

PLANNING AND BUILDING – A. Henriques:

- 38) Hold a public hearing to review the traffic study prepared by Hexagon Transportation Consultants, Inc. regarding the Appeal of Use Permit No. 858-02(A), an amendment to increase quarry production initially heard on April 5, 2005. Applicant: Robert Enz. Location: Limekiln Road. Appellant: James Ryan. (Continuance granted from the scheduled hearing date on August 8, 2006.) (Request for continuance has been received from applicant's attorney).**

Byron Turner, Principle Planner, came forward stating that a request for continuance has been received from the applicant and also from the appellant supporting the request and Planning Staff recommended continuing the matter.

BOARD ACTION: *Upon motion made by Supervisor De La Cruz and seconded by Supervisor Monaco continued this hearing as recommended. (Unanimous) File #790*

- 39) Hold public hearing to consider an Appeal of a Planning Commission decision made on July 19, 2006 re: Tentative Subdivision Map No. 99-63. Location: Hwy. 129 & Searle Rd., San Juan Bautista. Request: To amend Vesting Tentative Map Conditions of Approval. Zoning Rural (R). Environmental Evaluation: EIR. Applicant: Hollister Ranches c/o Mark Johnson (San Juan Vista Estates.) Appellant: Tracie L. Cone.**

Art Henriques, Planning Director, provided background information beginning with an introductory Power Point presentation showing the time line for this project and noting that the original map for the project showed significantly more units than ultimately what the Board of Supervisors approved in August 2003, which reduced the project to 14 lots. Mr. Henriques noted for the record that the EIR mitigation measures that were in effect with the previous Board approval remained in effect. Further, Mr. Henriques clarified that this project is still 14 units and any future changes at this site is just like any other site in this county and is subject to going back to the Planning Commission or on an appeal to the Board of Supervisors.

Byron Turner, Principle Planner, presented the staff report stating that staff has identified eight (8) individual items in the appellants appeal as included in the staff report of the Board's packet. Mr. Turner presented each of these eight items along with the staff's response to each item.

Chair Loe asked about posting of the Negative Declaration and what was included in the document.

Mr. Turner explained that the original EIR adequately described all environmental impacts associated with the project.

Dan DeVries, Planning Commissioner (District 2), came forward and addressed an article from the weekend Pinnacle newspaper stating that he wrote the Conditions of Approval for this application and that he submitted the application on behalf of the developer. Mr. DeVries stated that this was categorically untrue. Mr. DeVries explained how the design review process came into place.

County Counsel Dennis LeClere called for a Point of Order requesting that the Chair ask Mr. DeVries if he was present as a result of a vote of the Planning Commission or whether he was present in his individual capacity.

Mr. DeVries responded that he was speaking in his individual capacity and hasn't spoken to any of the other Planning Commissioners about this.

Tracie Cone, Appellant, came forward to present her case. Ms. Cone stated that the government regulations in place ensure that if the regulations are followed then all developers are treated equally. Ms. Cone stated that if someone, or some Board, decides not to enforce all of the rules then the game is no longer fair for all of the players. Planning decisions then become subjective, which can lead to allegations of favoritism or vindictiveness and this is why she appealed the changes made by the Planning Commission to the conditions, approved in August 2003 by the Board of Supervisors, regulating development of the San Juan Vista Estates project. Ms. Cone addressed the approval of Planning Commission minutes that she felt was a hurried decision. Also, she felt that not having the minutes ready in a timely manner affected the preparation of her appeal.

Ms. Cone further stated the reasons for her appeal and also noting that on August 7, 2006 the map expired and all of her arguments are now moot. Ms. Cone addressed whether or not the changes made should be considered minor or major and whether or not the county violated state and federal rules to keep a subdivision alive.

Ms. Cone ended by adding that it cost her \$575.00 to appeal a Planning Commission decision noting that there is a provision in the state statute that if someone appeals a decision in order to force the Board to follow the laws they can be reimbursed for the cost and she would like the Board to reimburse her \$575.00 and she would also like for the Board to instruct the Planning Commission to abide by the laws that govern it. Also, Ms. Cone stated she would like the Board to instruct the applicants to get back in line and re-file their project if they want it to move forward. Ms. Cone asked the Board to please overrule the July 19, 2006 actions of the Planning Commission.

Supervisor Botelho said that he was interested in the particular charges as far as the timing of the application and the map and would like an answer from staff as to if this is legal or illegal.

