elects to approve a Conditional Use Permit for a parolee/probationer home.

Staff recommends that the Planning Commission recommend City Council approval of Development Code Amendment No. PL 2010-78 as presented this evening.

C/Shah asked about the difference between onsite security and onsite supervision. CDD/Gubman likened supervision to a hall monitor or resident advisor in a dormitory to make sure everyone is accounted for and make certain all are following the rules of the house and to ensure that peace and

order is maintained in the residence rather than having a “security guard” on the premises making sure that individuals are remaining on premises and not causing problems by venturing about unsupervised. C/Shah said he concurred with all recommendations as long as supervision be defined as 24/7 onsite supervision.

VC/Nolan agreed with C/Shah that the intent of the Commissioners comments was not to provide armed guards. She felt staff did a great job of revising the numbers.

Chair/Torng asked if 10,000 was the maximum and CDD/Gubman said that he spent a lot of time discussing this matter with the City Attorney's office and their advice is to go out farther than 10,000 feet would be reducing the likelihood to possibly zero that there would be any facility that could locate in the City. There might be a possibility for one; however, the City Attorney advised that it is somewhat risky to confine it down to one, especially when the one proposed location might not work given that a group home nearby would disqualify the site. Staff wanted to provide at least two possible sites that could accommodate a parolee/probationer facility and whether the City would ever actually get two such facilities would be questionable.

Chair/Torng opened the public hearing.

With no one present who wished to speak on this item, Chair/Torng closed the public hearing.

C/Shah moved, VC/Nolan seconded, to recommend City Council approval of Development Code Amendment No. PL 2010-78. Motion carried by the following Roll Call vote:

AYES:	COMMISSIONERS:	Shah, VC/Nolan, Chair/Torng
NOES:	COMMISSIONERS:	None
ABSENT:	COMMISSIONERS:	Lee, Nelson

9. PLANNING COMMISSIONER COMMENTS/INFORMATIONAL ITEMS:

C/Shah complimented staff on its Site D documentation and report for the Site D Specific Plan. He appreciated the Planners Institute and wished there had been more for him to learn.

VC/Nolan said she appreciated staff's report on the proposed Site D Specific Plan. She would like to have staff continue the public hearing as if there had not been a break so that the Commission would have an opportunity to ask staff questions. She said she would put her questions in writing prior to the next meeting.

10. STAFF COMMENTS/INFORMATIONAL ITEMS:

10.1 Public Hearing dates for future projects.

11. SCHEDULE OF FUTURE EVENTS:

As listed in tonight's agenda.

ADJOURNMENT: With no further business before the Planning Commission, Chairman Torng adjourned the regular meeting at 9:25 p.m.

The foregoing minutes are hereby approved this 27th day of April, 2010.

Attest:
Respectfully Submitted,

Greg Gubman
Community Development Director

Tony Torng, Chairman

**MINUTES OF THE CITY OF DIAMOND BAR
REGULAR MEETING OF THE PLANNING COMMISSION
APRIL 27, 2010**

CALL TO ORDER:

Chairman Torng called the meeting to order at 7:00 p.m. in the South Coast Air Quality Management District/Government Center Auditorium, 21865 Copley Drive, Diamond Bar, CA 91765.

PLEDGE OF ALLEGIANCE: C/Lee led the Pledge of Allegiance.

1. ROLL CALL:

Present: Commissioners Kwang Ho Lee, Jack Shah, Vice Chairman Kathy Nolan, and Chairman Tony Torng.

Absent: Commissioner Steve Nelson was excused.

Also present: Greg Gubman, Community Development Director; Brad Wohlenberg, Assistant City Attorney; Grace Lee, Senior Planner; Rick Yee, Senior Engineer, and Stella Marquez, Senior Administrative Assistant.

Consultants: Mark Rogers and JoAnne Sturges, TRG Land; Peter Lewandowski, Environmental Impact Sciences, Steve Sasaki, Sasaki Transportation Services.

2. MATTERS FROM THE AUDIENCE/PUBLIC COMMENTS: None

3. APPROVAL OF AGENDA: As presented.

4. CONSENT CALENDAR:

4.1 Minutes of the Regular Meeting of April 13, 2010.

C/Shah moved, VC/Nolan seconded, to approve the Minutes of the Regular Meeting of April 13, 2010, as corrected. Motion carried by the following Roll Call vote:

AYES:	COMMISSIONERS:	Shah, VC/Nolan, Chair/Torng
NOES:	COMMISSIONERS:	None
ABSTAIN:	COMMISSIONERS:	Lee
ABSENT:	COMMISSIONERS:	Nelson

5. OLD BUSINESS: None

6. NEW BUSINESS: None

7. PUBLIC HEARINGS:

7.1 Site “D” Specific Plan – Pursuant to the Subdivision Map Act; Title 21 – City’s Subdivision Ordinance; and Title 22 – Development Code Sections 22.60 and 22.70, the proposed project is to recommend approval of the following to the City Council. (Continued from April 13, 2010)

General Plan Amendment No. 2007-03 – A request to change the land use designations from Public Facility (PF) and General Commercial (C-1) to Specific Plan (SP).

Zone Change No. 2007-04 – A request to change the zoning districts from Low Density Residential (RL) and Neighborhood Commercial (C-1) to Specific Plan (SP).

Specific Plan No. 2007-01 – a Request to adopt the Site D Specific Plan for approximately 30.36-acre site for the construction of 202 residential dwelling units; 153,985 gross square feet of commercial use; and approximately 10.11 acres of open space areas, easements and rights-of-way.

Tentative Tract Map No. 70687 – A request to establish separate residential, commercial, and open space parcels; create an internal circulation system and common open space areas; and establish easements and other rights-of-way for utility and other purposes.

Environmental Impact Report No. 2007-02 – A request to certify the final EIR which provides a detailed analysis of potential environmental impacts associated with the development of the Specific Plan area. The EIR includes mitigation measures for the project, addresses project alternatives, identifies the environmentally superior project alternative, and adopts a statement of overriding considerations.

Project Address: Site comprised of approximately 30.36-acres located at the southeast corner of Brea Canyon Road and Diamond Bar Boulevard (Los Angeles County Assessor’s Parcel Numbers 8714-002-900, 8714-002-901, 8714-002-902, 8714-002,093, and 8714-015-001).

Applicant: Walnut Valley Unified School District and City of Diamond Bar

Lead Agency: City of Diamond Bar

Community Development Department

ACA/Wohlenberg explained that at its last meeting on April 13, 2010, the Commission closed the public hearing following the public comment period. There is a procedure for reopening public hearings during the same meeting. If the public hearing is reopened at a different meeting it would require that the item be officially re-noticed and continued to the next Planning Commission meeting. This procedure is not just for the benefit of those present this evening that would like to speak; if it were known that there would be additional opportunity for public comment there may have been others who would have appeared at tonight's meeting to speak but did not do so because they believed there was no opportunity for further public comment. It would require action of the Commission to direct staff to re-notice the hearing so that it could be reopened at the next meeting.

C/Shah said he would recommend the public hearing not be reopened and that the Commission move forward as scheduled to receive responses to comments and that the Commission continue with its deliberation as scheduled.

C/Lee concurred stating that he listened to the tapes of the last meeting and was prepared to move forward.

VC/Nolan moved to continue the item to May 11, 2010, and direct staff to re-notice the meeting to allow for further public comment. The motion died for lack of a second.

C/Lee confirmed to Chair/Torng that he had listened to the entire taped meeting and was prepared to move forward to deliberation.

Chair/Torng advised the public that the Planning Commission was acting in an advisory capacity to the City Council and that following staff's responses to the public comments received during the public hearing on April 13, 2010, the Commissioners would deliberate and the Commission would make its recommendation to City Council. The City Council is the final authority on the matter and the public will be notified of future public hearings if and when the matter goes to the City Council for deliberation.

Chair/Torng acknowledged receipt of letters from Lee Paulson, Melony Paulson, Mary Rodriguez and Christopher Chung. Emails were received from Mary Rodriguez, John Yang, David Dorsey, Julie Leung and Christopher Chung.

CDD/Gubman presented staff's report and addressed questions and comments raised by audience prior to close of the public hearing followed by response to Commissioner's questions after which the Commission will determine the next steps. CDD/Gubman said that rather than respond to the questions and

comments item by item, he would address them collectively by topic. CDD/Gubman said that staff understands that this project has garnered a great deal of opposition from the community and there has been a great deal of criticism of staff for not making any fundamental changes to the parameters of the Specific Plan. While the criticism is well received, he clarified that the cornerstone for this Specific Plan is the Memorandum of Understanding (MOU) that was crafted between the City and the Walnut Valley Unified School District (WVUSD), the premise of which was that staff was to develop a Specific Plan that consisted of 50 percent residential and 50 percent commercial. The plan that staff crafted and worked on is based on those fundamentals. Accordingly, the City's consultant TGR Land studied the property and developed a physical plan that established the land form that would be appropriate for accommodating a commercial development and residential development. The physical plan that has been presented demonstrates how that land form has been envisioned for this site based on technical analysis and existing conditions of the site as well as, access points to the project.

CDD/Gubman stated that the Specific Plan is characterized as an "umbrella" or framework plan for this site. As stated at the first meeting, there is a range of planning tools that could be used to set forth the long range development objectives for the site, one of which could simply be rezoning the property. However, a Specific Plan is a tool in which much more rigorous land use strategies, requirements and other specifications tailored to the particular characteristics of this property can be employed. As memorialized in the MOU, staff opted to do a Specific Plan, the intent of which was not to create a detailed development plan. There are no developers that are lined up, signed up or even in talks to develop this property. So, there is not a development plan that staff can base a document on, but instead staff formulated some planning principles and created a document of what the City's vision for this site is based on the commercial/residential makeup of the property and specify in diagrams, graphics and words what the physical and land use characteristics of this site should be at build-out. By creating this plan and conducting the environmental analysis, the strategy is to have an entitlement or vested approval in place to put this property out to market. Having an entitlement in place adds value to the property and removes many of the unknowns about what can or cannot be developed on this site. By eliminating those uncertainties, the value of the land is increased. At the same time, it is very clear how many units are the maximum that may be developed and possibly fewer units can be developed. However, 202 units would be the maximum under what is being proposed with this site plan, along with about 154,000 square feet of commercial development. This plan also specifies where those land uses will be organized on the site and outlines the physical envelopes for those physical components, along with the access, backbone road and provisions for pedestrian interaction between the commercial and residential

components. The plan for residential is based on the General Plan Consistency Analysis and promotes several General Plan Goals and Objectives as well, and staff has presented its recommendations for making those findings in the Specific Plan. This public hearing process provides an opportunity for the Commission to consider opposing viewpoints that have been presented by the public. Staff is confident that the project is furthering several development General Plan goals and objectives to provide housing in the community, to diversify the housing stock and staff believes that it has formulated a plan that is compatible with the surrounding areas to preserve the integrity of the neighboring land uses. Again, that is a matter for the Planning Commission to deliberate and in doing so, consider all of the testimony, and determine whether to concur with staff's recommendation.

CDD/Gubman stated that if the objective was for the City to help the school district maximize its return (get the most money for its property) the City would be presenting a plan comprised of 100 percent residential; however, the City is looking at this site with other community needs in mind to create a balanced community, to provide a range of services for the community and to provide a sustainable revenue opportunity given that the site is located at a major intersection in the City. The part of the plan that introduces the commercial was the City's contribution to the MOU. The City did not view 100 percent residential as the best long-range plan for this site understanding that market conditions are really a snapshot in time and a market study done two years ago would look nothing like a market study done today and looking into the long-term horizon for the City, would the community be better served by additional commercial or a neighborhood serving commercial uses. The City contributed this component to the MOU that provided this. Is the tax revenue generation or the potential to generate tax revenue the sole driving factor? While it is certainly one of the driving factors it is certainly not the only driving factor. Again, if the City was solely motivated toward tax revenue it would not necessarily be looking at a commercial component that would only accommodate a neighborhood serving commercial use because the amount of sales tax generated from that component would not make or break the City. It certainly helps to diversify and enhance the City's revenue portfolio but it is not something that is the only factor that the City feels is a justification to propose commercial at this site – it is the opportunity to take a corner at an arterial and to seize the opportunity to add additional commercial services for the community. Staff understands that there is not support from those who have participated in this process with their oral and written comments; however, that is the reason why the City holds the hearing process.

CDD/Gubman said that staff takes exception to the comments that the public input was ignored or disregarded or treated flippantly. There was a scoping meeting prior to the Environmental Impact Report (EIR) preparation and there was a public

comment meeting to provide an opportunity for the public to speak on the aspects of the EIR. Staff explained that those were not the times for the City to debate or deliberate on the merits of the plan itself but to focus on the environmental issues that need to be analyzed, and if the analysis was thorough and sufficiently fleshed out to enable the Commission to feel that it has been disclosed and apprised of all facts that go into the entirety of this decision – not only the environmental, but the appropriateness of the proposed land uses in the Specific Plan document as a whole. Staff certainly did not preclude people from speaking on the merits of the plan and voice their opposition to the project itself, to bring up the 1991 Resolution by the DBIA to develop the site as a park, etc. All of those comments are in the record and they have all been published and presented to the Commission in the Draft and Final EIR. All comments received have been recorded. Now that the decision making process begins through the Planning Commission and City Council hearings it is the time to consider the appropriateness, the merits and the benefit to the community of this Specific Plan in its entirety. Staff believes that it made a genuine effort to facilitate government to include all comments and to provide the public the opportunity to express their views. Staff's responses through the EIR process were only to the environmental issues and for that reason in the response to comments of the EIR there are numerous occasions that repeat "this comment is acknowledged" because it is not a CEQA issue but another issue. Nevertheless, those comments are acknowledged and published and they are disclosed to the Commission. In addition to the public hearing process opened last meeting (April 13, 2010) there is a very detailed and extensive record of where those members of who have taken the time to participate in this process stand on the matter. He hopes with that said that there is some consideration for staff's effort to provide the Commission with that information. This process was not a municipal or park or public improvement project where a neighborhood charette would have been used to solicit public input. This was a development proposal with staff acting as the applicant. This process did not provide the format for the type of participation that a community project would.

