

DEPARTMENT: Planning By: Sarah Williams, Planning Manager Phone: 966-5151

RECOMMENDED ACTION AND JUSTIFICATION: (Policy Item: Yes ___ No X)

Approve format and content of Mariposa County Resolution No. 96-433.

County Counsel has reviewed and approved this draft resolution.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

Resolution No. 96-433 was adopted by the Board of Supervisors on October 15, 1996, at the public hearing for the Winterberg Appeal (Appeal No. 96-5). The Board acted to deny the appeal. This resolution has been prepared for Board action, to clarify the record on the Board's action on the appeal, including findings in support of their action.

LIST ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

- 1. Modify the text within the resolution.

Negative action would mean that the Board would not adopt the resolution. The only record of the Board's action on this appeal would be the Board Minute Order and meeting tapes.

COSTS: (X) Not Applicable

A. Budgeted current FY \$ _____

B. Total anticipated Costs \$ _____

C. Required additional funding \$ _____

D. Internal transfers \$ _____

COSTS: () 4/5th Vote Required

A. Unanticipated revenues \$ _____

B. Reserve for contingencies \$ _____

C. Source description: _____

Balance in Reserve Contingencies, If Approved:
\$ _____

SPECIAL INSTRUCTIONS:
List the attachments and number the pages consecutively:

1. Draft Resolution No. 96-433

CLERK'S USE ONLY

Res. No.: _____

Vote - Ayes: 3

Absent: _____

Approved Denied

Minute Order Attached No Action Necessary

The foregoing instrument is a correct copy of the original on file in this office.

Date: _____

ATTEST: _____

MARGIE WILLIAMS, Clerk of the Board

By: _____

Deputy

ADMINISTRATIVE OFFICER'S RECOMMENDATION:

This item on agenda as:

Recommended

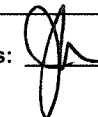
Not Recommended

For Policy Determination

Submitted for Comment

Returned for Further Action

Comment: _____

A.O. Initials: 

MARIPOSA COUNTY RESOLUTION NO. 96-433

**A RESOLUTION DENYING APPEAL NO. 96-5 AND
MODIFYING THE PLANNING DIRECTOR'S USE DETERMINATION AND
THE PLANNING COMMISSION'S ACTION ON THE APPEAL OF THE PLANNING
DIRECTOR'S USE DETERMINATION FOR APNs 10-371-001 AND 10-371-003;
WILLIAM WINTERBERG, APPELLANT**

WHEREAS, the Planning Director made a use determination relative to "grandfathered" camping rights on APNs 10-371-001 and 10-371-003 in the community of Fish Camp after a confidential complaint was received; and

WHEREAS, the Planning Director is the County official who is designated as the Zoning Enforcement Officer in accordance with Chapter 17.144 of the County Code and is therefore authorized to make such determinations; and

WHEREAS, Section 17.08.080 of the County Zoning Ordinance states that, "It shall be the burden of an applicant to provide all necessary information in support of any matter heard and decided by the planning commission or board of supervisors. Failure to provide such necessary information in support of a matter as described above shall be deemed grounds for denial of application"; and

WHEREAS, the use determination was made after a lengthy investigation by Planning staff involving the property owner Mr. Bill Winterberg (hereinafter referred to as property owner), friends and family of the property owner, County and State records, and longtime community residents; and

WHEREAS, this use determination was made on February 29, 1996 and allowed the property owner limited camping rights on his property; and

WHEREAS, on March 20, 1996, the property owner appealed the Planning Director's use determination to the Planning Commission in accordance with County Appeals Procedures; and

WHEREAS, the Planning Commission is authorized to hear appeals of determinations made by the Planning Director; and

WHEREAS, the Planning Commission conducted a noticed public hearing on the appeal (Appeal No. 96-2) on June 7, 1996 in accordance with State Law and County Code, and considered all public input, both written and verbal, delivered to the Commission; and

WHEREAS, the Planning Commission acted to deny the appeal and uphold the Planning Director's use determination with some minor modifications to the original Planning Director's determination relative to the terms of the allowable "grandfathered" camping rights; and

WHEREAS, on June 21, 1996, the property owner and Mr. John O. Jamison, Attorney at Law, appealed the Planning Commission's action on the appeal to the Board of Supervisors in accordance with County Appeals Procedures; and

WHEREAS, the Board of Supervisors is authorized to hear appeals of determinations made by the Planning Commission; and

WHEREAS, the Board of Supervisors conducted a noticed public hearing on the appeal (Appeal No. 96-5) on August 18, 1996 continued to October 15, 1996 in accordance with State Law and County Code and considered all public input, both written and verbal, delivered to the Board.