Mr. Turner responded that the applicant has filed for a map extension prior to the expiration date.

Deputy Counsel Shirley Murphy quoted that Section 66452.6(e) of the Subdivision Map Act allows applicants to apply for a discretionary extension of their maps prior to when the map expires and the fact of filing an application automatically extends the expiration date for 60 days or until the application for the extension is approved, conditionally approved, or denied, whichever occurs first.

Chair Loe asked for clarification of whether the Planning Commission has to publicly accept the findings of the EIR indicating she had not found that those findings were approved.

County Counsel will provide this answer a later time.

The following members of the public spoke with regards to this project: Jim Weaver, representing the owners of the property spoke in favor of the project. Mark Johnson, one of the owners of the property indicated that he was disappointed that the appellant has never spoken to the owners and felt that Planning Staff has done a good job; Marty Richman, local resident, defended the Board of Supervisors stating that San Benito County is the grudge capital of the world and these types of accusations has poisoned the well of public trust in our elected representatives; Richard Saxe, Aromas resident, and part of negotiations of the

original project, asked that this be considered as a new application and not an amendment and commented with regards to the affordable housing in-lieu fees.

Supervisor Monaco supported Supervisor Marcus that the affordable housing mandated in-lieu fee should be addressed today.

Greg Weiler, one of the owners of the property, stated that the affordable housing issue was discussed extensively with staff noting there was no hidden agenda and they have now asked to be treated like everyone else and offered to provide three units on site or pay the in lieu fee. Mr. Weiler further stated that if there was a technical mistake in the minutes regarding CEQA the Board could adopt those findings today.

Gordon Machado, Planning Commissioner, came forward indicating that he was speaking as an individual and not representing the Planning Commission. Mr. Machado felt that the applicant should not have the right to change the Vested Map just as the County shouldn't have the right to change it. Mr. Machado felt that the design guidelines were not adequately addressed. Mr. Machado expressed concerns about Planning Commission meeting minutes that were approved and did not include his concerns about changes to certain lots.

Richard Place, Hollister resident, stated that he feels that the Planning staff has done an exemplary job and noted that the Tiger Salamander is a threatened species and not an endangered species. Further Mr. Place stated that he did not think it was in the best interest of the development of the General Plan to restrict this from any further commercial development.

Ms. Cone rebutted some of the statements made noting that from November 1999 she was the publisher of the Pinnacle until August 2005 and she covered this project very thoroughly at the Pinnacle but it was not appropriate for her to come to Board meetings as an activist. Further Ms. Cone stated she would appreciate it if the Board would make some of the conditions more clear to make sure that what was intended is what is going to happen as this project develops.

Supervisor Marcus referred to quotes made by Ms. Cone in an article in the weekend Pinnacle Newspaper with regards to the appeal fee and the approval of the Planning Commission minutes.

Ms. Cone responded to those quotes and explained that with regards to the fee she felt that if she was proven correct in her appeal then the money should be refunded.

Mr. Machado explained that he was concerned that the minutes were not inclusive of his statements and he was referring only to the minutes of the August 2, 2006.

There being no further public comment the Chair closed the public hearing.

Planning Director Art Henriques responded to previous comments by the appellant and the public. Mr. Henriques stated that it was his goal and the goal of the Board of Supervisors and the entire County staff to treat everyone equally and fairly and he tries to communicate to people that if they have questions about how his department operates then to talk with him.

Mr. Henriques further responded that regarding the procedural questions the staff report talked about the Initial Study. The Initial Study was circulated on the CEQA question and there was substantial discussion about the EIR. Mr. Henriques stated that he did not see the exact words about reaffirming the EIR in the minutes of the July 19, 2006 Planning Commission meeting but County Counsel has indicated that because the previous EIR stands every project using that EIR doesn't necessarily have to go back and be reaffirmed constantly.

Mr. Henriques addressed the issue of the written record not being complete and that there were some delays, which was true, and that in the future, particularly on significant projects, he will try to make sure that the delay time is minor.

Mr. Henriques stated that with regards to improper CEQA review, they worked with County Counsel and reviewed with all of the County departments the proposed revisions and staff's response to see if there are any further concerns noting that the CEQA process was followed.