CDD/Gubman stated that there are numerous factual errors contained in the letter from Christopher Chung that need to be addressed on the record. First comment is that the Specific Plan is inadequate, inconsistent and does not meet statutory requirements. With that statement the contention is that the Specific Plan does not prescribe architectural and landscape details or specify other criteria in greater detail. Section 65451 of the California Government Code specifies the required content of the Specific Plan and that level of detail is not mandated. In fact, the Governor's Office of Planning and Research has a publication entitled *The Planner's Guide to Specific Plans* which states in its opening paragraph "a Specific Plan may be as general as setting forth broad policy concepts or as detailed as providing direction to every facet of the development from the type, location and intensity of uses, to the design and capacity of infrastructure, from the resources

used to the financed public improvements, to the design guidelines of the subdivision.” The Draft Specific Plan the City is presenting fits within these very broad parameters. Moreover, the Site D Specific Plan is very similar in format to the Specific Plan that was prepared for the Target/ Brookfield/Calvary Chapel site, which was adopted and approved. The second point raised is “the City cannot use Site D as justification to meet regional housing needs assessment housing needs or to meet RHNA numbers” and this is simply untrue. The City is obligated to accommodate 1,098 new housing units during the current RHNA cycle. Part of that obligation is to designate 15.6 acres for residential development at a density of 30 units per acre to accommodate lower income housing needs for 466 units. Site D is not one of the several sites being studied to accommodate that need. Site D would help fulfill the City’s obligation to provide the 632 market rate units under the current RHNA allocation. The third comment that is factually incorrect is that the EIR scoping meeting was conducted after the Draft EIR was released. This is incorrect. The scoping meeting was conducted on February 21, 2008. The Neighborhood Forum held on August 3, 2009, was during the Draft EIR public comment period and was provided as an additional opportunity for the public to ask questions and provide oral and written comments regarding the adequacy of the EIR. Unlike the previous scoping meeting, the August 3, 2009, meeting was not mandated under CEQA but the City scheduled the meeting in an effort to inform the public and to solicit comments. The fourth comment is that the EIR was not completed by an objective third party independent consultant that has no prior relationship with the WVUSD. For the record, TRG Land did *not* prepare the EIR and does not provide environmental services. The City selected the firm Environmental Impact Sciences to prepare the EIR. The fifth comment stated in effect that the traffic mitigation in the form of fair-share fees is inadequate and violates case law set forth under Federation of Hillside and Canyon Associates v. the City of Los Angeles. The EIR’s mitigation reporting and monitoring program that is part of the EIR document requires the specific improvements or fair-share contributions shall be provided prior to the recording of the final Tract Map. This is not a violation of FHCA v. Los Angeles. FHCA v. Los Angeles did not deem the payment of fair-share fees to be invalid. What the case law cited determined was that although the City of Los Angeles adopted mitigation measures for its General Plan framework program, it failed to require that they be implemented as a condition of development. The Site D EIR does not make that error in that the improvements or fair-share contributions are required to be paid or completed upon recordation of the final Map. In fact, going further, he pointed out that the court decision went on to state that it found no fault with Los Angeles’s certification of that EIR but only with the failure to show substantial evidence in the record to support a finding that the mitigation measures had been required or incorporated into the planning document. The sixth statement was a comment that it is the responsibility of the lead agency to consider all viable project alternatives. This is untrue. Under Goleta Valley vs. The Board of Supervisors, it was determined that

an EIR must discuss a reasonable range of potentially feasible alternatives to the proposed project. Staff believes that the Site D EIR has indeed discussed a reasonable range of project alternatives. Finally, there is a statement that the City of Diamond Bar's noticing radius is 700 feet from property lines and the City arbitrarily increased the radius to 1000 feet, therefore, should extend the notification range even farther out. This is untrue. In fact, Section 22.72.020 requires a 1000-foot notification radius for the Site D Specific Plan.

CDD/Gubman asked if the Commissioners had any questions. C/Lee said he heard the same story last time and he believes that the public hearing process is not a lecturing process. He listened to the two and one-half hour tapes of the last meeting and heard many residents voice their concerns as well as their wishes. He understands residents clearly expressed their thoughts; he understands this project and its relative impact to the community. But on the agenda it states a Finding of Fact and Statement of Overriding Considerations, and implementation with the identified economic and social benefits. He said he understood the economic benefit but did not understand the social benefit. CDD/Gubman explained that it is adding to the diversity of Diamond Bar's housing stock and providing additional housing opportunities. C/Lee asked if "housing stock is a social benefit" and CDD/Gubman responded "yes." C/Lee said there is maybe sociality? But a social benefit is not that. Maybe housing stock is a benefit but not a social benefit. He asked for a better explanation of "social benefit." ACA/Wohlenberg explained that there is an underlying thought in California Land Use law and in Housing law that there should be a community that has a variety of housing types and pricing available. And something that Diamond Bar hears as a comment from the State of California in the review of its Housing Element is that so much of Diamond Bar's housing is focused on the higher economic spectrum. So in order to seek out that benefit of having diverse housing choices within the City, that is part of what this project is aimed at providing – not the high end housing that Diamond Bar has so much of but mid-range housing units that Diamond Bar needs (another 632 units) under its RHNA obligation. C/Lee argued that the statement should be "housing stock benefits" and not social benefits. Mark Rogers stated that in addition to the aforementioned benefits, the project seeks to do a number of things. First, the project is using both commercial and residential land uses in an area that as he understands, has a need for neighborhood commercial services. The idea today and what is seen as handed down by the State of California is that it is looking for projects where there is a blend of land uses to cut down vehicle miles traveled and place uses where there is a pedestrian trail that connects the adjoining neighborhood on the south end of the project into a plaza-like feature anticipated with a commercial side of the project. In that instance, this project meets social standards from the state's standards in providing a mixed land use with both residential and commercial. He hopes that he is not stretching when he also states that the benefit of this project

monetarily to the WVUSD and maybe secondarily to the City, has tremendous social benefit. The values that he sees in this community are born out of the great education that the children get from their school systems. This is a timely project from the standpoint of providing needed fund for the district and that, he believes, has tremendous and long-reaching social benefit.

C/Lee said the report mentions this project would be convenient for people but can he talk about social benefit as common sense. This project will be good for families, education involvement. He heard many negative comments from residents because there is no social benefit. So he wants to understand clearly what social benefit is. But Mr. Rogers's understanding is a convenience of more houses so there is a contradiction. This comment should be changed to "more housing stock or more convenience for shopping but not social benefit because people can misunderstand about this project. C/Lee asked how this project building more houses and building more commercial areas is related to education, and CDD/Gubman responded "in that the sale of the property benefits the school district." C/Lee asked if that is why it helps people and kids grow up in this community. He thought it was totally irrelevant explanation about this project with respect to education. C/Lee asked for clarification of "social benefit" and asked if it could be changed "housing stock benefit or convenient to the people or shoppers."

CDD/Gubman responded yes, that the changes can be made so that his concerns are addressed.

VC/Nolan asked if socialize meant how it socially benefits the community at large. CDD/Gubman said that when the document addresses social benefit it refers to the entire palette of elements that enhance the society. ACA/Wohlenberg said that when making a statement of overriding considerations it simply discusses the economic and social benefits that would occur from deciding to move forward even though there is unmitigated significant impact. To him that is sort of "catch-all" language that the legislature adopted. There are economic benefits and social benefits and everything falls into one of those two categories.

C/Shah asked what could be built under the land use designation of Public Facility and General Commercial if nothing is done to change the land use to Specific Plan. CDD/Gubman responded that currently there is a fundamental inconsistency between the General Plan and the zoning. The General Plan designation is Public Facility which would suggest a school or park. The zoning that is overlaid on that is residential and commercial so there is a General Plan zoning inconsistency that would have to be resolved to enable the property to be developed in some fashion.

Chair/Torng asked for a response to Mr. Chung's statement on Page 1 of his letter

that refers to “the proposed high-density residential land use is incompatible with adjacent land use and inconsistent with the General Plan.” CDD/Gubman said that was a fair argument. Staff’s position is that this housing type is compatible with the surrounding uses. It is not located within a local neighborhood street completely encircled by single family detached residences. This property does have its back turned on the single family neighborhood and faces a major arterial. Based on that context an attached housing product on this site would be appropriate and if one looks throughout the City, one will see similar land use

relationships between those housing types that co-exist under similar contexts and disagreed that it is an inconsistent land use.

Chair/Torng asked about Mr. Chung's statement on Page 6: "The consultant provided a representation that the development of the housing would be of high quality for moderate income families." The inconsistency is that this should be low income. CDD/Gubman said that the first thing he needs to clarify is that high density would be for 30-units to the acre. This residential project proposed at 20-unit per acre on the development pads is exclusive of the slopes front and back. Therefore, the effective density is closer to 17-units per acre. The 30-unit per acre density requirement that staff is studying for locations elsewhere in the City is considered a default density for affordable housing so the state views a development at 30-units per acre as probably accommodating affordable housing, at least in this region given the property values and existing levels of urbanization. Thirty units per acre in Manhattan would be extremely low density for example, so it is all relative. Site D would be attached housing probably similar to the Brookfield development above Target which is market rate housing.

Chair/Torng said he raised a concern about Page 15 of Mr. Chung's letter - the grubbing and grading near the homes toward the channel to ensure that insects and rodents are driven away from homes. This should have been a mitigation measure but nothing has come up about it. Is there any way this can be mitigated? CDD/Gubman responded that there is a standard requirement in the issuance of grading plans that rodent barriers be installed around the perimeter of a project. Staff believes that would be a more effective means of containing the rodent population within the project site to effectively be decimated by development activity. The prospect of grubbing at the edge of the site or at the center is somewhat speculative in the belief that that is going to drive the rodent population inward. He said he did not see how that was something the City could guarantee unless there is one solid line of machinery that moves contiguously and together toward the center. The City's grading permit requirements include a rodent barrier to imbed into the ground and prevent the offsite migration in order to more effectively achieve that goal. Chair/Torng said, so in other words, staff already considered that and CDD/Gubman responded "yes," although it should be noted that specific discussion of rodent barriers was not included in the EIR response to comments.

CDD/Gubman responded to Chair/Torng that 7:00 a.m. (not 8:00 a.m.) is the citywide noise regulation standard for construction activity.

VC/Nolan asked if the City had the resources of a buyer to purchase green space for a recreational facility. CDD/Gubman explained that Site D is not included in the Parks Master Plan and since the MOU expressly states that the Specific Plan

should be prepared to accommodate 50 percent residential and 50 percent commercial, the response would be “no” at this point.

Mark Rogers, TRG Land, pointed out that one of the terms the Commissioners should keep in mind for the purposes of this process is “predictable outcome.” It is a term he uses a lot speaking about development and the experiences he has had with development. In an effort to ensure what the Commission deliberates on and what the Council will deliberate on and make a decision on is truly what can happen as a built project. This project, like many projects he has had an opportunity to work with, focus on ensuring that the property is mapped, set forward design parameters and a regulatory envelope so that at the end of the day as deliberated and conceived can be built. TRG has done an extraordinary amount of scientific work to ensure public safety in this project. A lot of what would normally be required in a process like this to ensure this is a quality built site. These are two public bodies that are working together to bring a project before its constituents and what is so interesting about that is that he and his colleagues sat around brainstorming the project working with things everyone has experienced in an attempt to provide a framework that TRG Land feels meets the concerns and issues they deal with on a daily basis.

Mr. Rogers stated that in the absence of a more elaborate graphic, he focused his PowerPoint presentation on the edges of the project because this is a two-step process. This attempts to build an envelope or umbrella within which a project of merit can be built. So he has focused on the edges of the project to ensure adequate setbacks and spaces that meet the intent. Along Brea Canyon, the street grade is about 10 feet below pad grade. His firm ensures that from the back or right-of-way to anything within this project there is a minimum of 35 feet. In addition, there may be an area for cars to butt right up against that setback so an additional space was allocated so that car bumpers are setback well behind that area which offers a minimum setback from top of slope of an additional five feet beyond the 35-foot setback. At the corner of the project, the vision was at that the corner of Brea Canyon and Diamond Bar Boulevard create something like an arrival/plaza space in the project.

Chair/Torng asked if the lower legend side is people’s view driving from Diamond Bar Boulevard and the view on the right is the potential site elevation. He asked about the triangle. Mr. Rogers responded that is the condition he is describing – the arrival/plaza space. The first section is the section going toward Diamond Bar Boulevard and Brea Canyon so that it shows on the right hand side the upslope to the project. When he spoke two weeks ago he said the project was “at grade.” In fact, it is as close as possible. It is still above the street. One of the corners was that drivers would see it as asphalt and that is not true. He said he would later show similar projects and how they are monumented. The second section is

driving down Diamond Bar Boulevard in the direction of Grand Avenue away from Brea Canyon. This shows a very strong setback of 35-feet to a monument feature with a very strong community gathering type of spot such as an outdoor eating area or loggia located at the corner to monument the corner. As one moves closer to the entry at Cherrydale driving down Diamond Bar Boulevard toward Grand Avenue, the project is much closer to grade and the building setback from back of right-of-way is a minimum of 35-feet. These are very healthy setbacks well above most minimum standards for most typical zoning. Sections along the project edges such as mid-point locations, Section 4 is cut from Diamond Bar Boulevard with the uphill section showing the project considerably elevated above the street. Again, this area ensures adequate setbacks without allowing any buildings closer than 15 feet to the top of slope. In this case, at a minimum will be set back 125 feet away from Diamond Bar Boulevard. The slope planting incorporates indigenous, low water, drought tolerant plants as well as plants that will mitigate for the reduction of black walnut. Mr. Rogers responded to C/Shah that the elevation difference between the houses and the street is roughly 60 feet. The next section is the section cut along the edge of the project that joins Ambusher. The existing housing is below grade to the site. In this case the grade is being lowered to reduce some of the vertical between the two relationships. This is very unique to a standard imbedded in a project like this because a minimum 85 foot setback will exist along the edge to ensure adequate distance for buffering and landscape and so that the buildings do not create an incompatible relationship to the adjoining residential. One hundred twenty (120) feet of horizontal distance lies between the houses and the buildings and landscape screening will be used to enhance the edge. Again, these setbacks are above and beyond the normal setback requirements in a project of this nature. Mr. Rogers responded to Chair/Torng that there will be a fence between the trees. The upper south side neighborhood is well above the project. Section 6 at the midpoint of the project is well below that neighborhood. There is a huge setback distance both horizontally (184 feet) and vertically (60 feet) in this project relationship. The next section further up the street (Section 7) shows an even greater vertical and horizontal relationship with 365 feet between the existing residences and the project's buildings.

Mr. Rogers shared images of other projects that are similar to how he visualizes some of the key elements in the commercial center for the Site D Specific Plan.

VC/Nolan asked if the ratio of black walnut replacement ratio is based on the actual success rate or unsuccessful rate. CDD/Gubman responded that the ratio is not related to any estimated success rates and is a code requirement found in the Municipal Code that there be a 3:1 ratio for protected trees that are removed. The applicant may also be required, as a condition of approval, to enter into a tree maintenance agreement to warranty the survival of the replacement trees. For

example, the City may require the applicant to replace any tree that does not survive during the first three years. VC/Nolan asked the ratio of successful replacement tree plantings and CDD/Gubman said it would depend on the quality of the nursery stock. If the replacement tree is from a reputable nursery that employs best practices for cultivating trees and offering guarantees, then the likelihood of success should not be a concern.

Chair/Torng asked why the City would want to remove the 100-year old Eucalyptus trees and replace them with better trees. CDD/Gubman stated that the plan for the site with the commercial component compels the commercial pad to be lowered. The fact that the site is going to be graded necessitates removal of the trees. The Tree Ordinance focuses on protected trees – trees that are indigenous to this area. And what the City envisions is restoring the urban forest in the new development with climate appropriate trees. The Eucalyptus tree is not within that realm. Mr. Rogers further stated that if there were a way to realize the project before the Commission for consideration and maintain those trees, the project would probably have sought to do that. These trees have a life cycle and they are reaching the end of that cycle where they will no longer be vital. In fact, they may become more of a hazard over time. More importantly, he has done a number of projects wherein the Eucalyptus was retained and it is a tough task on flat ground much less on a hillside environment. If the trees were live oak that had an extended life period there may have been consideration for boxing and relocating the trees to the project feature and if the trees could be retained in their present location the project would have sought to do that. However, these trees are nearing the end of their life cycle and over time will be more of a problem than a benefit. This project attempts to implement current legislation to attempt to get a carbon footprint down. A lot of things being done in terms of water harvesting, plant selection, utilization of 50 percent solar, everything that is imbedded in current technology for purposes of meeting these goals, is a part of this project. He invited the district to use this project to measure the benefits of going in this direction. This project will be state-of-the art and raises the bar for what projects can be in terms of carbon footprints and meeting goals handed down by the state today.