NOW THEREFORE BE IT RESOLVED, the Board of Supervisors hereby denies Appeal No. 96-5 and determines that there are no "grandfathered" camping rights on APNs 10-371-001 and 10-371-003.

BE IT FURTHER RESOLVED, the Board of Supervisor's action is based upon the following findings:

1. The Fish Camp Town Planning Area Specific Plan was adopted in 1983 and regulates current land uses. The current land use classifications for APNs 10-371-001 and 10-371-003 (single family residential-1 acre and multi-family residential respectively) do not allow camping or campground uses. In accordance with applicable specific plan standards, the only way that camping or campground uses could be legally operated today, is if the camping or campground uses complied with the non-conforming use provisions of the specific plan. The plan defines a non-conforming use as a legally established use, which was in existence at the time of the adoption of the plan.
2. Prior to adoption of the Fish Camp Town Planning Area Specific Plan, land uses throughout the County, including APNs 10-371-001 and 10-371-003 were regulated by Mariposa County Ordinance No. 345. Ordinance No. 345 became effective on October 28, 1971, and allowed camping or campground uses subject to a use permit. Because there is no use permit in County files for camping or campground uses on APNs 10-371-001 and/or 10-371-003, the only way that camping or campground uses could be legally operated on the subject parcels today, is if the camping or campground uses were legally established prior to the adoption of Ordinance 345.

3. The property owner alleged that camping activities involving as many as 200 people occurred on APN 10-371-001 prior to the effective date of Mariposa County Ordinance No. 345. Information submitted by the property owner regarding this claim included letters from the Mariposa County Planning Department, a letter from the National Forest Service, a permit to construct two private disposal systems issued by the State Department of Housing and Community Development dated August 2, 1968, declarations from friends and family members regarding their recollections of use of the property and time of bridge construction, photographs and a video tape of use of the site, and receipts for purchases of building and construction materials for the septic system and bridge.
4. The property owner alleged that camping activities occurred on APN 10-371-003 by the previous property owner Mr. Crowell. Evidence submitted regarding this claim included an Assessor's Appraisal Sheet, and photographs of Mr. Crowell and his family and friends at this property.
5. The information submitted by the property owner and the testimony presented for consideration at the public hearings does not constitute conclusive evidence to substantiate that camping uses or supporting facilities were legally established prior to October 28, 1971 in accordance with the following:
 - Letters from the Planning Department describe the applicable requirements for camping uses and establishment of non-conforming uses. The letters request additional information from the property owner, and do not specify that there are legal, non-conforming or grandfathered camping uses on APN 10-371-001.
 - Based upon the size, terrain, vegetation and proximity of APN 10-371-001 to Big Creek, the 2.37 acre parcel is not physically capable of supporting the property owner's alleged number of campers on-site (including camper accommodations such as trailers or tents, and travel vehicles).
 - The letter from the United States Forest Service does not establish that Mr. Winterberg has a legal camping use on APN 10-371-001.
 - Although there was a "Permit to Construct" issued for the septic system, there is no conclusive evidence that the installation of the septic system (which is primarily located on APN 10-371-001) was ever inspected and approved by the State Department of Housing and Community Development. The property owner submitted a business card of a Housing and Community Development employee and although the back of the card had an "ok to complete" written on it with a signature on it, there is nothing on the card to tie it to the actual permit to construct the septic system on APN 10-371-001. Additionally, the card does not establish that a final inspection or approval was ever conducted for the septic system installation.
 - Based upon standard engineering and Health Code criteria, the size of the septic system (primarily located on APN 10-371-001) is not capable of serving the property owner's alleged number of campers on-site.