Mr. Henriques stated that with regard to the comment about giving away affordable housing the Commission did make a decision to go with the countywide in lieu fee which is \$27,000 per unit right now and would work out to \$378,000 which is less than the previous \$444,000. Mr. Henriques noted that within the next month he anticipates coming back to the Board with an update regarding the in lieu funds.

Mr. Henriques responded to the map process issue noting that the map was extended through October and there has been a request for a further extension. With regards to the concern about the appeal cost, different agencies handle it very differently and that would be a Board of Supervisors decision. Mr. Henriques stated that with regards to the issue of the Vesting Map it has been clarified that it is still proposed to be a Vesting Map, although revised, and one item that the Board may wish to pursue in the future is to look at a Development Agreement.

Mr. Henriques stated that with regards to Lots 1 and 14, theoretically someone could come in on those lots at some time in the future and request additional units but that is looking at the site as if it were a flat piece of ground with no environmental constraints.

Mr. Henriques responded with regards to the issue with the Tiger Salamander stating it is all subject to the EIR requirements and mitigation measures and those are still in place.

Mr. Henriques addressed the issue of public information with regards to Planning Commission meetings and particular items and how the public could access this information.

Mr. Henriques addressed the issue of the minutes noting that agencies can decide how much or how little of a person's concerns will be in the public record.

The Board took a five-minute break at 3:15 p.m.

Chair Loe questioned the change to the original conditions which stated that there would be no gates to the property asking if that was correct.

Mr. Henriques responded yes.

Chair Loe asked if there was still a condition prohibiting a gate at the entrance.

Mr. Henriques responded that the Planning Commission basically approved the removal of the prohibition so theoretically they could gate the whole community but they do have to provide emergency access for public safety.

Chair Loe asked why then if they were going to gate the whole would they get a credit for their open space against the properties.

Mr. Henriques responded that it would be a trade off. If they gated it they wouldn't get credit for the park fees and they would then have to pay.

Supervisor De La Cruz stated he wanted to ensure that the applicant agreed to approximately \$440,000 for affordable housing and now they want to comply only what is in effect right now. Supervisor De La Cruz asked if the Planning Commission agreed to forfeit that \$450,000.

Mr. Henriques responded that the Planning Commission agreed that they would be subject to the current county-wide in-lieu fee which is \$27,000 per unit for a total of

approximately \$378,000 with the understanding that there has been Board of Supervisor's direction to the Planning Department for quite a while to come back to the Board with an update to the fee. Mr. Henriques anticipates this will be coming back to the Board shortly.

Supervisor De La Cruz supported going back to the original agreed upon lieu fee and commented with regards to the county giving the in lieu fees to the City of Hollister to build affordable housing.

Supervisor Marcus stated that maybe they should make it a minimum of \$443,000 because it's a three-year old figure and it may be more than that.

Discussion ensued regarding the in lieu fee structure.

Supervisor De La Cruz stated that the affordable housing should be in the San Juan Bautista area.

Chair Loe expressed her frustration in that the developer is coming back now after the original approval and wants to change conditions that she feels benefits only the developer. Chair Loe commented with regards to the pole tests and the view shed that she felt will make a huge difference. Chair Loe felt the Board should take some time and bring this matter back after looking at all of the issues in detail. Chair Loe stated these were trophy homes on a beautiful hill, on a scenic highway and they should make sure that whatever they do is something we can live with forever.

Supervisor Botelho commended his Planning Commissioner, Dan DeVries, for all of his work with this project and his leadership on the Planning Commission. Supervisor Botelho stated that he chose Mr. DeVries because he has the same value structure as himself. Supervisor Botelho said he was very proud of the idea of design review and feels we will be able to minimize the effects of what level of development should occur in certain areas. Supervisor Botelho noted that this project has been whittled down to what is now 14 units and that is what they have to work with and the design review process will help to make it a win-win situation. Supervisor Botelho stated he would like to deny the appeal.

Supervisor Botelho expressed his concern that the appellant had not participated in any of the public hearings or talked with the developers regarding this project. Supervisor Botelho further stated that the \$575.00 fee is cheap in comparison to many other counties. Supervisor Botelho felt this whole process today was more politics than substance.

Chair Loe expressed concern with a design review committee at this point and just to say that we are going take all of the conditions off that were previously put on by a former Board, after weeks and weeks of study, and put it to some nebulous Board that isn't even in existence being adopted is wrong.

Lengthy discussion ensued regarding the merits of a design review process.

Chair Loe felt it was very important to at least look at the pole tests at this point.