Chair/Torng said he appreciated Mr. Roger's effort to create the site cross-sections for clarity which he requested and believes it helps to clarify and provide a better understanding of the project. He read a comment from Page 3 of the letter from Melony Paulson. She said "Part of the site could be a park. It might not be as large as some of us might like, but it would (be) better than acres of hot, desolate pavement that is now being envisioned for the site." In the final paragraph she said "Then, think about the plan I have suggested above. Think about an urban city center, a living, shopping, park space set into the natural setting of Site 'D'." So by looking at what has been shown on the plan, is there a

possibility of incorporating a small park. Mr. Rogers said that naturally, there is always the possibility of doing a park feature. He liked the focus on an idea brought forward by CM/DeStefano to have a plaza in the corner near the flood channel. Perhaps the project could include a pedestrian corridor that reaches back to the main commercial structures from that location. Maybe a park of a different nature that utilizes green space and canopy that extends a walkway system back from the corner with the loggia concept, an urban gathering space, and maybe that loggia concept is connected with the greenway that goes back to the main structures. What was envisioned by a Council Member was the inclusion of a trail system from Posado down to the back of the commercial structure. So what was envisioned in the Specific Plan is a very similar type of feature as is called out on the corner at the apex of the buildings where they join at the back of the property. And what might be considered is those two being like an urban hub with a trellis or shaded walkway system that connects those two hubs to one another as an urban park setting, which might accommodate some of Ms. Paulson's concerns.

VC/Nolan said she believed the raised separate pad off of Cherrydale at Diamond Bar Boulevard is potentially something that could be used for a restaurant. What is the size of that pad and what is the potential for an actual park in that area and perhaps 20-30 percent of the commercial area being removed and replaced by an actual park facility. She stated that the Commission has heard the concerns from the community again and again regarding a park and again, to speak to the social aspect of this area. Mr. Rogers said that naturally, that is an opportunity that has not been explored at this point. What is located in the corner is a water quality feature/ambient open space. If there is a grassy swale that functions as a water quality feature they usually like to associate it with other open space to get a benefit from both being next to each other and the expanded idea. Corners are important places in commercial projects in terms of locating restaurants or banks on free standing pads. The more critical of those is probably at the intersection of Diamond Bar Boulevard and Brea Canyon. He believed that the concept as discussed is imbedded in the plan but certainly this would make for an opportunity to have a park feature that could be used by both residents outside and inside the area. VC/Nolan asked how much area of the swale would be needed to make it a designated park area in acreage off of the commercial portion. Mr. Rogers said it was a pretty tough question to answer on the fly because it is a function of programming. If it is seen as not having active uses but being a tot lot, seating area, passive shade structure, etc., it might be a two-acre site. When one gets into active facilities it begins to expand to five acres and certain municipalities require different sizes for those uses because the City would usually be responsible for the maintenance. A smaller venue that would be more appropriate to the plan of residential/commercial features would accommodate a one or two acre facility in that corner benefitted by the other adjacent features such as

setbacks and water quality elements that would help to expand the usable area.

Chair/Torng asked if the Commission could recommend inclusion of a park feature and CDD/Gubman responded yes, if that is the direction the Commission wants to go he would suggest that it be incorporated into the recommendation to the City Council. Since there is a draft resolution prepared for the Commission and if the Commission is in agreement with that draft resolution with the additional provision that a park element be incorporated staff could come back on May 11 with a revised resolution for adoption. Or, the Commission could take a short recess and craft language this evening if that is what the Commission would prefer.

RECESS: Chair/Torng recessed the meeting at 8:40 p.m.

RECONVENE: Chair/Torng reconvened the meeting at 8:45 p.m.

SE/Yee and Consulting Traffic Engineer Steve Sasaki provided information in response to questions and comments raised at the April 13 meeting, as well as written questions and comments regarding traffic. SE/Yee stated that he would collectively address the questions and comments by category.

SE/Yee responded to a comment raised regarding whether or not cumulative impacts of the proposed project were adequately addressed in the traffic study. The traffic study did indeed address several proposed projects listed including residential development in The Country Estates, Diamond Hills Plaza (formerly the Country Hills Towne Centre), the Industry Business Center/Stadium and the Aera Energy planned community. Specifically, the resident raised an issue with respect to the stadium and the traffic study for Site D began prior to when the stadium EIR was approved. However, the traffic engineer who prepared the Site D study assessed the current information available with respect to the stadium EIR and it was determined that the appropriate approach would be to look at the prior development proposed for the stadium site which is the Industry Business Center and to look at the impact to the peak hour travel times. Ultimately, this resulted in looking at the am/pm peak hour trip forecasts and the conservative approach is to use the Industry Business Center traffic forecast because it generated much higher forecasts for the am/pm peak periods. Second, there was a concern about the H-Mart. As previously mentioned, the H-Mart is part of Diamond Hills Plaza and was addressed in the study with respect to trip generation forecasts for that and other retail establishments in the plaza. Third, there was a comment regarding school area circulation and Castle Rock Elementary access concerns and wait times for student drop off and pick up. Essentially, this is a situation that occurs throughout Diamond Bar and in fact, with many communities in Southern California. The City experiences high levels of traffic during very specific timeframes in the early morning and early afternoon hours. The City has

addressed this issue uniformly throughout the City by working closely with the Sheriff's Department and school districts to monitor those situations and to proactively address operational improvements that can help with circulation during peak hour drop off and pick up. Chaparral Middle School is a good example of collaboration among the City, Sheriff's Department and school. Staff was able to establish one-way circulation routes; post additional regulatory signs, etc. Those types of actions have proved successful with regard to addressing school area traffic. Fourth, there was a concern expressed about the general ingress/egress because there is a proposal for 202 dwelling units and the comments contended that there should be 404 trips associated with peak hours. However, the analysis procedure that was followed in this traffic study is a procedure that is commonly followed in the industry. The traffic engineer used the Trip Generation Handbook published by the Institute of Traffic Engineers which is universally used for assessing impacts and determining trip generation rates. These trip generation rates are based on land uses and in this case, there was a component for the residential portion and a separate trip generation forecast for the commercial/retail component. As a result, 154 trips were considered to be the outbound A.M. peak hour number of trips from the residential units. Staff is confident with the methodology used in this study.

SE/Yee said that several individuals commented on particular intersections that were not studied in this report. One intersection referenced by two different individuals who offered comments was Brea Canyon Road and Copper Canyon. The report studied a total of 20 intersections in the vicinity of the proposed project with the farthest intersection being Grand Avenue at Diamond Bar Boulevard. The traffic engineer who prepared the study looked at several criteria for selecting the intersections such as whether or not there would be more than 50 trips added to a particular intersection as a result of the project; whether or not the intersections were signalized, whether or not the intersection is an arterial to arterial intersection, arterial to a collector road intersection, or a residential intersection. All of those factors were considered and evaluated in determining which intersections needed to be included. Based on the criteria, Copper Canyon was deemed not necessary to be included in the study. Copper Canyon is a T-Intersection between an arterial and a residential collector street, it is currently not signalized, it is a single stop intersection and the intersection approach generally serves right turns in and right turns out. There are mitigations recommended in this study for the next intersection downstream from the project (Brea Canyon and Silver Bullet), which is an intersection that requires a fair-share contribution by the development to restripe and install an additional lane of traffic and to modify the traffic signal to improve flow through the intersection as well as, general traffic flow along Brea Canyon Road. That in combination with the determination to exclude Copper Canyon from the study was felt to be appropriate that the downstream mitigations would address any additional concerns. The last comment received

addressed the relevance of the Traffic Study data. There were several concerns with the date of data collection versus present day. Data was collected in 2007 and much of this Traffic Study report, as with any traffic study report has impacts and mitigations based on future forecasts. In this case the study was based on a 2030 year traffic forecast, the critical numbers used to determine ultimate mitigation. Again, it was deemed appropriate to use the data that was collected because the critical data and forecast were still relevant for determining mitigation for this project. SE/Yee addressed Chair/Torng's request for additional information related to the volumes for the project with and without the project by showing a slide that showed actual traffic counts for AM/PM peak hours for the intersections. There was also a question about fair-share contributions.

Steve Sasaki, Sasaki Transportation Services, highlighted a question about use of fair-share as a mitigation practice. He confirmed that fair-share mitigation is an accepted mitigation procedure which serves to create a firm nexus between the project impacts and the required mitigations so that the City is able to offset the project impacts through use of a fair-share vehicle. It is also a way to satisfy the City's adopted Traffic Study Guideline procedure. Within the Traffic Study Guideline there is a requirement for fair-share contributions and the fair-share mitigation serves to satisfy the guidelines. Within the mitigation measures themselves there is an opportunity to provide a fair-share or actual construction of improvements and whichever method is selected, would need to be done to the satisfaction of the City Engineer. Within those parameters the City has a very solid mitigation program to offset the project's impacts.

VC/Nolan said the A.M. traffic trips indicated were 154 trips and she assumed that would be mirrored for the P.M. trips. SE/Yee explained that they would be different based on the methodology. Mr. Sasaki explained that since there is a combination of both residential and commercial uses, the residential is pretty much as stated as those going out in the morning tend to come back in the evening so that is fairly balanced. However, with commercial, typically there will be a lower A.M. trip generation and more trips generated in the P.M. The net trip generation is 272 in the A.M. peak hour includes both inbound and outbound vehicles. For the P.M. it is actually 650 peak hour trips (332 inbound and 318 outbound). When there is a mixed use of residential and commercial, obviously some of the people who live on site are going to shop at the adjacent commercial and most likely that relationship is a lot higher than some residential away from the project. Individuals tend to shop at the closest location. There can be and is often a reduction to account for the internal synergy. This particular study was done on a worst-case basis so it did not make those reductions. In attempting to create the envelope and looking at what mitigations were needed, that is one factor that makes it more of a worst-case analysis that that particular reduction was not made within the trip generation analysis. So the numbers shown are

essentially worst-case. SE/Yee clarified to VC/Nolan that out of the 154 trips outbound A.M., 75 of those trips were associated with the condominium development and 79 were associated with the retail center.

C/Shah asked if a nine percent increase in Diamond Bar Boulevard and Brea Canyon Road P.M. traffic was a moderate or significant impact. Mr. Sasaki said that for Diamond Bar Boulevard at Brea Canyon there were impacts that were identified within the traffic study and then there were also offsetting mitigation measures so it would be considered a significant impact that was identified through the traffic study within the EIR. But then also there were mitigation measures that were identified that would fix or offset those impacts.

Chair/Torng asked at what point – two percent or four percent - a fair-share contribution would be required. SE/Yee responded to Chair/Torng that the City's traffic guideline in general refers to a greater than two percent impact would kick it into a category of needing mitigation. The guidelines also indicate that if the City determines that an impact less than two percent is judged to be significant it would enable the City to require mitigation even though it did not meet the two-percent requirement.

Chair/Torng asked staff to comment further on the impact to Copper Canyon because he believed it would be very difficult to make a left turn at the peak hour. Mr. Sasaki said it was an advantage to have an internal connection and the signal at Silver Bullet presents an opportunity to make a left turn under signal control. In the P.M. drivers make left turns from Brea Canyon into the development so if someone is traveling southbound on Brea Canyon, residents do make a left turn in but that was not viewed as problematic. Chair/Torng asked if striping could be added to help the residents. Mr. Sasaki said it was not determined that there was a project nexus. There may be over time that residents would ask for improvements from the City to help improve ingress/egress at that location but that would be separate from this project. Chair/Torng asked if they would go to the Traffic and Transportation Commission and Mr. Sasaki said he did not know what the process was for that in Diamond Bar but obviously, the project does not have ingress/egress through that side street. So it is viewed as more of an issue related to the neighborhood which very well could be legitimate and could be pursued for improvement. As far as the study, it is viewed as something separate from the project.

CDD/Gubman said that the reports were completed and staff would respond to further questions.

VC/Nolan asked how the number of new homes for this project compares in general to new home development over the past five years as it pertains to overall

traffic impacts citywide. CDD/Gubman responded that a total of 237 including the Brookfield development which is about 186 attached units from 2005 through 2009 based on the number of Certificates of Occupancy issued. VC/Nolan asked staff to elaborate on the issue of entitlement about the importance of how staff certified this EIR as opposed to if the land was purchased and an EIR was done post sale. CDD/Gubman said he touched on this matter before. Having a Certified Environmental Document in hand and having some certainty of the entitlements in terms of the land uses, the density, number of units and amount of square footage, if that approval is already in hand it will add value to property when it is marketed because the developer is not assuming that risk upon purchase. VC/Nolan asked if there had been thought given to a park and recreation area in the form of a portion of this land being taken out of the sale and dedicated to the City of Diamond Bar for park and recreation use. CDD/Gubman asked if VC/Nolan intended that the commercial and residential mix would be retained but adding the park component and VC/Nolan responded "adding the park component even as part of the development and requiring that the developer create a park or just taking a certain acreage out of the equation completely." CDD/Gubman said that would be a discussion at a higher level but if it is the Commission's recommendation to have that park feature added to this Specific Plan he would presume, given the fiscally cautious approach the City takes on all matters of City business that the City would require the subsequent developer to construct those improvements and dedicate that to the City for public use. VC/Nolan asked if it would make the project less feasible or desirable for a developer to come in if that is a requirement and CDD/Gubman said he could not really answer whether it would be less feasible. The sale price of the property would be affected if that was a feature that the developer was obligated to construct and there may be other funding tools that could be used such as adding what you might call a "door charge" on the residential units that would be payable to the City because the park would reduce square footage by potentially 80 cents to \$1 dollar of foregone sales tax revenue. As a result, the City may look to require some sort of fee to offset that loss of revenue stream from the residential units. With all of those factors taken into account, yes, the price tag on the property would reflect that requirement as any other development requirement would also affect the price tag. VC/Nolan said in that regard is there not already a fair-share amount toward park service per dwelling unit or per envelope and CDD/Gubman responded affirmatively and indicated that it is called a Quimby fee and for every development unit there is an assessment that is payable and what he is saying is that the City would look into exacting an additional fee from the residential development to offset the fee of reduced sales tax revenue that would be required to accommodate the park. CDD/Gubman said he was not suggesting that the fee he is talking about is the Quimby fee, it is something in addition to the Quimby fee to serve another purpose but it is the purview of the City Manager to determine how to manage the City's revenues and expenses. There will be a loss of sales

tax revenue and there will be maintenance costs inherited with the addition of a new park facility so the City would look at some means to offset those costs. VC/Nolan said and those funds would go directly to this project site specifically as opposed to the assessment for dwelling units which could be disbursed throughout other parks in the City. CDD/Gubman said the funds would go into the General Fund and through the budgeting process the money would be allocated. VC/Nolan asked the potential length of a project like this from beginning to end when one considers inconvenience of construction, construction hours, a particular concern of hers with hours noted from 7:00 a.m. to 8:00 p.m. Monday through Saturday. CDD/Gubman stated that Mr. Rogers may be able to elaborate more on that issue but it would probably be a 12-18 month process from permit issuance to having pads ready for actual construction of buildings. Mass grading may take about six months. Speaking from experience with construction hours he has worked in communities where the noise regulations allowed construction to begin at 6:00 a.m. and as the community developed and the new development sites were starting to be surrounded by populated development sites and there was beginning to be an impact on new residents the City looked at having the noise ordinance revised to require later construction hours and the hour was set at 7:00 a.m. He worked in another community where the construction ordinance was 8:00 a.m. and as development activity increased there was pressure from the construction industry to allow an earlier start time and it is really a matter of coordination with all of the trades and how the industry operates. There are concrete batching plants that are mixing concrete that has a short shelf life and that material needs to be delivered before it gets too hot; there are delivery trucks dropping off lumber and they are trying to make their rounds and then as construction starts later in the day and the weather is warm, the end time is not necessarily later in the day so it shortens the duration of the work day so that could potentially lengthen the construction period. So the balance seems to gravitate to 7:00 a.m. which seems to be the earliest that the building industry can really continue to do business under and it seems to be the earliest tolerable time for surrounding residents. So 7:00 a.m. seems to be the universal standard. VC/Nolan asked staff's experience on surrounding property values for a project like this. CDD/Gubman said there is probably data to show that a new development going in will positively affect the comparable values and square foot values on older homes. As the homes are newer it may have less of a positive effect but it seems to have generally a positive effect on property values. With a commercial development that is less certain and so that is a question of compatibility and sensitivity to adjacent uses so taking that into account is what led to the increased setback requirements and other screening requirements to try to focus the use in a location that is farther away from residential development.