- Portions of the septic system are constructed off-site, on United States Forest Service land. No evidence was presented that a permit has ever been issued for this use on U.S. Forest Service land.
- There is evidence that the bridge providing year-round vehicular access to APN 10-371-001 was not in place in September, 1970. There is evidence that the bridge seems to be in place in June, 1971. There was no specific evidence submitted relative to usage from June to October, 1971, and five months usage is not sufficient to establish an annual, seasonal camping use.
- There was no evidence submitted that the bridge was ever properly permitted or approved, and a portion of the bridge is constructed off-site, on United States Forest Service land. There was no evidence presented that a permit has ever been issued for this use on U.S. Forest Service land.
- The receipts for purchase of materials for the septic system and bridge only establish what materials were purchased and when. These receipts do not establish when or where the construction of the facilities actually occurred or that the construction of the facilities was completed legally (in accordance with a permit, including the final sign-off of the permit).
- The Assessor's Appraisal Sheet, signed in April, 1971, describes the existing facilities on APN 10-371-003. The appraisal is for "salvage value" only. The appraisal sheet does not establish that the facilities were ever used for organized camping purposes on this parcel.
- Based upon the time that APN 10-371-003 was acquired by Mr. Winterberg, testimony from the grandson of the previous property owner Mr. Crowell, and the photographs submitted by Mr. Winterberg, there is no evidence to support that the use of this parcel prior to the effective date of Ordinance No. 345 was for anything other than private, family use.

BE IT FINALLY RESOLVED, the Board of Supervisor's action on Appeal No. 96-5 allows the following uses on APN 10-371-001:

- Residential uses and those applicable uses listed in the Single Family Residential - One Acre Land Use Classification of the Fish Camp Town Planning Area Specific Plan, and relevant sections of Title 17 that apply to all other similarly zoned properties. These uses must comply with all applicable Building, Health and Zoning Code regulations, and all Specific Plan regulations.


The Board of Supervisor's action on Appeal No. 96-5 allows the following uses on APN 10-371-003:

- Residential uses and those applicable uses listed in the Multi-Family Residential Land Use Classification of the Fish Camp Town Planning Area Specific Plan, and relevant sections of Title 17 that apply to all other similarly zoned properties.

These uses must comply with all applicable Building, Health and Zoning Code regulations, and all Specific Plan regulations.

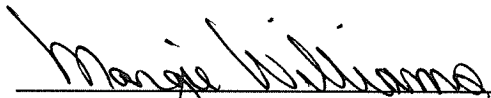
PASSED AND ADOPTED by the Mariposa County Board of Supervisors on this 15th day of October, 1996 by the following vote:

AYES:	Pickard, Reilly, Stewart
NOES:	Balmain, Parker
ABSTAINED:	None
EXCUSED:	None



DOUG BALMAIN, Chairman
Mariposa County Board of Supervisors

ATTEST:



MARGIE WILLIAMS, Clerk of the Board

APPROVED AS TO FORM AND LEGAL SUFFICIENCY



JEFFREY G. GREEN, County Counsel

DEPARTMENT: Planning By: Sarah Williams, Planning Manager Phone: 966-5151

RECOMMENDED ACTION AND JUSTIFICATION: (Policy Item: Yes ___ No X)

Consider additional information submitted by Attorneys Jamison and Baggett. Deny Appeal No. 96-5 and uphold the Planning Commission's ruling on the Planning Director's Use Determination on APNs 10-371-001 and 10-371-003.

Recommended action is based upon the new information submitted to the County, the preponderance of which corroborates the Planning Commission's action.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

The Board considered this appeal at a noticed public hearing on August 19, 1996. The Board continued the hearing and requested additional information from Attorneys Jamison and Baggett.

LIST ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

ALTERNATIVE ACTION - Modify the Planning Commission's decision and allow a lesser or greater intensive use.

NEGATIVE ACTION - Uphold the appeal. There would be no established limits to the camping use on subject parcels.