Mr. Henriques explained how a design review committee works and the various ways the committee could be established indicating that he has many years of experience with this process having been a design review staff person for many years and then supervised that process for many years.

Mr. Henriques read examples from the Planning Commission conditions and minutes as follows: colors proposed for structures with the building envelope consistent with requirements of the conditions; heights of structures; balanced visual impacts; architectural design; consistent with mitigation measures set for in the final EIR; the location of structures within the building envelope to balance the need for grading; visual impact in views of such structures. Also, the senior granny units to be architecturally compatible with the primary residence and the specified building envelope; the water storage tank to be painted non-reflective earth tone and screened from view through the use of native shrubs and trees. Mr.

Henriques stated it was the Board's call if this was adequate or if they want to go beyond that.

Mr. Henriques explained that each project would go through this design review process noting that staff would conduct the first level of design review on each of the proposed lots with structures and then there would be a report with noticing which would go to a Planning Commission meeting and reviewed and that record of the Commission would be appealable to the Board of Supervisors or the Board could consider an appeal if they had a concern.

Supervisor Loe asked if an individual person were to buy a lot and wants to build their home would they have to follow all of the steps of the design review process.

Mr. Henriques responded yes it would be a deed restriction and it would be very clear and Planning would work with the County Counsel to make sure it was clear to the typical, average lay person.

Supervisor Monaco stated he appreciated the fact that we were able to attract someone who didn't come from very far away, the City of Santa Clara, and Art Henriques' experience in Santa Clara lends well to our own county in the idea of design review and we don't have to re-invent the wheel here. Supervisor Monaco stated that it has been demonstrated around this State that it works.

Supervisor De La Cruz stated it was quoted by the appellant, that this Board has been bought by the developers, and he takes offense to this quote because after all this person is running for office too and talks about ethics and yet this is an implementation of reverse ethics. Supervisor De La Cruz stated then when you bring an appeal before the Board of Supervisor then bring it on its merits and bring it on the best interest of the community and don't bring it forward for political gains or political reasons.

Supervisor De La Cruz stated that he would like to deny this appeal and if there were no further questions he would like to make a motion.

Chair Loe stated she had more issues she would like to talk about.

Supervisor De La Cruz withdrew his motion.

Chair Loe stated that with regards to the size and the elevation she felt there should be some guidelines on these conditions.

Supervisor Botelho stated that there are 14 different lots without some sort of review process. We have to have faith in this process. Supervisor Botelho asked how do you put a limitation on property rights and why should we put limitations on property rights. Let's see how this process works out.

Chair Loe stated that we didn't limit property rights. This whole thing was approved so the developer got their rights to develop but we need to put conditions on it to protect the public. Chair Loe stated she did not believe that a 10,000 square foot house is appropriate on the hillside, and there are big problems with this project and there always has been, and if we approve this today those building pads are set with the Vested Map.

Mr. Henriques responded that the building envelope range would be set but the actual structures within the building envelopes would not be set.

Chair Loe stated that those envelopes were moved to make them closer to the road and were moved from where they originally were and asked how much study has gone into saying that yes it was the appropriate place.

Mr. Henriques responded that staff thought it was reasonable and the Planning Commission concurred. Mr. Henriques stated that staff has spent hours on this noting that he and Byron Turner have visited the site several times and have looked at the different angles and have recently gone out and looked and every single lot (except for Lot 14) and

he was satisfied with where the lot envelopes were and that it could be successfully mitigated.

Supervisor Botelho stated that they still have control over this vested map and that's what he likes about this idea.

Chair Loe stated we have plenty of time to look at this and we've approved the development and she would be more comfortable if we say no further subdivisions on Lot 1 and Lot 14.

Supervisor Botelho said his position has always been 14 lots on this property and he wasn't aware that this is a change.

Supervisor Marcus stated that he respects Chair Loe's opinion and those opinions of people who don't like large houses, but personally his main philosophy in life, and the last time he checked, we live in a democracy and a free country and he has never felt good as a part of the hillside element that somehow we as a government are allowed to control the size of someone's home. Supervisor Marcus stated that how you build a 10,000 square foot low profile ranch home in the right location could be as confined and inconspicuous as a 2000 square foot built like a tower. Supervisor Marcus stated that this vision for site and architectural review is where need to go and he wouldn't put any restrictions on the size and the height and let the planners, the Commissions and the Board of Supervisors approve these individually and he thinks we'll get what Chair Loe wants without trying to umbrella a design over a total subdivision.