Chair/Torng asked staff to comment on Mary Rodriguez concern about ground water flowing under the houses that sit on the slope at Cold Spring Lane and what

would be done about the flow of water without disturbing the housing above. Peter Lewandowski stated that as indicated in the EIR, the geotechnical analysis was at a programmatic level in the absence of a formal design plan. But subsurface investigations were conducted and groundwater was encountered at a depth of 37 feet. Grading activities are not anticipated to encounter ground water as part of its operations. And as part of typical grading procedures and practices, further geotechnical review will be required at the building permit stage once final development plans are finalized. To the extent additional geological conditions are identified those will be composed as conditions of approval on subsequent development projects. The subsurface ground water is not anticipated at this stage to result in significant impacts to the project moving forward.

Chair/Torng asked the school district to comment on for what the proceeds of the sale of this land can and cannot be used. Jack LeBrun, Assistant Superintendent of Business Services, WVUSD, responded that the question regarding the use of any type of capital outlay proceeds has to go back into the district's capital improvement program. Currently, the school district is not allowed to use proceeds to pay for salaries or ongoing operational expenses.

Chair/Torng asked for a more in depth explanation about the 1991 DBIA resolution and why that is not a consideration. CDD/Gubman explained that the DBIA Resolution that was passed in 1991 did formally record the position based on survey information that a park is a preferred development for that site. Certainly there has been public testimony that is indeed still the preferred alternative of many for this site. He would just have to go through a few points to respond to that. The first would be that subsequent to that resolution was the City's adoption of the General Plan in 1995. The General Plan does not identify Site D as a park. It retained, I would say, an inconsistency between the General Plan and zoning designation but it was not formally established in the General Plan as a potential park site. Prior to that, there was a grant application submitted by the City to secure funding for a park site and there were two locations under consideration: 1) what is currently Pantera Park; and 2) Site D. The funding was approved for Pantera and not approved for Site D. So that window of opportunity, the best opportunity to see that (a park) happen was when the grant application was submitted but it was approved for another site. Subsequent to that and after the General Plan adoption in 1995, there were improvements to Heritage Park and there were improvements to Castle Rock Elementary School keeping in mind there is a shared use agreement between both the WVUSD and Pomona Unified School District (PUSD) for school facilities to be used by Diamond Bar residents. Finally, the Parks Master Plan that is currently being completed and will be presented for City Council consideration does not include Site D as a potential park site; it does, however, include future improvements to both Heritage Park and to Castle Rock Elementary. So in that entire timeline the City has not taken a formal position or

adopted a policy to designate or to plan for Site D as a public park. And finally, the MOU laid the groundwork for crafting of the Specific Plan. The basic criteria indicated 50 percent commercial and 50 percent residential and under the MOU there was no remaining percentage for a park use. Having said that, if the Commission is leaning in the direction of incorporating a park component staff can help formulate the recommendation to the City Council and staff believes that doing so would not affect the environmental analysis or fundamentally affect the Specific Plan.

Chair/Torng asked for deliberation and input from individual Commissioners.

C/Lee said his comments have been spoken loudly by the residents and he believes his colleagues believe the Commission's function is very limited. The Commission's function is to listen to the people and bring their issues and concerns and discuss those issues and concerns and make an informed decision. The decision should be for the people and not for someone else. Also, the EIR is great and he listens to the people and agree with them that it does not go far enough to answer the residents' worries and concerns. The concept and implementation of the Site D Specific Plan looks great and appealing but he believes that professional companies have the money and technology to have a much respected profession like the City's consultants. But the residents have only five minutes. They have limited time. Most of them work and do not have time to prepare this type of appealing presentation that we have seen tonight. But he believes it looks great and is a very good presentation but the facts do not change and the facts do not lie. The fact is that the City has enough retail space already and when he moved to Diamond Bar it used to take five minutes for him to get to the project area down Diamond Bar Boulevard and now it sometimes takes 30-40 minutes. One resident sent him an email today that stated "Diamond Bar is a virtual parking lot." And C/Lee thinks this is a temporary virtual parking lot but Diamond Bar does not want a long term parking lot. That's his one comment. Also, the EIR is pretty good but EIR is not everything. If there is a concern or problem the EIR writes down that everything is fine and can be mitigated. He does not believe that the EIR is a panacea. He understands there are professional reasons for this project and he really respects the professionals. He does not want to give any disrespect to them but even though they are professionals they do not know the residents and if they live here they know better than anyone else. So if the residents say there is a problem and this project will lead to negative impacts to the community then he really respects the opinion of the residents. Sometimes higher technology and speech does not make sense. Why does Diamond Bar need more cars? Sometimes it does not make sense. Again, he really respects his residents' opinion and concerns and their worries and their effort and energy to come down here to express their ideas. And his job is to represent them and in this instance, if it does not make sense and does not

help the community he believes there is no reason to modify or compromise the project. Sometimes when we say no that makes for a better future.

C/Shah thanked staff and the consultants for a great presentation. He apologized to his fellow citizens that he has to say no to further comment because if the public hearing is opened again it may open up that issue over and over again and the Commission will never get to its final decision. He takes this business very seriously. At the same time he wants to make sure the process continues in an expedient manner. At the same time we will do justice with the problem at hand. He is keenly aware of the environment, neighborhoods, and needs of the people and the aesthetics of the neighborhood. Really at this point of the debate at this time is that the land belongs to somebody. Somebody wants to sell their land. And the issue brought to the Planning Commission includes five or six items and one of the items which is major is a General Plan amendment to change the land use. If it is left the way it is, what will a new property owner do, and in the interest of the City, the City decided to go into a MOU with the School District which states 50 percent residential/50 percent commercial. So with that background, the Commission has to look at the overall picture and long range plan. He understood that people want new things. He spent his time in transit and he has seen a lot of NIMBYs—they want mass transit, but “not in my backyard.” The same is true here and we do not progress in our City, there will not be a computer, there will not be a new automobile, there will not be a new society. So we need to move forward. We can’t just say “leave the land as it is.” With the given plan, we have tools to work at it. One of the tools is the EIR and is the tool right now at hand. It talks about goals and objectives, long term horizons, tax implications and predictable outcome. Ultimately, the bottom line is what this entitlement does, it adds value to the property. And we are all in the business – people are in the business of ultimately wanting to add value to their properties. Considering all of these factors there are a few things that come to mind which the Commission should consider. His concerns with the plan are cut and fill. You can cut and fill without having to import or export dirt to maintain the natural environment and to develop this plan it needs to be developed so that its environment is park like. One potential discussion was that the City could develop the park but a small part of this 30-acre parcel. Not a bad idea recommended by his colleague. He would be of the opinion that a future developer be allowed to develop in a park like environment meaning what he saw today as planned and shown does provide more like a park like environment more than a piece of land somewhere in the 30 acres—one acre, two acres, three acres—because it boxes it in. When there is a commercial and residential component nearby people may not feel comfortable using it as a park. The City has Heritage Park nearby. There is a school nearby where people can use that area. Though he is more willing to put in language the City is better off leaving it to the future developer, but established criteria that the developer must have a certain percentage of open space for the overall size. He does not know

the percentages required in Diamond Bar but that is the question he will be asking. So considering all of the facts, he does want his fellow citizens to feel that the Commission and staff does its job and the important thing is that he wants the City to progress in such a manner to make sure that what is done today is a move forward for future generations. He is open to other considerations but knowing what he knows today the matter at hand is to examine the EIR and whether to recommend or not to recommend.

VC/Nolan felt the EIR was not an end-all/be-all for this project. It is a tool to use to come to a decision about what is best for the community at large, for the whole City of Diamond Bar. It is true that the WVUSD has a right to dispose of this property. Is it to the City's benefit to approve this EIR and obtain the entitlement so the City has more of a say in how this will move forward. She disagreed regarding the open space. She believed the property had approximately 8 or 9 acres of open space which is also considered easements, rights of ways and other open areas. She wants an open green area. She wants a park like setting. She wants a place for people to take their dogs. And again, she thinks it could fit nicely with the type of community – the retail, the commercial community, that this has envisioned. She thinks there is space for both. This is a blank slate. The City has the opportunity to make this what the community wants to make it and to set the ground rules. Her question for staff is, would it be best for the Commission to come back to this issue after looking at whether a park area is feasible. She does not feel comfortable moving forward with the term "park like."

CDD/Gubman said that during the break he drafted language that could be incorporated into the resolution to recommend approval of the Specific Plan and the Tentative Tract Map. If the Commission would like he can read the language to see if it is consistent with the Commissioners' vision and if so, it can be incorporated in a motion to adopt the resolution with the provisions as recommended.

C/Lee said that if you insinuate or leave it as some unidentified area, the Commission needs to decide the item but he (CDD/Gubman) says he wants to give a suggestion to.....Chair/Torng interjected and said he thought CDD/Gubman was responding to VC/Nolan and make a suggestion for her to consider. C/Lee said maybe this is inappropriate because it is illegal for the Commission to insinuate a decision for a certain area. Chair/Torng said that right now it is a discussion and as you may recall, VC/Nolan just made a suggestion about a park area.

ACA/Wohlenberg said that there are always staff's recommendations on items before the Commission and he believed CDD/Gubman was attempting to react to comments to provide language that would move toward that goal. But he does not

believe it insinuates any sort of predetermination of the Commission's action or trying to restrict the Commission to a particular action. The Commission has wide latitude to approve or deny or approve it with different modifications or change it. It is merely an attempt to fulfill all usual role and suggest language that would reach the goal that one of the Commissioners was proposing.

C/Lee felt that all of the Commissioners should make their comments and then CDD/Gubman could read his recommended language and then the Commission could deliberate. That would be his recommendation.

VC/Nolan asked her colleagues if she was out in left field or, did she have the support of her colleagues being on board with this.

Chair/Torng felt that development of a new site is generally not a very popular decision to be made. As a Commissioner he understands the residents' points of views and shares their frustration in many aspects. However, as a Commissioner, he and his colleagues must understand their role as a decision-making agency and keep the objective in mind and endeavor to balance as a principal the economic, legal, social, technological and other benefits of a proposed project against its unavoidable environmental risk in determining whether to approve a project. If it cannot concur that legal, social, technological or other benefits of the proposal outweigh the unavoidable adverse environmental effects, a diverse environmental effects may be considered acceptable. Based on the project there are some unavoidable air quality impacts that cannot be avoided but most of the other issues including the major ones such as traffic and landscaping issues have been mitigated to a less significant level. As a Commissioner serving more than eight years he really trusts that the staff is working extremely hard to make the City better every day and he commends staff for doing such a good job in responding to all of the questions, comments and concerns raised at the last meeting as well as through the emails and letters. He also believed that the consultants' technical expertise will make sure the mitigation measures will work to make this the best possible project. From a benefit standpoint he believes the City needs the tax revenue and the school district needs additional funds to support school activities. And he feels it is important to maintain a healthy City and school district because both will be a cornerstone of this community. A prestigious City with a prestigious school district will for sure maintain the City's quality of life and housing values, etc. The City's plan is a level A plan and is not the final development plan. But with a Specific Plan, the City is able to set some important guidelines for the future developer. He felt it was very important for the City to set limits and make sure the best designed project will happen at Site D. He supports recommending inclusion of a small park area in the commercial development area and let the City Council make the final decision. And as he mentioned when he quoted a resident's comments, he felt the comment that she hoped it will be an

urban city center with living shopping and park space set into the natural setting of Site D fit what he was trying to convey.

VC/Nolan asked if the Commission should hear staff's recommendation for the language to include.

C/Shah said his reference to a park like atmosphere was in support of an environment and the developer should decide how to include that option. He was thinking more on the order of unspecified open space areas where people can congregate. Second, the Commission is not considering the appropriateness of the MOU which has already been established with the relationship between the City and school district. One thing he wanted to add to his comment was about the trees and perhaps the City should consider having an arborist to review the trees when the development occurs to advise the developer and the City whether those trees could be saved or what could be done. His last comment is that this should be a showcase solar energy efficient project for the City.

VC/Nolan said that regarding a park and regarding a specific location for it, she did not believe in leaving it up to the developer, she did not want to take away necessarily from the residential area. She likes that part of the plan. She thinks even regarding parking or a small park would infringe on a residential area. She would like to see something along Diamond Bar Boulevard, along Cherrydale something that is not just specific to this project but for the community at large. The south end of Diamond Bar has Heritage Park and schools but to her it is lacking in this area. And she would like to see something more specific and she is not even sure if a change in language right now would suffice. There's so much put into the actual drawing, the grading, the specificity of the commercial and residential, but to just toss in a plot for a park seems a bit of a rush.

C/Lee said he concurred with VC/Nolan. He loves parks. And he means it since he moved down to Diamond Bar that area location was allocated for a park. He likes parks. But he does not like building commercial and houses and taking a small area for a park. It is a very complicated process if you want to get a park. He wanted to make sure about VC/Nolan's intentions. He does not think that is the idea of the residents. And sometimes we need to give them open space and sometimes the City does nothing and then gives it to somebody else. Our kids – the next generation - that's the issue right now. I always believe that development is good for developers. They come down here to our City and whatever they say and give you in a presentation or fancy words doesn't matter. The relevant fact is that development of Site D shouldn't be – wouldn't be good for our residents. That is the truth. And one does not alter or deviate it by other fancy words. That's my second comment.

Chair/Torng said that regarding the park addition it belongs to the Specific Plan under the third resolution. CDD/Gubman indicated that Chair/Torng was correct but he would advise the Commission not to make any decisions on any of those three recommendations until the Commission discusses its intent for the park provision because depending on what the Commission's intent is it may or may not have an effect on the language of the Specific Plan or the Environmental Impact Report. So he really believed the Commission needed to discuss this matter before beginning its process of making decisions and motions on any of the resolutions.

CDD/Gubman referred the Commissioners to Resolution 3 to recommend City Council approval of the Tentative Tract Map and Specific Plan and offered the following language on Page 3 which begins the resolution section. On Page 4 he suggested that a subsection "f". be added: "At the time that a development plan is formally submitted for Planning Commission consideration, the subsequent plan shall incorporate within its boundaries a neighborhood park of sufficient size to incorporate features such as, but not limited to, a tot lot, picnic tables and shade structures." This would be supplemented by a Tentative Tract condition to require

the Final Map to include a lot that delineates the boundaries of the park as prescribed under that new subsection that he previously read.

VC/Nolan said that since the Plan is already specific on acreage for commercial and easements and things passed already, delineating the size is not recommended? Or the location of it as opposed to being in the commercial area rather than the residential. CDD/Gubman said that if it is VC/Nolan's desire to recommend that level of detail he may have to confer with the EIR consultant and City Attorney to see if staff needs to go back and look at the environmental document to see if that would lead to more changes because the language he proposed to her just now would not mandate any changes to the EIR. The more precise the Commission wants to get, the recommended provisions still may be immune from any changes to the EIR but he thinks staff would have to study that further and come back to the Commission.

Following staff deliberation, CDD/Gubman stated that the staff's discussion had to do with specifying a size and location and the agreement was that if the Commission wishes to specify a minimum size of the park it would not affect the analysis and EIR. The EIR does analyze a maximum intensity and density scenario for residential and commercial so adding a park component would potentially reduce the intensity of the commercial development but certainly not increase it. It may reduce the traffic impacts because the park component may generate some off-peak trip generation. Staff does not see any compromise to the EIR. However, the location is problematic at this point so if the Commission were to include a location at this time the recommendation going forward to the City Council would not be in compliance with the Level A Plan before the Commission. The limit would be specifying some of the programming and size without the location.

C/Shah recommended the park be no less than three-quarters of an acre or about 30,000 square feet or something like that so that it does not involve changing the EIR.

C/Lee asked if he could make a motion to continue.