COSTS: (X) Not Applicable
A. Budgeted current FY \$ _____
B. Total anticipated Costs \$ _____
C. Required additional funding \$ _____
D. Internal transfers \$ _____
COSTS: () 4/5th Vote Required
A. Unanticipated revenues \$ _____
B. Reserve for contingencies \$ _____
C. Source description: _____
Balance in Reserve Contingencies, If Approved:
\$ _____

SPECIAL INSTRUCTIONS:
List the attachments and number the pages consecutively:

Memorandum to Board with Attachments:
1. Information Submitted by Attorney Jamison
2. Information Submitted by Attorney Baggett
3. Correspondence Received Since 8/19/96 Board Hearing
4. Board Minute Order from 8/19/96 Meeting

CLERK'S USE ONLY

Res. No.: 96-433 Ord. No.: _____
Vote - Ayes: _____ Noes: _____
Absent: _____ Abstained: _____
 Approved Denied
 Minute Order Attached No Action Necessary
The foregoing instrument is a correct copy of the original on file in this office.
Date: _____
ATTEST: _____
MARGIE WILLIAMS, Clerk of the Board
By: _____
Deputy

ADMINISTRATIVE OFFICER'S RECOMMENDATION:

This item on agenda as:
 Recommended
 Not Recommended
 For Policy Determination
 Submitted for Comment
 Returned for Further Action
Comment: _____
A.O. Initials: [Signature]

MARIPOSA COUNTY BOARD OF SUPERVISORS

MINUTE ORDER

TO: ED JOHNSON, Planning & Building Director
FROM: MARGIE WILLIAMS, Clerk of the Board *MW*
SUBJECT: WINTERBERG APPEAL; RES. 96-433

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA,

ADOPTED THIS Order on October 15, 1996

ACTION AND VOTE:

10:20 a.m. Ed Johnson, Planning and Building Director;

A) Continued PUBLIC HEARING on Appeal No. 96-5; Planning Director Use Determination (APN 10-371-001 and 10-371-003); William Winterberg, Appellant (Continued from 8/19/96)

BOARD ACTION: Supervisor Pickard advised that he listened to the tapes and reviewed the record of the hearing. Ed Johnson presented updated staff report; reviewed chronology of events and new information that was presented and issues that were raised. He advised that at the previous Board hearing on this matter, the Board requested verification of aerial photo date and information about the septic. The date of the aerial photo has been verified as September, 1970, showing no bridge. Also, new photos have been submitted showing the bridge in place in June, 1971, which staff have verified as authentic. With regards to the septic, stamped plans were submitted showing it in place; and he presented a memorandum from the Health Department which cited concerns about the plans and system. Staff's original determination was based on bridge and septic being in place prior to October, 1971. He further advised that the testimony on frequency of use and number of users relative to camping is still inclusive. Therefore, staff feels this new information substantiates staff's original determination. Staff responded to questions from the Board relative to establishment of the camping as a legal or lawful use; lack of a sign-off of inspection on the septic system; non-conforming and grandfathered uses; and relative to the responsibility of the appellant to submit evidence. Public portion of the hearing was reopened and Chairman advised that input would be received on the new evidence that was submitted. Persons speaking in support of the appellant: John Jamison, Attorney at Law representing the appellant, introduced Mr. Goldman/Outback, who supplied the materials for the septic system. Mr. Goldman advised that he delivered the materials and wrote the check number on the receipt when payment was received; and he remembers doing this project. John Jamison presented additional photographs of activity in the area and responded to questions raised by the Board - 25 years have passed and a lot of changes have occurred and they have had to reconstruct what the law was and determine individual rights in 1971; he reviewed the new evidence that he submitted: a