Supervisor Marcus concurred that they are led to believe that this is a 14 home, 14 parcel subdivision and he would not endorse further dividing of that lot at this particular time.

Chair Loe stated she is not hooked on 5000 square feet, or the 18 feet, but she is saying that if we could have some kind of condition in here to minimize the view shed of the valley floor then she would feel more comfortable about it.

Supervisor Marcus felt this review process was a good one.

Chair Loe agrees but she would like to see the conditions that we're asking for in this approval so we say when you come in for the review this is what you're going to have to furnish and there is nothing nebulous.

Mr. Henriques stated that it was not as specific as was being talked about now but certainly the Board could amplify the conditions to talk about to make sure that it's very clear for the record that any applicant or any future prospective buyers that pole tests would be required on each of the lots to the satisfaction of the County prior to any building permits being issued as part of this overall design review process; and, a photo montage will be done on each of the lots to the satisfaction of the County prior to the County sign off in any issuance of building permit. Mr. Henriques stated that they could even add a condition about every lot's design, and after initial staff report there will be pier review by a qualified architect who has experience in the area of reviewing view sheds in hillsides prior to notice of public hearing and review by Planning Commission. Mr. Henriques stated that these are things they would be looking at anyway.

Chair Loe stated that she didn't want any member of the public to be caught off guard if they buy something.

Supervisor Monaco stated he would like to see some conclusion on this today noting that he was involved the first time when this was approved by the County and at that time he had reservations particularly around the square footage. Supervisor Monaco agreed with Supervisor Marcus that you could put a 10,000 square foot house in some locations and it is very appealing and not visible from anywhere and yet you can put a 2000 square foot house somewhere and it would look like a monstrosity. Supervisor Monaco said that this balance

against size of house and view shed and the idea of design review satisfied his concerns about size. Supervisor Monaco stated that design reviews work and there are many examples of this around the nation and he did not feel we have to re-invent the wheel to make it work here.

Supervisor Monaco supported the idea that those additional units on the lots in question would not be developed and that we still have this as the original size that was brought before us. Supervisor Monaco noted that he visited each building site on this project and he can see tremendous potential and he thinks it offers the ability to generate some significant revenue in our county, and it has the potential of developing a kind of model development in our county in a very sensitive area.

Supervisor Monaco further stated that in his opinion these owners/developers have experienced a great deal of frustration for a very long time – 10 years minimum – and at a great deal of personal expense to them. These frustrations and costs have been caused by procedures that have not been clearly navigable to them and the recent propaganda circulating in the media and elsewhere have further exasperated this situation. Supervisor Monaco felt that the Planning Commission and staff have tried diligently to clarify this situation and therefore he supports their most recent decisions on this project and he would support denying this appeal.

Chair Loe re-capped the conditions that were agreed upon as follows: The affordable housing will stay at the amount it was set at the \$440,000 minimum and the money will stay in the San Juan-Aromas area. There will be no further lot splits. The review committee will be made up of the Planning Commission and the Planning Department will come back with some kind of guidelines that will be put in the conditions so a property owner knows what kind of review they will be going through.

Mr. Henriques clarified that the way it is from the Commission is that staff would conduct the initial round of design review and that would go to the Planning Commission at a noticed public hearing and they would then conduct their own separate, independent review of the design to see if they were satisfied with each building proposal on each lot.

Supervisor Marcus asked if this was to be done when applying for a building permit.

Mr. Henriques said it would probably be done sooner if they were in for an expectation that they were going to get a building permit and you would have to come to Planning Department first to get planning clearance. Mr. Henriques stated that under Condition #18 one of the sub-conditions says that as part of the building permit process for the primary residence in any structure greater than 600 square feet, the property owner shall submit to the County Planning Department a request for a design review, approval for each structure and there are number of criteria that the Planning staff would be looking at.

Chair Loe clarified that each of those would go before the Planning Commission and would be public noticed.

Mr. Henriques answered yes.

County Administrative Officer Susan Thompson noted that the wording says that once the applicant has obtained administrative approval from the San Benito County Planning Department, the applicant shall be placed on the San Benito County Planning Commission Consent Agenda for final approval with standard notice to neighboring property owners.