CDD/Gubman said again, the issue staff is struggling with is whether or not the Commission is intending to specify a location because that would be in conflict with the A level Specific Plan designations for commercial and residential. If the Commission wants to go into more specifics about aggregate park acreage or aggregate acreage with a minimum per park site within the plan, staff can help formulate that language in the resolution. Staff needs to re-emphasize that getting into the specifics of a location would not be consistent with the Draft Specific Plan staff is presenting to the Commission.

VC/Nolan said that to do this tonight she does not know. She is going to be back here in a couple of weeks so for her this is not a problem for the Commission to continue this if it is something that has to be more formulated, there's got to be more thought given to it. For her to pull out I want 2.25 acres designated to this...She wanted something. They talked about the gateway – the view of the City at this location and she thinks that has to be something like a park like setting. She is not saying the corner of Brea Canyon and Diamond Bar Boulevard but something along the line that preserves that visually pretty area that is visible to the community to someone that does not live there is not necessarily going to walk down the path which she thinks is a great idea to this area but someone will take their kids to what is on the other side of town or on the other side of Diamond Bar Boulevard. She is just not real comfortable. She does think that again, as it pertains to the EIR she does not necessarily think, like CDD/Gubman says, it is going to change that up a lot but she thinks this is just too big of a change to the Specific Plan to not consider all of the three elements together.

Mr. Rogers said he keeps coming back to the process that the City is in which is an A level and B level map. A saying in the business is "The devil is in the details" and it truly is. The details, in terms of configuration on these properties have not yet come forward. The intent was not to, as an applicant or through the school district to try and design the project specifics. The wonderful thing about this process because this is what we have been doing on the Irvine Ranch for decades, is that we create this envelope or umbrella under which we understand how setbacks work, how development standards work, thresholds in intensity, to get the process past some of the bigger meatier parts. He kind of agreed with VC/Nolan, but in the sense that trying to deliberate on the location and specifics of the park in this setting is a tough call. When VC/Nolan asked "how big a park" well, it's programmatic and C/Shah's comments about three quarters of an acre minimum – those are all the kinds of details that quite frankly he thought were borne out of the B level effort. He said he was not trying to defer it and he was not trying to shrug the responsibility of doing this but he was suggesting that an applicant that comes to the City with a commercial plan, in the creativity that he can elicit in the process of working with his architects and landscape architects with the mandate that the City might set forth at this A level might be a more productive venue for the Commission to vet these issues and get into those details with him and really force it out at that level because that is where he thinks it is most appropriate. The problem is if we just plop a blob in there and say a park has to be right there, maybe what we're doing is we're inhibiting the creativity of the future applicant at the B level. So with that in mind, and remember, that is the most substantive part in terms of this issue. Where is the park located? Well, a lot of things have to be developed in an understanding of that commercial site plan to discover that and he would believe that the City might be doing a disservice to the

future purchaser of that property to make all of those decisions in advance. Maybe it is good enough that there is a performance criteria overlaid on this project. He said he appreciated that VC/Nolan wanted to get to certainty and the predictable outcome that he keeps talking about but perhaps it is better at the next level.

Chair/Torng said that actually in a way he concurred with staff's response on this because actually, the location you suggested by VC/Nolan at Cherrydale, he does not like that idea. He likes Mr. Roger's suggestion for the idea of the corner of Brea Canyon Road and Diamond Bar Boulevard. At this time the Commission is not going into the details and he believed that was a level II or Plan Level B, and right now the Commission is at Level A. Chair/Torng asked if the Commission could accept C/Shah's recommendation for a three quarter of an acre minimum with the location to be determined because he has a different opinion that VC/Nolan.

VC/Nolan said she did not think it so specific, she thinks it is more general than specific. I just would like more thought put into it. We have 50/50 percent - I don't know if any third grader could come up with that figure but I would like to think there would be something that is more concrete regarding size, regarding location, that is just not random. This is why we are doing this so we can be on the front end of what we want. And maybe I am the only one that wants it and that would be fine. But she just thinks it is just still too obscure.

Chair/Torng asked that based on what VC/Nolan said what is the best that staff can do with the current plan? CDD/Gubman said at this point he would suggest that the Commission continue the matter because he needs to discuss this further with Counsel because he is not sure why a location cannot be specified and he needs to have a better understanding of why? Because this is still a recommendation to the City Council and the City Council is going to give the final direction on what changes, if any, are incorporated into this planning document. Right now he would suggest that the Commission continue the matter to May 11, 2010, and give him a chance to consult with the City Attorney and with the consultants and come back to the Commission with more developed guidance for formulating the Commission's recommendation.

Chair/Torng said that for him his location is different from VC/Nolan. He does not like her location so he does agree that this is something that the Commission should set the requirements that it wants a park and wants to put that into the plan and let the developer know so that they have to create something – a park, for this location. AC/Wohlenberg said that the discussion would be whether or not the City can specify a location. And then that would be something the Commission would have to debate at the next meeting and decide if you want to specify a

particular location or not. There may be three votes for that, there may not be. But we want to make sure we can or cannot let the Commission recommend a specific location.

VC/Nolan said she did not necessarily say it would have to be at that corner. She just would like some research done on it, some thought put into it. I mean if staff has an idea now that would be great too. She did not mean to insult anyone by saying that any third grader could come up with the 50/50 percent on this but it just seems – I would just like something a little more concrete and still give a developer leeway. But something that we have more envisioned. I just don't think we're being specific.

C/Shah stated that he felt that given the opportunity for Plan B and let the developer come in the future and present a location and the Commission will get another report at that time because the Commission will see the entire picture. Right now we are seeing just three lots there and we do not know how they are going to develop them. He stated that he likes the idea of Mr. Rogers that leave it to the future developer; and maybe we should just identify the need for the park. He stated that he is of the opinion that maybe we should establish some criteria – any area and the criteria you describe – tot lot, etc., but leave it for the future and the Planning Commission will get an opportunity to debate and decide. But at that time the Commission will have a better picture because we will know what other things are being developed in the area. We will have better information. He recommended not to insist on location at this time, but just insist on a park and an area of that park so at least we have areas (i.e., acreages) identified for the commercial and areas identified for the residential pads so let's identify the area for the park.

C/Lee said he concurred with C/Shah's idea – a portion of it. Let's move on.

C/Shah moved, Chair/Torng seconded, to Adopt a resolution recommending that the City Council certify the Environmental Impact Report, approve the Mitigation Report and Monitoring Program, and adopt the Findings of Fact and Statement of Overriding Considerations for the Site D Specific Plan and related Zone Change, General Plan Amendment, and Tentative Tract Map. Motion carried by the following Roll Call vote:

AYES:	COMMISSIONERS:	Shah, VC/Nolan, Chair/Torng
NOES:	COMMISSIONERS:	Lee
ABSTAIN:	COMMISSIONERS:	None
ABSENT:	COMMISSIONERS:	Nelson

C/Shah moved, VC/Nolan seconded, to adopt a resolution recommending that the City

Council approve General Plan Amendment No. 2007-03 to change the land use designations from Public Facility (PF) and General Commercial (c) to Specific Plan (SP); and Zone Change No. 2007-04 to change the zoning map designations from Low Density

Residential (RL) and Neighborhood Commercial (C-1) to Specific Plan. Motion carried by the following Roll Call vote:

AYES:	COMMISSIONERS:	Shah, VC/Nolan, Chair/Torng
NOES:	COMMISSIONERS:	Lee
ABSTAIN:	COMMISSIONERS:	None
ABSENT:	COMMISSIONERS:	Nelson

The Commission discussed continuation of Recommendation 3 and CDD/Gubman proposed modified language to reflect the Commission's request.

CDD/Gubman reiterated "at the time that a development plan is formally submitted for Planning Commission consideration, the subsequent plan shall incorporate within its boundaries a neighborhood park of sufficient size to incorporate features such as, but not limited to, a tot lot, picnic tables and shade structures, and shall be a minimum of three-quarters of an acre.

Chair/Torng asked if the Commission could make it one acre. Why make it three-quarters of an acre? CDD/Gubman said that is what he heard before so if he misunderstood...C/Shah said no, an acre is fine.

Chair/Torng asked the Commissioners to remember this is Plan A with certain guidelines. If the Commission starts to get into a specific location it would become a different plan. He liked Mr. Roger's idea about integrating a park with the location with an eating area with a park surrounding it. It looked to him pretty good. But VC/Nolan's idea is at Cherrydale so then it would require a little more detail to justify it. VC/Nolan said it was not specifically Cherrydale. She knows she brought that up. But it is something, again, an entrance viewpoint for the City that when people drive down Diamond Bar Boulevard they see a park, that the residents see a park and that it is visible and usable for the community. She stated that she thinks an acre is a little small, is looking at this to some extent from the perspective of a mom.

Chair/Torng asked if there was any more discussion. ACA/Wohlenberg said staff had one more change to read into the record. CDD/Gubman said he was reminded that the Commission discuss multiple locations with an aggregate size so he wants to make sure he understands so that staff provides the Commission with the language. So do we want it to say "park area or areas with an aggregate size of at least one acre? C/Shah said he was of the opinion of two acres total and one particular lot is no less than one acre, then there would be two areas and let the developer decide what those two areas would be or where it could be.

CDD/Gubman said what if the two areas were contiguous so that it was a total of two acres. C/Shah said that would be okay. ACA/Wohlenberg clarified that it could be two

park areas with a total aggregate area of two acres, one of the areas to be at least one acre in size. C/Shah said "that is correct, very well stated."

VC/Nolan said that if two acres is too big she would rather see an acre and one-quarter of something nice and particular. She appreciates the idea of two acres, but is that too much of an infringement into the commercial area?

CDD/Gubman stated that staff would strongly suggest that this item be continued to give staff a chance to study this to determine what a different park size would afford. Two acres could have a significant effect on the viability of the commercial site. One may be sufficient to provide all of the amenities that the Commission envisions. Staff needs to go back and study this. The one item staff wants to look at is the Planning Commission rules. It may be more appropriate to take one motion for all three actions at once rather than leave this evening with two down and one to go.

Chair/Torng felt the Commission had consensus and was waiting for staff's language. The Commission has consensus in a way that this is an important Specific Plan but we want a park. But how much and how to do that is something we are waiting for staff to provide guidance, and within the limits and not to kind of impact the fiscal responsibility and not to impact the EIR and those kinds of things. So actually, the Commission can make a decision or wait until staff comes back and just notify the Commission with the appropriate language.

VC/Nolan said she had to respectfully disagree to take staff's recommendation to give this a little more thought and we may come back with the same thing and do this again in two weeks with just a little more specificity, a few more details. There are just a lot of different things out there and now was your recommendation for the Commission to take all three items as a whole does that negate what we already voted on?

C/Shah said there were two or more experts here and he has some experience visualizing one acre, two acre, three acre and he does agree that one or one and a quarter acre or one and one half acre are insufficient for a neighborhood park. He kind of agreed with the Chair to agree with staff's experience and expertise on acreage which would not impact the future development or the school district and if that is in staff's opinion, sufficient, then he thinks the Commission should consider that. He thinks the Commission should be open to hear the experts and if they believe one acre is fine, so be it. He does not think it is very difficult right now at this stage to visualize it. Everybody agrees in principle that we need a park. The issue is whether it should be one acre, one and one half acre, or what. That is the issue.

Chair/Torng likened this debate to the parolee homes wherein the Commission wanted the maximum distance. So we can identify the language to the maximum size of the park that staff can identify for the Commission.

VC/Nolan said she thought if staff was willing to go back, rethink this, give it some more detailed thought outside of this arena right here and come back, it may be as general as C/Shah recommends. It may be more specific to this is residential, this is commercial, whether it's specific land and location, she just likes the idea that staff seems to be recommending that the Commission come back in two weeks and revisit this particular item.

C/Lee said the Commission already made a motion for item one and number two. There is no reason they should be combined together. If VC/Nolan thinks the recommendation is good make a motion for that and we get some action. VC/Nolan said she did not just want to do it. I don't just want to pull a place and a number out of my hat. C/Lee said no - just make a motion for continuance.

ACA/Wohlenberg said he wanted to make a point of procedure and parliamentary procedure. These three resolutions constitute a single action and he wants to make sure there is not an issue with when a statute of limitations starts to run or anything like that so that all three are done at the same time. The Commission's rules allow for a motion of reconsideration be taken at the same meeting where the Commission has already taken action on a resolution item. So what he would recommend is that the Commission proposed a motion for reconsideration of the first two items with that decision to be made simultaneously with the consideration of the third resolution so that we have sort of undone that approval and just moved it out to coordinate with the third resolution. VC/Nolan said, so we would be voting again on the first two items that we voted on already? ACA/Wohlenberg said first there would be a motion for reconsideration on the first two items. If that passes then those items would be reconsidered simultaneously with the third so they would be then sort of unapproved and for consideration those would be moved to be simultaneous with the third.

C/Lee said he had a question about that. The agenda clearly separates Items 1, 2 and 3 and then you said about a resolution. For example, if I agree with item number 2 and I don't agree with item 3 then he cannot express his opinion if he votes on all three at once. If the items are separate he can express his opinion on a certain item. With them combined together no matter whether I agree or disagree with a certain item I cannot do that. ACA/Wohlenberg said they would all still be voted on separately. He wanted to make sure because the project requires all three resolutions. If two were to pass and one were to not pass he would not be sure what would happen with that. So in order to make sure action is taken on all three of them either approval or denial, he wanted to make sure they were all approved simultaneously because they all do constitute a single project. So the Commission has taken action on two and if the Commission is not taking action on the third yet he does not know if that will trigger any problems with review or appeal of those where there are essentially two approved resolutions that could go up, but they are essentially useless without the third and he does not know what kind of problems or delays that may cause the City. So to just avoid that problem his

recommendation would be to pass a motion for reconsideration on Items 1 and 2 so that they can be considered again at the next meeting so that at the next meeting staff has to come back with the additional information about the third resolution but the Commission would also then just start at the beginning again and consider Resolution number 1, Resolution number 2 and then Resolution number 3. Chair/Torng asked if at the next meeting the Commission would come back and go directly to deliberation or go through the whole process. ACA/Wohlenberg said the Commission would go directly to the resolutions. The Commission may want some additional deliberation amongst the Commission in order to make that decision. There is no problem with doing that and that does not bring up any due process issues like when there is public testimony. This is just the Commission acting. So the Commission is saying we need more information. Find that information and bring it back so we can continue our deliberation on a particular date.

VC/Nolan moved, C/Shah seconded, for reconsideration of Items 1 and 2 and request that staff bring back recommendations and additional information regarding the designation of a specific park space or size on May 11, 2010. Motion carried by the following Roll Call vote:

AYES:	COMMISSIONERS:	Shah, VC/Nolan, Chair/Torng
NOES:	COMMISSIONERS:	Lee
ABSTAIN:	COMMISSIONERS:	none
ABSENT:	COMMISSIONERS:	Nelson

9. PLANNING COMMISSIONER COMMENTS/INFORMATIONAL ITEMS:

C/Shah thanked everyone for their consideration this evening and thanked staff and the consultants for their good effort.

VC/Nolan thanked everyone for their patience and said she looked forward to visiting this again in two weeks.

Chair/Torng thanked staff and the consultants for their efforts. Thanks to the audience that stayed with the Commission for such a long meeting.

10. STAFF COMMENTS/INFORMATIONAL ITEMS:

10.1 Public Hearing dates for future projects.

11. SCHEDULE OF FUTURE EVENTS:

As listed in tonight's agenda.

ADJOURNMENT: With no further business before the Planning Commission, Chairman Torng adjourned the regular meeting at 10:54 p.m.

The foregoing minutes are hereby approved this 11th day of May, 2010.