business card with notations on the back relative to the septic system and procedures at that time for permit processing; timeframes for material delivery for the bridge construction; photos taken at the time the video was taken; advised that campgrounds were regulated by the State Department of Housing, and the regulations that were in existence in 1971 were for public grounds with a fee to be charged, and nothing could be found relative to regulations for private campgrounds and referred to a letter from the State Department of Health to the Planning Department; advised that with regards to the issue relative to the lack of a building permit for the bridge, the implementing legislation is Health and Safety Code Section 17897 and that limits the authority for the State Department of Housing to hotels, motels, and residential units and does not grant authority over other incidental things such as bridges; cited Kings County as still not requiring permits or inspections for private bridges; there were no laws relative to construction of bridges at that time; disagreed with Planning's analysis to determine the number of people that could camp on the property and referred to his previous exhibit containing five separate declarations by different users relative to their use of this site; stated the use took place on weekends and people may not have been aware of the camping use if they were there during the week; stated he feels that they have proved that the bridge and septic system were there and that should show that there was activity; he feels all of their evidence and statements are consistent with the fact that there were large numbers of people there; feels the issue of having 200 people is a separate issue and agrees that something would need to be done to accommodate that number now; advised that the septic system is still open and available for inspection by staff, but he does not feel that the system should be an issue before the Board, just whether the property was being used for camping purposes prior to October 1971; stated he feels that if use is established and there is no ordinance which prohibits expansion of the use, the use can change until an ordinance is adopted; the first time the County limited expansion of use was in a resolution in 1983 and a use permit became required; referred to the photographs he presented and noted that a generator was in the back of Mr. Winterberg's pick up truck and was used for pumping water from the creek and that there are recreational vehicle units of about 24 feet in length; he does not feel that the restriction of 50 people is supported by the evidence - feels Planning used an inappropriate method of calculation, and without the shower facilities and using 25 gallons/day versus 50 gallons/day, the design capacity of the septic system can handle 100 people; he disagreed with the determination to limit use to two times a year as the evidence shows that different groups used the site two to three times a month during the summer season; agrees with limited use not to exceed three times a month and limited to four consecutive days and during the months of June, July, August and September; stated he feels with respect to the recreational vehicles on the site since 1971 and full time camping, that up to ten units during that period of time should be allowed; and asked for clarification of "large recreational vehicle" and suggested that perhaps the design/weight capacity of the bridge could be used as a definition. Mr. Jamison responded to questions from the Board relative to the photographs that were presented. Robert Benton, friend of Mr. Winterberg, stated he was instrumental in building the bridge and it took six weeks to complete it for Memorial Day weekend in 1972; advised he took the video of the tractor driving through and three of them went across in recreational vehicles; during the summer he observed 20 recreational vehicles on the property and they came up regularly until 1987 when his daughter was injured, and they did not come up very often after that. Mr. Benton responded to questions from the Board relative to date of completion of the bridge; definition of recreational vehicles he referred to; and whether the 20 recreational vehicles were on the property at one time. Dora Rusk stated they came and helped on the bridge and cleaned the property so they could camp and for several years they camped during the summer, and in 1971 there was a big celebration with the completion of the bridge. Persons speaking in opposition to the appellant: Art Baggett, Attorney at Law, referred to the certification obtained relative to the date of the aerial photographs presented and noted that one photograph showed that

the bridge was not present on September 9, 1970; agreed that whole issue is whether there is a lawful established use on the site; noted that there is only about one half acre of useable land on the site; requested the appeal be denied as well as staff's determination as there is too much doubt as to whether a lawful established use existed; questioned whether dollars or donations received make this a public campground and stated that should be looked at in the future; agreed that concrete was delivered as evidenced by the receipts; noted that receipts were saved for the septic system but nothing relative to inspections of the system; noted styrene versus PVC pipe was delivered and the rock was delivered after the notation on the back of Mr. Thompson's business card authorizing the project to proceed; presented a letter from Roger Stephens/Civil Engineer, with regards to the septic system and his opinion that the system could serve 46 people; noted that one leach line shown on the map presented encroaches onto Forest Service property and questioned whether that is legal and questioned whether less than the 100 foot setback from the creek is legal; stated he could not find anything past 1977 on dump station regulations; feels there is no proof or testimony of water and toilet usage; questioned if the month of August 1971 is enough to establish grandfathered use - feels it should take a full season of use or some longer period of time; disagrees with staff's determination that the bridge was complete in 1971 - the receipts for the bridge do not indicate purchase of enough concrete for sufficient footings; referred to the April 24, 1996, letter from Dreyfuss/U. S. Forest Service, relative to illegal use of Forest Service land and stated he feels the bridge will also be an issue as it encroaches on Forest Service land; referred to the scaled drawings of the site reflecting camping use and stated he does not feel that you could put 20 camp vehicles on the site itself; is not convinced that the video that was brought back is the same that was shown at the Fish Camp portion of the hearing; we do not have original negatives or film and feels some certification should be produced relative to their authenticity as he was required to do for the aerial photographs; stated there was no evidence presented relative to permits for the bridge; stated the June 1971 photograph of the bridge does not show any bolts - just planks laying and he does not feel the bridge should be considered completed until the bolts were installed in the planking and a side rail added; winter records for 1971 show heavy rains and it makes sense that the bridge was not completed until 1972; expressed concern that documentation appears at this time and not when previous Planning Directors requested information; takes exception to Attorney Jamison's interpretation of expansion requirements; and requested the Board rescind allowance of 50 people to camp, that the Sheriff be requested to monitor use, and that activity be limited to day use. Criss Abshire stated he was building his garage in 1972 and that is when the bridge was bolted down; questioned why if the bridge was finished in May, the ribbon cutting ceremony occurred in June; and commented that he felt there were two types of handwriting on the documents/receipts - a separate writing for the date; stated the bridge would not hold 30,000 pounds or the septic tank delivery truck; stated he has known the person who made the septic tank delivery and it was questioned why the Corp of Engineers never got involved since the bridge crosses a public waterway; and noted that there are not 20 campers in any of the photographs. William Nelson, executor of the Crowell estate, noted that the photographs presented today were of his family and is upset that they were not returned to him with his grandfather's belongings; and commented that Mr. Winterberg claimed he would repair and bring the existing buildings back up to standard when he purchased the property and that has not occurred. Wayne Duncan stated he bought his property in October 1971 in Fish Camp and there was not a completed bridge at that time; the bridge was floored in the spring of 1972 and the outhouses were installed one to three years later; referred to previous testimony relative to the bridge construction dates; and he saw gatherings of 20 people, with the biggest gathering of 40 - 50 when his daughter graduated from high school. Robert Keller stated he has owned property in Fish Camp with his wife for a long period of time and referred to his letter to Planning; stated he feels Fish and Game's jurisdiction is missing in the information relative to a structure crossing a streambed; stated John Thompson was in