Mr. Henriques stated that what has been clarified with the Planning Commission is that we have two levels of Consent. Consent would be a routine item such as adoption of minutes and this Consent item would be a Consent Public Hearing noticed item so it would be clear that the Commission would open up the item and ask if anyone in the public has anything to say.

Supervisor De La Cruz said he did not like the word Consent.

Mr. Henriques stated that the Board could direct that the word Consent be taken out and it would just be on the Regular agenda.

Supervisor De La Cruz responded yes.

Chair Loe asked if the Board would like to give that direction to staff today and have them bring the conditions on our Consent calendar.

Mr. Henriques indicated that if it comes back to the Board on September 5th he will be at a CAL LAFCO Conference that day and he will be not present personally.

Supervisor Monaco asked if they could make it a date certain to come back on September 12th.

Deputy County Counsel Shirley Murphy advised that under the Sub-division Ordinance the Board has to render their decision within 10 days of concluding the public hearing so she suggested that the Board continue the public hearing to date certain and also that way if what gets prepared generates additional comments the Board will be covered as well.

Supervisor Marcus asked if they were continuing the appeal based on conditions or did they act on the appeal and then move forward to further this project based on their conditions.

Ms. Murphy suggested that the Board continue it for preparation of findings in support of the denial in the form of a resolution.

Chair Loe clarified then that the motion would be to continue this for the denial conditions.

Ms. Murphy answered yes and to direct staff to prepare the findings and revised conditions consistent with Board direction.

Supervisor Monaco stated that he understood Supervisor Marcus' question and couldn't they legally take action today to deny this appeal and then return to a date certain on September 12th with these conditions.

Ms. Murphy responded that the Board's decision to deny the appeal needs to be based on findings supported by substantial evidence in the record so it would behoove the Board to have that prepared to vote on at the time the Board votes to deny it.

Supervisor Monaco stated that in this situation we have discussed the conditions of the denial of this appeal and those being that we have not increased the number of units on this project and that we have in place a design review process. Supervisor Monaco stated that they had heard those kinds of arguments at length today and so he believes there was enough documentation to render a decision on either granting this appeal or not. Supervisor Monaco stated it was his concern to not drag it out any longer for these applicants.

Ms. Murphy responded that the Board also wants their decision to be sustainable and upheld if it gets challenged in court and if the Board adopts findings after the fact they could potentially expose themselves to some challenges based on adequacy of the findings.

County Counsel Dennis LeClere stated that he agreed wholeheartedly with what Ms. Murphy has said; however, to answer Supervisor Monaco's question the bottom line is that yes the Board can act today; but, again if the Board does act they are subjecting themselves to a little more risk; however, should the Board decide to go that way and act with a motion at this time then he strongly recommends that certain findings be included along with specific direction to staff to return with a resolution but again that is the exception that you are raising additional risk by taking that action as opposed to that as recommended by Ms. Murphy, but it can be done.

County Administrative Officer Susan Thompson stated that the staff report responds to each and every one of the points as she understood it and asked if that could be the findings.

Ms. Murphy stated that she and Byron Turner had worked on developing a proposed resolution that has four pages of proposed findings that are not all incorporated into the staff report.

BOARD ACTION: *Supervisor De La Cruz made a motion to continue the public hearing to September 5, 2006 for proper findings. Supervisor Botelho seconded the motion.*

Under the question: Supervisor Marcus asked if there was going to be further discussion on other findings asking what findings were they talking about that were not in the staff report.

Ms. Murphy responded that there were findings under the Subdivision Ordinance, the standard findings that are made in regard to approving any subdivision. Ms. Murphy indicated that some of the findings regarding the alleged errors have had some elaboration beyond what was in the staff report and ideally they would like to pull in additional evidence and findings that the Board has made on the record today.

Ms. Murphy further stated that there are findings regarding the procedural status of denying the appeal and upholding the Planning Commission decision. There was also a question raised whether CEQA findings need to be added.

Supervisor Marcus stated that he was in hopes, in a general sense, that in the spirit of where we are moving on this matter is that the only thing that is going to be brought forward is to clearly define where we are going from here on this development review process. Supervisor Marcus said that he guessed there was not an action, or even a motion, or discussion on the appeal even though that we have talked about these points and is the whole thing just continued?

Chair Loe responded that we will have the written findings.

Supervisor Marcus stated that he was disappointed but he guessed that he understood.

The Chair called for the question.

The vote was unanimous to continue this item to September 5, 2006 for proper findings and conditions.