Attest:
Respectfully Submitted,

Greg Gubman
Community Development Director

Tony Torng, Chairman

**MINUTES OF THE CITY OF DIAMOND BAR
REGULAR MEETING OF THE PLANNING COMMISSION
MAY 11, 2010**

CALL TO ORDER:

Chairman Torng called the meeting to order at 7:00 p.m. in the South Coast Air Quality Management District/Government Center Auditorium, 21865 Copley Drive, Diamond Bar, CA 91765.

PLEDGE OF ALLEGIANCE: C/Nelson led the Pledge of Allegiance.

1. ROLL CALL:

Present: Commissioners Kwang Ho Lee, Steve Nelson, Jack Shah, Vice Chairman Kathy Nolan, and Chairman Tony Torng.

Also present: Greg Gubman, Community Development Director; Brad Wohlenberg, Assistant City Attorney; Grace Lee, Senior Planner; Natalie Tobon, Planning Technician; David Alvarez, Assistant Planner; and Stella Marquez, Senior Administrative Assistant.

Consultants: Mark Rogers, TRG Land; and Peter Lewandowski, Environmental Impact Sciences.

2. MATTERS FROM THE AUDIENCE/PUBLIC COMMENTS: None.

3. APPROVAL OF AGENDA: As presented.

4. CONSENT CALENDAR:

4.1 Minutes of the Regular Meeting of April 27, 2010.

C/Shah moved, VC/Nolan seconded, to approve the Minutes of the Regular Meeting of April 13, 2010, as corrected. Motion carried by the following Roll Call vote:

AYES:	COMMISSIONERS:	Lee, Shah, VC/Nolan, Chair/Torng
NOES:	COMMISSIONERS:	None
ABSTAIN:	COMMISSIONERS:	Nelson
ABSENT:	COMMISSIONERS:	None

5. OLD BUSINESS: None

6. NEW BUSINESS: None

7. PUBLIC HEARINGS:

7.1 Comprehensive Sign Program No. PL 2010-30 – Under the authority of

Diamond Bar Municipal Code Section 22.36.060, the applicant requested approval for a Comprehensive Sign Program for Firestone. The lot is zoned Regional Commercial (C-3) zoned parcel with a consistent underlying General Plan Land Use designation of General Commercial (c). Comprehensive Sign Programs are requested when two or more signs are requested on the same frontage.

PROJECT ADDRESS: 1150 S. Grand Avenue
Diamond Bar, CA 91765

PROPERTY OWNER: Bridgestone Retail Operations
333 E. Lake Street
Bloomington, IL 60108

APPLICANT: Sharon Willison
Williams Sign Company
111 S. Huntington Street
Pomona, CA 91766

PT/Tobon presented staff's report and recommended Planning Commission approval of Comprehensive Sign Program No. PL2010-30, base on the Findings of Fact, subject to the conditions of approval as listed within the Resolution.

There were no ex parte disclosures.

Chair/Torng opened the public hearing.

There was no one present who wished to speak on this item.

Chair/Torng closed the public hearing.

VC/Nolan moved, C/Shah seconded, to approve Comprehensive Sign Program No. PL2010-30, base on the Findings of Fact and subject to the conditions of approval as listed within the Resolution. Motion carried by the following Roll Call vote:

AYES:	COMMISSIONERS:	Lee, Nelson, Shah, VC/Nolan, Chair/Torng
NOES:	COMMISSIONERS:	None
ABSENT:	COMMISSIONERS:	None

7.2 Conditional Use Permit No. PL2010-89 – Under the authority of Diamond Bar Municipal Code Section 22.58, James Kim submitted a request to operate a music and art school under the business name *Orchepia School of Music*. The proposed

music and art school will provide music lessons to school age children and young adults. The proposed hours of operation are from 2:30 p.m. to 8:00 p.m., Monday through Friday, and 9:00 a.m. to 4:00 p.m. on Saturday. The subject property is zoned C-2 (General Commercial) with an underlying General Plan designation of General Commercial. Approval of a Conditional Use Permit is required to operate a music school.

PROJECT ADDRESS: 2751 S. Diamond Bar Boulevard, Suite A
Diamond Bar, CA 91765

PROPERTY OWNER: Country Hills Holdings LLC
8115 Preston Road #400
Dallas, TX 75225

APPLICANT: James Kim
21700 Copley Drive, Suite 290
Diamond Bar, CA 91765

SP/Lee presented staff's report and recommended Planning Commission approval of Conditional Use Permit No. PL2010-89, based on the Findings of Fact and subject to the conditions of approval as listed within the Resolution.

C/Shah asked if the applicant intended to rent the hall for other uses or was it intended strictly for their own use and SP/Lee said she believed it was intended strictly for use by the music and art school but she would ask the applicant to clarify that point. C/Shah said if the hall was rented out he would be concerned about the time and the one door ingress/egress at the side of the hall.

C/Nelson asked why the school was restricted to 65 students. SP/Lee responded that there are 29 individual classrooms and the number of students is related to the parking, traffic impacts and capacity. She confirmed to C/Nelson that there is surplus parking. C/Nelson asked why the City would restrict a business that is coming into an area that has been vacant for years. SP/Lee stated that part of the analysis includes a new office building at the north end of the shopping center which was submitted to the Planning Department today for consideration, all of which has to do with the parking and traffic impacts of the shopping center. CDD/Gubman further stated that the applicant proposed that a maximum of 60 students was anticipated at any one time. Staff normally places restrictions on the maximum enrollment, hours of operation, days of the week, etc. Staff also wanted to provide some flexibility should there be an increase in enrollment because staff did not feel it should limit enrollment so tightly that if there might be 61 students for example, they would have to come back and request an amendment to the Conditional Use Permit. In this instance, staff's intent was to create a bit of a

cushion for the business to exceed their 60 student peak enrollment at any one time without having to seek a modified approval. Certainly, if the Planning Commission feels the cushion is insufficient the parking analysis would allow for more of a cushion. However, he believes that there should be some sort of a cap set during this process. The 65 number was arrived at by adding a 10 percent

contingency. Any other number the Commission would like to discuss can certainly be brought forward for consideration.

VC/Nolan asked for the building occupancy limit and CDD/Gubman responded that would be determined by the Building Official. CDD/Gubman said VC/Nolan would have to ask the applicant how that number was reached but certainly they would have done a preliminary building code analysis to determine exits and what kind of improvements would have to be included in the tenant improvements to accommodate this occupancy.

C/Nelson asked how many parking places the proposed north end office building would require and SP/Lee responded that staff had not yet analyzed that since the application was submitted only today. The building is proposed to be a three-story office building but she does not have the actual square footage figures. C/Nelson said he was concerned about restricting an existing use because of the potential for future uses and while he thinks it is good to plan ahead he would prefer to know what the future needs might because it might reveal that the Commission could increase the opportunity for the operations in-hand. SP/Lee confirmed to C/Nelson that if the applicant experiences problems they have a condition that allows them to come back for a possible increase. C/Nelson asked if the Commission were to increase the number of students and it became a problem, the applicant could come back for reconsideration as a condition of this approval and SP/Lee confirmed that was accurate.

C/Lee said he was not comfortable with children and young adults occupying the same space without supervision. He wanted to know what age and what kind of people. SP/Lee referred C/Lee to the applicant to answer the question.

Chair/Torng said he recalled that the Commission approved a three-story office building for the south end and a two-story office building for the north end and wanted to know if the 158,922 square feet included the previous approval and CDD/Gubman responded that the square footage includes the most recent entitlement and accounts for the approved replacement for the theater building and cancellation of the medical building at the south end as well as the remodel of the Tai Kwando in-line shops building and the daycare building. SP/Lee responded to Chair/Torng that the north end office building square footage is included in the entitlement.

Chair/Torng asked if there would be a large crowd for recitals and wanted to know the capacity for the recital hall. Staff suggested that the applicant respond to that question.

There were no ex parte disclosures.

Chair/Torng invited the applicant to speak.

Bob Poyner, Country Hills Holdings LLC, stated that the recital room is for the applicant's use only and not for rental. The recital facility has room for 150 seats. Recitals take place twice a year and take place on the weekend. The interior drawing showing the doors is their preliminary plan and obviously, the property owner must complete construction drawings and go through the City's Building Department with respect to proper ingress/egress and signage interior to the space. The drawing submitted to the Commission this evening is a concept drawing. The age of the children and young adults, this facility is for elementary, middle and high school children. The 65 number was based on the rooms – a guess by the client. The 65 is acceptable for this approval based on the assumption that if the applicant required more capacity they could come back to request an increase from the Commission subject to traffic and parking considerations.

C/Shah asked if the applicant means a maximum 65 students at any one time and Mr. Poyner responded yes.

VC/Nolan asked for confirmation that the overall enrollment was greater than 65 and Mr. Poyner responded "yes."

C/Nelson said that if Mr. Poyner wants 65, he gets 65. What he was thinking about was cuts to the public school music programs and where students will go.

Chair/Torng asked Mr. Poyner if he read staff's report and concurred with the Conditions of Approval and Mr. Poyner responded affirmatively.

Chair/Torng opened the public hearing.

With no one present who wished to speak on this item, Chair/Torng closed the public hearing.

CDD/Gubman requested that the Commission amend Condition No. 6 (future reviews) as follows: "Once the music school is in operation and should traffic and/or parking problems arise in the sole judgment of the City, the applicant shall provide parking management services to ease traffic flow and congestion, etc."

C/Lee moved, C/Shaw seconded, to approve Conditional Use Permit No. PL2010-89 as amended by staff. Motion carried by the following Roll Call vote:

AYES: COMMISSIONERS: Lee, Nelson, Shah, VC/Nolan,
Chair/Torng
NOES: COMMISSIONERS: None
ABSENT: COMMISSIONERS: None

7.3 Development Review and Variance No. PL2010-17 – Under the authority of Diamond Bar Municipal Code Section 22.48, the applicant requested approval to construct a 6,352 square foot new single family residence on a 48,252 net square foot (1.11 net acres), Rural Residential (RR) zoned parcel with a consistent underlying General Plan Land Use designation of Rural Residential (RR). Variances are requested to allow the building height to be increased from 35 feet to 40 feet 7 inches, and a driveway extension to provide for access to the front door and allow adequate turning radius for fire trucks as required by the Los Angeles County Fire Department.

PROJECT ADDRESS: 2718 Steeplechase Lane
Diamond Bar, CA 91765

PROPERTY OWNER: Terry and Rachel Hao
60 Seasons
Irvine, CA 92603

APPLICANT: Jack Mitchell
JWM Construction
2902 Calle Heraldito
San Clemente, CA 92673

SP/Lee presented staff's report and recommended Planning Commission approval of Development Review and Variance No. PL2010-17, based on the Findings of Fact and subject to the conditions of approval as listed within the Resolution.

VC/Nolan asked staff to elaborate on the design of the metal roof with a large pitch and whether it would present a nuisance to other neighbors. SP/Lee explained that the roof is sloped and if the applicant were to design the project to meet the building height it is possible that there would not be a sloped roof that is usually typical in very modern contemporary designs. In terms of impact to adjacent properties, again, the building is set back behind the two adjacent homes. VC/Nolan wanted to know what a metal roof would look like. SP/Lee said it was an actual metal roof instead of a clay tile or shingles.

C/Shah wanted to make sure that the fire department had approved the roadway system all the way to the building because he questioned the 15 percent grade. Also, he looked at the color rendering and the building is mostly a modern looking

building. SP/Lee said she did not believe the color printer justified the actual colors that were submitted on the color board. The paint colors are beige tones. With respect to the LA County Fire Department, the applicant submitted plans to the LA County Fire Department which reviewed and approved the conceptual plan and the applicant is in building plan checked at their own risk prior to getting Commission approval. The applicant has further comment from the fire department for which he can elaborate. CDD/Gubman said the driveway configuration has a switchback design to reduce the grade from what a straight line would create. In addition, the turnaround area was incorporated into the site plan at the front door after consultation with the fire department. So, the applicant has done some due diligence in that regard and still has to go through the formal plan check process. However, the applicant attempted to come up with a design that reduces the driveway grade given the steep slope front to back on this property. C/Shah said that the plan indicates a 15 percent grade which is clearly a difficult grade. As long as the fire department approves it he is okay with it. CDD/Gubman indicated that 15 percent is the maximum grade that they would accept and there needs to be a rounding off at the brow to keep the vehicle from bottoming out. The applicant is attempting to work with the property as best they can. C/Shah asked if there would be cut and fill and CDD/Gubman responded that about 600 cubic yards of export. C/Shah asked if there was any way the cut and fill could be balanced within the site because 600 yards could easily be used on the graded south side. CDD/Gubman said that would be a good question for the applicant.

C/Nelson asked why the City's development standards restricted height to 35 feet. CDD/Gubman said that it seems that if one looks into any zoning code 35 feet is the default height limit. C/Nelson felt that if the Commission did not understand the reason for the standard how can it meaningfully determine whether a five foot seven inch variance would be acceptable. How many variances has the City granted to building heights for residential structures in the past three years, for example, and how many more requests will the City get in the future. He does not think the City should grant a variance without a good and consistent reason moving forward. If the City cannot define why it has a standard of 35 feet why does the City have any standard? SP/Lee said in an attempt to respond to why the code is 35 feet the rural residential zone for the City is predominately permitted single family detached homes which is the maximum height for those types of homes. C/Nelson said, so why are we allowing five feet seven inches on this one if most houses are 35 feet? SP/Lee responded that because this property has unique characteristics such as a steep slope and unusual topography that justifies a variance. C/Nelson said "we've had steep slopes in the past without having to grant variances for height – am I right?" CDD/Gubman responded "that is true." C/Nelson said it was perhaps a question for the architect and he did not mean to put anyone on the spot but wanted to be very careful about the variances the City is granting going forward. CDD/Gubman said that the elevations for the

property show compound slopes in terms of having an ascending slope from the street and then a lateral slope that warps the property in a unique way. All properties obviously have some unique topographic characteristics. The ones that characterize this property are the steep ascending slope and the side to side slope as well. And architecturally, what the applicant attempted to do was slope the roof to follow the side to side slope but in the design challenge to take into account the varying topographic elevations, there is a small wedge – portion that does hook up above the 35 foot envelope.

C/Shah felt the floor heights were standard heights and that it was the architectural feature that raises the height beyond 35 feet. In viewing the section on drawing A 1.9 section (a) it clearly depicts why the height exceeded 35 feet.

Chair/Torng asked if the retaining wall met the six foot height requirement and SP/Lee responded affirmatively.

There were no ex parte disclosures.

John Danielian, Danielian Associates, 60 Corporate Park, Irvine, and Jack Mitchell, JWM Construction responded to Commissioner's questions.

Mr. Danielian responded to C/Shah that with respect to slope of the roof, the site slopes from north to south and the envelope of the home is within the 35 feet of the natural grade. When measuring the five additional feet, it is artificially taken from the new established finished grade. So when designing the home, they stayed within the natural grade. With regard to why the roof is sloping, the attempt is to mimic and follow the contours of the site i.e. responding to the site conditions.

C/Shah asked the applicant to speak to the grade of the entrance ramp and the color of the building. Mr. Danielian responded that prior to commencing the project he met with the fire department to discuss critical issues. This is a very difficult site with a 29 ½ percent slope and they attempted to minimize the steepness of the driveway. The fire department required the project to be no more than 15 percent and 14 feet in width and that is what is pictured in the design of the driveway. Anything over 15 percent is unacceptable. The turnaround space was also required by the fire department and the architects/applicants have been working closely with the fire department since day one. And since that time the applicant has submitted plans at will and at the architect's own risk and have received comments back, one of which was to confirm that there was an appropriate turning radius at the top (of the driveway). The rest of the fire department comments addressed minor structural issues. In addition, the pool water will be used for emergency water as needed. C/Shah asked why the

applicant was unable to balance the site without exporting dirt. Mr. Danielian said they did everything they could to balance the site. Unfortunately, because there is a basement it requires removing a lot of soil from the site but they are doing everything possible to distribute the dirt throughout the site and help with the driveway grade.

CDD/Gubman responded to C/Nelson that the 35 foot requirement is from "finished" grade. As the architect stated, the natural grade was at a higher elevation than the finished grade so the visual impact of the overall building height is mitigated to a certain extent by the fact that the pad is being lowered so that the effective height when viewed from Steeplechase which is at a fixed grade, would be mitigated by that feature of the development. C/Nelson said he would suggest the Commission keep that in mind for the future.

VC/Nolan asked when the Hillside Management Ordinance was put in place and whether it was put in place because of the conditions where people are building more on the hillsides because of less area. And was the 35 foot limit in place prior to that ordinance. CDD/Gubman responded that the Hillside Ordinance was developed out of consideration for Diamond Bar and its topography and there is a need wherever a jurisdiction is in a hillside situation or with this type of topography to avoid some of the mass grading for steep roadway design that occurred in hillside developments in the 60s and 70s where development occurred directly on ridgelines and was destroying the natural features. The Hillside Development Standards are an effort to require homes and development overall to be designed to fit the overall topography rather than altering the topography to fit the development. SP/Lee stated the Hillside Management Development Standards were adopted in 1998. CDD/Gubman responded to VC/Nolan that the 35 foot height limitation is in all of the residential zones so the height limit for the hillside district is overlaid on this additional concept of the building height envelope that is determined by some diagrams in the Hillside Development Standards where one creates height envelopes from site property lines and from the grade from the front to the back of the property. SP/Lee said the 35 foot height limit requirement was also included in the Hillside Standards.

C/Shah asked how many truckloads of dirt would be required to export the 600 cubic yards of export and Mr. Mitchell responded that due to the site he would have to bring in smaller trucks to accommodate the shared driveway for about 100 trips of six to seven yards per truck. The dirt will be hauled to the landfill just off the SR60. He plans to remove the dirt in a slow and methodical manner so as to present as little interruption as possible to the neighborhood. When he first looked at the site dirt export was his initial concern. As a result, he designed retaining walls for an earth retention system that uses modular blocks and uses the onsite materials that are reprocessed and re-compacted onsite.

Mr. Danielian responded to Chair/Torng that he read staff's report and concurs with the conditions of approval.

Chair/Torng opened the public hearing.

Victor Natividad, 2730 Steeplechase Lane, said he was not present to object but was, in fact, pleased to welcome a new neighbor. He had concerns about the shared access road that is sitting on a steep slope and over 100 truckloads of dirt will be moved across the shared access road that proceeds through six lots. This access road is owned by the land owners and it is not maintained by "The Country Estates" which is unfortunate because the road is in very, very bad condition. With the exception of Lot 52 which is partially paved with concrete and asphalt and Lot 55 which is paved with concrete, the rest of the roadway is in very poor condition. The concrete on his lot is only four inches thick and in 2005 during the paving the waterline broke because it was not buried deep and also because of the heavy load. Informally, he mentioned this fact to Jack Mitchell on May 6 and suggested that a metal plate be placed on top of the concrete to protect the water and sewer lines and Mr. Mitchell assured him there should be no issue. Second, he was not sure how the concrete would handle the truckloads and whether there would be damage to the access road. If large cracks result from hauling the dirt he would like to have the damage repaired as soon as possible before it developed into a bigger problem. The downside of living in the area is the hill erosion from the access road. He found the mitigation to be very expensive and the damage was not covered by insurance. Fortunately, he was able to secure access through other lots 56 and 57 to his house. He is requesting that any big cracks be repaired at once. It becomes worrisome when the construction coincides with the rainy season. He is sure there will be minor cracks which can be repaired later and he is willing to share that with his neighbor. Third, he accesses his property from the south end of Steeplechase from lot 57 through 56 and the up to his lot 55. It is in extremely poor condition and because there are no houses on lots 57 and 56 it continues to deteriorate because the absentee owners do not want to pave the road. If there are any potholes, he would implore the Commission to have them fixed before any hillside erosion occurs again.

Chair/Torng closed the public hearing.

SP/Lee asked for the applicant to comment on sharing the costs of improvements should there be damage to the concrete portion of the access road.

Mr. Mitchell stated that it is implied that damage done by construction activities are the responsibility of the applicant. With respect to a steel plate, it is generally conditioned on any larger grading job that he is required to have a "shaker plate,"

a ¾ inch steel plate with ridges on it that shakes the dirt off the tires of the equipment as it leaves the site and comes onto the site. He said he would place the steel plate on top of Mr. Natividad's plumbing and he will take photographs and if any condition worsens of course he would rectify it. With regard to the asphalt road in front of his client's property, it might as well be a gravel road because it has pretty much deteriorated to the point that it is almost non-existent and obviously, that will have to be rectified and the project has budgeted for the inevitability. The only issues are that "The Country Estates Homeowners Association" is resistant on the use of asphalt; however, there is asphalt in place at this time so that is an issue that must be addressed with the HOA. All of the paving surfaces would have to be left in good condition when they are finished. With regard to Mr. Natividad's pipes being shallow, he would hope that the steel plate would mitigate that but if they are shallow and something happens they have to be fixed in the normal course of business.

CDD/Gubman explained that the access from Steeplechase to these properties has to be traversable and for this project to get through the fire department plan check process the applicants will have to demonstrate that the roadway is going to be surfaced to accommodate emergency vehicles. With respect to damage to the private drive and potential damage to water lines, this is a private property and reciprocally used, owned and accessed between private property owners so the City would not impose any requirements in this regard. This is a civil matter that would need to be dealt with in that venue should there be any claims or damage caused by this construction project.

VC/Nolan asked the length of the access road and Mr. Mitchell responded he believed it was 500 to 600 feet traversing five or six lots. There are sections that are in very poor repair. For his fire department requirements he has to maintain emergency access at all times during combustible construction. There are rules and responsibilities that other agencies have that are standards and if one causes damage it has to be repaired.

C/Shah said he believed the architect could design the lot by balancing the dirt onsite rather than having dirt exported.

C/Lee was confident that the applicant knew what he was doing and the City has full enforcement authority to take care of those concerns.

C/Lee moved, VC/Nolan seconded, to approve Development Review and Variance No. PL2010-17, based on the Findings of Fact and subject to the conditions of approval as listed within the Resolution. Motion carried by the following Roll Call vote:

AYES: COMMISSIONERS: Lee, Nelson, VC/Nolan,
Chair/Torng
NOES: COMMISSIONERS: Shah
ABSENT: COMMISSIONERS: None

8. CONTINUED PUBLIC HEARING:

8.1 Site “D” Specific Plan – Pursuant to the Subdivision Map Act; Title 21 – City’s Subdivision Ordinance; and Title 22 – Development Code Sections 22.60 and 22.70, the proposed project is to recommend approval of the following to the City Council.

General Plan Amendment No. 2007-03 – A request to change the land use designations from Public Facility (PF) and General Commercial (C-1) to Specific Plan (SP).

Zone Change No. 2007-04 – A request to change the zoning districts from Low Density Residential (RL) and Neighborhood Commercial (C-1) to Specific Plan (SP).

Specific Plan No. 2007-01 – a Request to adopt the Site D Specific Plan for approximately 30.36-acre site for the construction of 202 residential dwelling units at a density of 20 units per acre; 153,985 gross square feet of commercial use at 0.35 floor area ratio; and approximately 10 acres of Open Space areas, easements and rights-of-way.

Tentative Tract Map No. 70687 – A request to establish separate residential, commercial, and open space parcels; create an internal circulation system and common open space areas; and establish easements and other rights-of-way for utility and other purposes.

Environmental Impact Report No. 2007-02 – A request to certify the final EIR which provides a detailed analysis of potential environmental impacts associated with the development of the Specific Plan area. The EIR includes mitigation measures for the project, addresses project alternatives, identifies the environmentally superior project alternative, and adopts a statement of overriding considerations.

(Continued from April 27, 2010)

Project Address: Site comprised of approximately 30.36-acres located at the southeast corner of Brea Canyon Road and Diamond Bar Boulevard (Los Angeles County Assessor’s Parcel Numbers

8714-002-900, 8714-002-901, 8714-002-902, 8714-002,093, and 8714-015-001.)

Applicant: Walnut Valley Unified School District and
City of Diamond Bar

Lead Agency: City of Diamond Bar
Community Development Department

C/Nelson recused himself and left the dais and the meeting.

Chair/Torng explained the Commission's direction on this item and announced that in addition to the agenda packet the Commission also received a letter from Mary Rodriguez and an email from David Busse he requested be placed in the public record.

CDD/Gubman stated that on April 27 there was intent to recommend certification of the Environmental Impact Report and adoption of the General Plan Amendment and Zone Change. There was general support for the Specific Plan, but there was a lack of consensus about how to craft the recommendation pertaining to the incorporation of a park element on this site. The three supporting Commissioners expressed a desire to have some requirement for a park or public space as part of this project but continued the matter to allow staff to conduct further research and to come back to the Commission with its recommendation. Staff is ready to present information to help the Commission make its decision this evening.

CDD/Gubman further stated that what staff heard from the Commission were two different concepts discussed. One was a dedication of a traditional public park as a standalone feature on this site. The second concept staff heard was the integration of one or more public spaces into the future commercial development comprised of some minimum acreage that would incorporate amenities such as tot lot, shade structure, picnic table, features that would be found in a traditional park but more integrated into the commercial development. Tonight's presentation is in two parts, the first of which he will present to the Commission using a PowerPoint presentation that depicts an overview of parks in the City of different sizes to help the Commissioners visualize what one and two acres and different sizes and palettes of amenities that parks of different sizes could accommodate. This presentation will be followed by a discussion of the public space option for the commercial development by Mark Rogers who will present an interactive design exercise to help the Commission consider that option as well.

CDD/Gubman first presented an overview of seven City parks that are within the size range discussed at the last meeting. These parks range in size from .3 acres (16,000 square feet) to about 3.4 acres. Staff will then show graphics of polygons that will give the Commissioners an idea of how those different sized parks would compare to the

footprint of Site D. The staff report calls out acreages in the table and when staff went through the actual graphic verification of park sizes more exact acreages were determined.

CDD/Gubman first presented the approved construction plan for the new Washington Street Park at the intersection of Washington and Lincoln Streets. This .3 acre site has a tot lot, open green space, gazebo, five picnic tables, three benches and a walkway. This park is a neighborhood park and does not accommodate off-street parking. This park is intended to serve the neighborhood and visitors would have to park on the street. The next larger park is Longview Park South which was about .83 developed acres and has planned for it a basketball court, turf volleyball court, tot lot, two picnic tables and a barbecue. Stardust Park is .98 acres and features a tot lot, open green space, two benches and a paved walking trail. Longview Park North is .99 acres with .8 acres improved. There is a grove/grouping of vegetation at the rear portion of the site that reduces the usable acreage. This park includes a tot lot, open green, two benches and a paved walking trail. Summitridge Mini Park (down slope from the Diamond Bar Center) is about 1.27 acres and is entirely passive green space. Starshine Park is 1.66 acres and includes tot lot, open green space, two picnic tables, two benches, a barbecue and a concrete walkway. Heritage Park is about 3.4 acres and includes a 1.5 acre softball field, tot lot, open green space, a recreation building, five picnic tables, three barbecues and a concrete walkway. He showed a diagram of the overview of the parks to scale so that the Commissioners could get a better idea of what they would look like on Site D. He overlaid the polygons onto the diagram to give the Commissioners an idea of the relative size of that park within Site D.

C/Lee asked if there was a general standard or formula for a park size with respect to population or households. He thought the inclusion of small sites was irrelevant to Site D without having a formula to guide them. Where is the formula or general understanding for the standard for park sizes and population ratio? CDD/Gubman said he did not have that information for C/Lee but there is a standard amount of recreation space per capita or per 1,000 persons. He does not have that information because that is not what was requested for this evening's meeting. The direction staff was given was to provide options for a park or open space area so that is the focus of this presentation.

C/Lee said he understood but what he wants to know is there a standard size or shape that should have a certain foundation and why did staff bring in the small size parks and how was it appropriate for this project. Without a general understanding about size and population ratio and park size it is very difficult to understand. CDD/Gubman said the reason he is showing these parks is because there was a menu of amenities the Commission asked for, and needed a better understanding of the acreage needed to accommodate them.

VC/Nolan said that staff brought back to the Planning Commission a good visual and it

helps to see the possible locations for the park.

C/Shah said that this park could be in one of those green areas shown on the drawing where the trees are shown and the roads can go around it. CDD/Gubman said he would say it that it can be adjacent to those green areas. A lot of those green areas are slopes so it will give some visual contiguity if the park is abutted against those green areas. C/Shah said it could be part and parcel of the overall development. CDD/Gubman agreed.

C/Shah asked the area of the commercial portion of the project and CDD/Gubman responded 10.1 acres, about three times the size of Heritage Park.

C/Lee asked if there were a certain number of people that could use a certain sized park. For example, Washington Park is 0.8 acre – how many people can it accommodate. CDD/Gubman said he did not have that information. C/Lee said that there should be a certain standard to build a park - a park based on the population of neighbors. CDD/Gubman reiterated that he did not have that information available.

VC/Nolan asked at what point does a park need its own parking lot. There are pocket parks that are less than half an acre and to provide guesstimation of how large would a park be before it needs its own dedicated parking or parking that would be inclusive of the commercial lot. CDD/Gubman said it would depend on context. A neighborhood park is going to use neighborhood streets for parking or it is going to be accessed by pedestrians in the immediate vicinity. This park given its adjacency to an arterial and potentially not being within a neighborhood, it is going to need to rely on the off street parking provided by the shopping center.

Mark Rodgers took the podium and explained to the Commission that he would lead them through an interactive sketch exercise to illustrate concepts of how usable public spaces could be integrated into a commercial shopping center environment. He then proceeded, using the auditorium's overhead projection system, to sketch diagrams onto Site D base maps to show different ways buildings and public plazas could be configured on the commercial portion of the site.

VC/Nolan said she appreciated all of the presentations. It really puts a name to the face. VC/Nolan said that she visited a number of parks in the area. She visited both Longview Parks, Stardust Park, Starshine Park, Washington Park and other parks outside of the area. The smaller parks in residential areas did not fit what she envisions. The parks that she visited today were basically used by residents within those few blocks. Of all of those parks she visited there wasn't one person at any of them and it was during after school hours. She envisions something that is for the community. Something that can be used by everyone. She said they talked about this being the gateway to Diamond Bar and she would like to see something that is visual. V/C Nolan said that she liked how it is

incorporated with residential. She said that a park area less than an acre and a half would not be worth the effort to include in the project. She envisions more than a pocket park, although, pocket parks serve a great purpose – no discredit to them, however, they look like two lots that were planted with grass to make it look like a playground – they do serve a purpose for that immediate neighborhood, however, she does not see a pocket park being right for this kind of environment. Before the April meeting she visited a number of parks that she shared with Mr. Gubman and a number of them even had dog parks. When we talk about the social aspect of these park like areas, they were hugely populated, they were very nice environments that did bring those communities, e.g., elderly and young, together throughout the day. V/C Nolan said that she did not care for the park area being in the residential area. She wants to see this as something that can be used by the community at large.

C/Shah said he thought it was a good presentation. If there is a park in one area it's a question of maintaining it and who is going to maintain it. If it becomes part of the public, then the property owner is going to say why am I paying for it. He always believes in rewarding designs. Frank Gehry is a famous architect known throughout the world. He has created these kind of spaces. He said that he has created at mass transit stations where it becomes a living and breathing space for the towns. He said that he sees that vision here that instead of identifying one area, the space should flow – there should be green, there should be areas where people can go and sit and in the commercial area that is best utilized for the people who are coming for shopping, who are visiting, going to the restaurant, etc. In the residential area where the other two areas are proposed maybe it can be combined with the water quality management areas and where the slopes are combined with it so it becomes a larger area where the local community – the people living there - can use it. Providing a park for the entire City is the City's responsibility, not this property owner's responsibility. He said that he would like to see that this property owner maintain a park for their own use and in the commercial let it split out throughout the commercial area. For residential, maybe we can identify a third of an acre in each lot and whatever way the designer designs it along with the other green spaces. In the commercial area maybe a third of an acre or whatever we decide which could be spread around and make it a nice architectural feature for the people who come to shop in that area. It could be a mixture where we do not dictate a location or we dictate an area where the future designer designs and comes back to the Commission and at that time the Commission again reviews it and then see whether it fits into the environment in which it is designed because we don't know the current environment of the future design. We assume so many things. Why assume? Wait. Identify the need and wait for the design.

C/Lee said he thinks the park is the main point of our discussion but mainly he'd like to give his comment regarding the Site D plan. First of all, we always encourage people to participate in the meeting and ask them to give us input but somehow after we finish extensive talking and discussions he does not see any reflection of the residents' ideas

and input. Somehow that is not the recommended way to do the public meeting. Secondly, this site project is seeking a zone change from low density to the Specific Plan and the Specific Plan includes a density of 20 units per acre. When you see the surrounding area most houses are 6,000 to 12,000 square feet but compared to the numbers in this one that size asks us for about five times more high density zone change and he does not think that is appropriate. Also, there is an H-Mart shopping center across from Site D and a lot of business owners came to a higher rent rate before the renovation and now Site D project asks us to give approval for 150,000 square foot commercial area and there will be two major shopping centers that will compete with each other. He has visited the H-Mart shopping center and sees many small businesses that have closed and several ownerships have been changed. They are suffering from the economy and the higher rent and then we place another shopping center within distance and small business owners will suffer more and possibly we will see more empty spaces in the future. He said that this did not make sense at all. C/Lee said that if we must develop Site D then he believes that we need to develop single-family residences or combine the single-family and high density. The commercial site doesn't make sense at all to him.

VC/Nolan said that adding a park to the commercial area does reflect the concerns of the community. They want to keep this space green. It doesn't look like to some extent that's not going to happen, but it does reflect that concern. She said that by reducing the commercial to a small extent does alleviate it being just this huge commercial lot. She does like the idea of the urban park-like setting for the use of the commercial, for the use of the residents in regard to restaurant and like outdoor seating. VC/Nolan exemplified Downtown Brea Birch Street. But she does think this does serve the purpose for the neighborhood. Making the commercial area smaller, and incorporating a park into this area can tie in very well with the commercial use - building a path - making it a trail where it is marked off for size, for distance, for walking, for exercise, and incorporating that with the residential, with the commercial and with the park.

Chair/Torng, in response to C/Lee's comments that we do not reflect the community's comments stated the Commission has gone through this process based on a legal process that staff explained during the last meeting with respect to working through the entire process overtime with public meetings, and public hearings. On April 27 staff responded to all of the questions from residents. After the Commissioners heard all of the input and staff's responses the Commission decided at the last meeting that it wanted more information regarding a park in the proposed project. All proper protocol has been followed and the Commission has considered the project on its merits in a legal manner.

Chair/Torng thanked staff for their presentation that helped the Commission to better understand how a park of different sizes would impact the commercial and residential areas. He understands that parks are maintained by the City and that would mean additional costs to the City. He concurred with C/Shah that the "park" space be more

integrated public space. He also liked Mr. Roger's suggestion of a trail from the residential area through the center of the commercial site to the corner of the Diamond Bar entrance and also at the corner of Cherrydale, if the Commission were decide to add one third of an acre, and take one third of an acre on to that corner. He said that he discussed with CDD/Gubman a third option. We may want o keep the options open for the B level plan by allowing that future developments must choose between the two options instead of force choosing one option at this time. At the plan level B the builder would have to come back to the Commission with a more detailed plan. At this time, the Planning Commission could consider the minimum acreage it would want to put into either a park or integrated space. That's something we might want to consider now. And if we cannot make a decision regarding a park or integrated space – option one and two, the Commission could consider the third option. He asked CDD/Gubman to confirm the third option. CDD/Gubman explained that staff provided two options in its report and the Commission could come up with a third option that is a synthesis of those two to be proposed at the B level.

C/Shah said he felt Chair/Torng was on the right track. He wanted to make the point that the Commission may want to identify the commercial portion be designated as one third of an acre of a park and one-quarter of an acre for each residential lot based on level B so that in the future the builder can propose to develop the property in a certain way and come back for the Commission's final determination and approval. At least if we give them the guidelines, they can interpret how to incorporate the space depending on how the design develops for both the commercial and residential.

Chair/Torng said he was concerned about the residential because in the commercial area the public can use the area but in a residential area that may be restricted to the residential within the project. He said that he would prefer to set the limits in the commercial site for public space. C/Shah said his intention was to have a park for the residents of the project because the City should not be in the business of maintaining any of the park area.

VC/Nolan agreed with Chair/Torng that this should stay in the commercial area. She said that the 202 homes are going to generate tax revenue. The community pays for parks with taxes that comes back to the City for all the parks. The project needs a park, and a park of this type. The Commission is in a role to recommend to the City Council our thoughts. At some point the City Council is going to vote on this matter. VC/Nolan questioned CDD/Gubman that if the recommendation of C/Shah gets to the point where it is an off number as far as the vote, as far as this going forward in passing the resolution, is this an all-or-nothing package?

CDD/Gubman said the Commission will take three actions on three separate resolutions. Just to clarify, it is not an all or nothing issue. But the reason staff suggested the Commission reconsider the passage of the first two resolutions at that last meeting is that

these are all actions related to one project and there could be potential timing issues with expiration dates and other statutes of limitation if the Commission were to split the dates apart. So the only all or nothing aspect is to make all of the decisions at one meeting.

Chair/Torng questioned whether the Commission should make a determination on the amount of park coverage for the residential site, or should the Commission focus on the commercial site. CDD/Gubman said his understanding was that the Commission was looking at either a dedicated park or some alternative public space. For the residential component, he believed the intent or expectation in the Specific Plan is that there will be private amenities for that residential community whether it is a clubhouse, pool, and other such features that they would maintain through association dues but it will be privately used. This park feature that the Commission has been discussing is really something that is in addition to whatever private open space amenities that would be incorporated into the residential community that is part of the Specific Plan.

VC/Nolan said that she believed this provides more reason why we don't need pocket parks in a residential area. They are going to have their own facilities or their own areas for those residents. She is not opposed to reducing the commercial area, it can be incorporated with the commercial, with the shopping, and with the restaurants. She visited the parks and anything short of an acre and a half doesn't make much sense.

Chair/Torng said that at the last meeting he expressed his interested in a more integrated area (option 2). One of the comments from a resident is the desire to have an urban City center with a shopping center and some type of park space that all would be able to visit and at the same time enjoy shopping and dining. The space is important. We want to reserve a space for this use. He liked the trail path Mr. Rogers described in his presentation.

VC/Nolan asked if the Commission will re-vote on the resolutions voted on at the last meeting.

ACA/Wohlenberg said that there are three resolutions, two of which have been approved by a vote of 3-1 and the Commission reconsidered those and tabled those until this time for a revote and the reconsideration essentially removed the previous vote and now they are up for a vote again. The third resolution the Commission never reached consensus and so that will be up for a vote at this meeting.

CDD/Gubman recommended that the Commission complete the discussion on Item 3 and see what, if any consensus can be reached.

C/Shah recommended that the Commission reconsider the previous approved resolutions and consider Option 2 for a maximum of one acre. C/Shah said that VC/Nolan convinced him that the residential should manage their own common space.

CDD/Gubman said that in Option 1 the residential development as envisioned would still have its community, its HOA amenities. To do Option 1 in the residential area would be to reduce the size of the residential area to put a park in that area. The idea of the park is undetermined at this time where on the 30 acres it would finally reside but if the Commission is going to recommend the park option it will reduce the acreage of either the residential or commercial side of the project.

VC/Nolan asked how they should proceed. ACA/Wohlenberg said that all three actions are essentially taking place simultaneously so if the Commission wants to discuss 3 and vote on that item first because he believes it will be most difficult, that would be fine and then the Commission can move to Items 1 and 2.

VC/Nolan moved to recommend that the City Council approve Specific Plan No. 2007-01 to establish land use and development standards to facilitate and govern the development of up to 202 residential dwelling units, up to 153,985 gross square feet of commercial floor area; and approximately 10.15 acres of open space areas, easements and right-of-way, and Tentative Tract Map No. 70687 to establish separate residential, commercial, and open space parcels; create an internal circulation system and common open space areas; and establish easements and other rights-of-way for utility and other purposes with the amendment to include 1.5 acres of dedicated park space within the commercial parcel.

Mr. Rogers clarified that the water quality features are not a functioning part of a park. When he says "ambient" they may be adjacent and provide area for green space and planting, etc., but you do not recreate in them. We have calculated, for purposes of water quality, the area necessary to clean the water under the current standards and it is approximately about one third of an acre and two shallow basins less than three feet in depth. These areas collectively can be of benefit to, by virtue of their adjacency, creating a park environment and yet not have functioning uses within them. And it might result, if we so chose to modify the circulation, in a configuration that would allow those areas to be adjacent to a similar type of area the size of which would be at the Commission's discretion. C/Shah said that as long as the park is adjacent to the area it would be acceptable

Chair/Torng asked VC/Nolan if the dedicated park area would be managed by the City or is that going to be managed by the commercial site. VC/Nolan responded that the park would have to be managed by the City. C/Shah said that the park has to be dedicated to the city for the community's use.

CDD/Gubman explained that Option 1 as presented in staff's report would be dedicated City Park as part of the City Park system. C/Shah said he liked the idea of the park having to be dedicated to the City, because otherwise, if people are going to use it the

private property owner can put up a fence not allowing entrance. If people want it to be used by the community and anybody can use it then it has to be dedicated to the City. CDD/Gubman said the way this would play out if it is to be a public park, is the developer would build it, dedicated it to the City and then the City takes the keys and ongoing maintenance. C/Shah said then it has to be built to the City's standards.

Chair/Torng asked if the park would be in one place or broken up? VC/Nolan felt it should all be in one place because it was too small of an area to divide it up. ACA/Wohlenberg said he believed the motion was still being formulated so staff could make sure it knows exactly what is being proposed.

C/Shah said he thought if they were going to develop a City Park of one and one half acre including an adjacent water quality management area, whatever it calculates to be, that amenity has to be taken from the commercial lot. He said one and one-half acres is a good size.

CDD/Gubman said he heard the 1.5 acres and what he needs is clarification on how much usable park area is wanted.

C/Lee said that if other fellow Commissioners want to put a size in now when eventually the adoption will be decided by the City Council members does not make sense. VC/Nolan disagreed. She suggested that one and one third acres of usable park space area be adjacent to the area off of Cherrydale, adjacent to the water use area.

C/Lee asked VC/Nolan asked if there was any meaning or foundation for why she decided on 1.3 acre. VC/Nolan said yes. She said she walked a couple of parks and the ones that were under an acre were just a couple of small house lot sizes. The Starshine Park was a nice sized park of usable space. She walked off parks counting off how many paces it takes and gone from park to park and saw what it felt like, what it looks like including the dog park spaces and they were comfortable area. If the space is too small it did not make any sense to include a park of that small size. She added that she

understands that the park should not take so much away from the commercial that it hurts that portion of it but she thinks 1.3 acres is an appropriate minimum.

C/Shah said that within the last year and a half he had been involved with the design of about one and one-quarter acres and he agreed with VC/Nolan. He said that he could visualize it and could see it being used. CDD/Gubman said the more exact size of Starshine Park is one and two-thirds acres. VC/Nolan said it was a very comfortable setting, the design of it and the open space. She said she visualized an area where people can actually use it, not just open land for the sake of open land but park settings. An acre and two-thirds of space was doable for her.

C/Shah said he was comfortable with moving forward with the motion for 1.3 acres and Option 2. But the word "usable" space for the park should be included. VC/Nolan asked C/Shah to confirm that it would be one space and not broken up. C/Shah concurred.

ACA/Wohlenberg proposed the recommended resolution language for either option to be included within the staff report. He read the proposed language to the Commission, the original of which would be found on Page 4 of 15 in the staff report. This would be to add to the resolution Section B.5.a.4 to read: "At the time the development is formally submitted to the Planning Commission for consideration, the subsequent plan shall incorporate within its boundaries a neighborhood park of at least 1.3 acres usable area dedicated to the City within the commercial development adjacent to slope areas or waste water management areas and shall incorporate features such as but not limited to, a tot lot, picnic tables, seating areas, shade structures." And he would also include Section B.5.b.8 as originally stated on Page 5 of 15 of staff's report.

C/Shah asked if the amended language could include that "the park be designed to the City's standards and when completed should be dedicated to the City if the City is willing to accept it." ACA/Wohlenberg responded that after where in his previous language he said "dedicated to the City" they could add "and designed and constructed to City standards." And, not waste water management areas but "water quality management areas." He was reminded those are two different things.

Chair/Torng asked if there was any motion.

C/Shah moved to General Plan amendment No. 2007-03, Zone Change No. 2007-04, Specific Plan No. 2007-01, Tentative Tract Map No. 70687 and Environmental Impact Report No. 2007-02, reconsider the previous passage of the two previous considerations and the third one to be added to that one with the language provided by the counsel.

ACA/Wohlenberg clarified for the record that the CEQA action is taking place first and that staff's opinion and recommendation that this alteration is within the existing scope of the EIR. C/Shah concurred. VC/Nolan received confirmation that the acreage was 1.3.

V/C Nolan Seconded the motion. Motion carried by the following Roll Call vote:

AYES:	COMMISSIONERS:	Shah, VC/Nolan, Chair/Torng
NOES:	COMMISSIONERS:	Lee
ABSTAIN:	COMMISSIONERS:	None
ABSENT:	COMMISSIONERS:	Nelson

Chair/Torng addressed the audience and asked that anyone with questions or concerns should contact the City staff and attend the City Council hearings on this matter.

9. PLANNING COMMISSIONER COMMENTS/INFORMATIONAL ITEMS:

C/Lee said he really appreciated his colleague's efforts and energy to make a better picture for Site D but to him the best scenario for the residents is that Site D should be developed for single residences and public parks. He believed that to be the best scenario. But WVUSD and the developer don't do that because they cannot generate income, he understood that. Hopefully, we made a better decision and then the result would be best for most people.

C/Shah thanked staff and the consultant for doing an excellent job. Everyone stayed with the project and gave the Commission good insight and clarification. To the general public, our job and our intent is to see that we make a decision very seriously and to the benefit of the community, benefit of the City of Diamond Bar residents and to make sure that what the Commission does is legally applicable so the Commission is making a recommendation to the City Council and the City Council will make the final determination.

VC/Nolan congratulated Chair/Torng for his dedication to Diamond Bar and for his Volunteer of the Year award at the Birthday Celebration.

Chair/Torng thanked his colleagues. This is a difficult project and we did it and we did it together even when we have different opinions. That is why we have five Commissioners. All opinions count, and that is very important. He appreciated everyone's efforts and especially staff and the consultant. Thanks for the good job and keep up the good work.

10. STAFF COMMENTS/INFORMATIONAL ITEMS:

10.1 Public Hearing dates for future projects.

CDD/Gubman reminded the Commission to adjourn tonight's meeting to the Special Meeting of May 13, 2010, at 6:30 p.m.

11. SCHEDULE OF FUTURE EVENTS:

As listed in tonight's agenda.

ADJOURNMENT: With no further business before the Planning Commission, Chairman Torng adjourned the regular meeting at 9:47 p.m. to the Special Meeting of May 13, 2010, at 6:30 p.m.

The foregoing minutes are hereby approved this 25th day of May, 2010.

Attest:
Respectfully Submitted,

Greg Gubman
Community Development Director

Tony Torng, Chairman