Fish Camp when he took over the Silver Tip Lodge operation and he was quite involved in the construction of septic systems on Winterberg's property and he would not operate by just handing a card to Mr. Winterberg; he has tried unsuccessfully to reach Mr. Thompson for input relative to this matter; noted that in the central part of the campground area where the toilet facilities are located, there is a concrete seal with the inscription of 1977 referring to when it was installed; he does not see how the toilets would operate without a pressurized line and no one can recall hearing a generator running in the area. Mr. Jamison offered rebuttal - stated he does not feel it would make any difference if the planks were removed and reinstalled on the bridge, the use occurred prior to 1971; noted that Mr. Abshire did not provide any evidence to support his testimony; referred to Mr. Nelson's testimony and stated that members of his family did use the Crowell property for camping purposes and he objects to staff saying that this property cannot be used for any purposes - both Crowells and Winterberg used the property for family and friends; with respect to Mr. Keller's comments, he stated there were no formal procedures for approval by Fish and Game - in this case, the contractor contacted Fish and Game before the work was done and the statutes of limitation have expired. Mr. Jamison responded to question from the Board relative to action he is requesting, and advised that they want camping for immediate family and friends allowed on the Crowell property; on the Winterberg property, they want the ability to use the camping facilities for the public, with the right to have on-site recreational vehicles with a 24 foot maximum length, and limit the use to two to three times per month from Memorial Day to Labor Day weekend, with a maximum length of four days of consecutive usage. Public portion of the hearing was closed and Board commenced with deliberations. Ed Johnson noted conflicts in the evidence that was presented on both sides and stated he felt the bridge was an indicator of how much use was occurring on the site and when. Staff responded to questions from the Board relative to whether inquiry was made of Fish and Game relative to their procedures at the time for the bridge construction; who actually built the bridge; recommendation of the Planning Commission and why there was no distinction between commercial and non-commercial activity and no regulation of time period for allowing camping; whether any discussion occurred with the Planning Commission to define large recreational vehicle; whether there are any other permits and conditions that would need to be met besides the plumbing and electrical, such as streambed alteration, etc., and satisfying health and safety concerns; and date of purchase of the Crowell parcel. Mr. Jamison responded to question from the Board relative to the photographs he presented, and advised that they were taken on the other side of the creek and not on the subject property. Ed Johnson and Sarah Williams responded to additional questions from the Board relative to the photographs and dates and locations; relative to evidence for the bridge construction and dates and dates of use of the property for camping; whether the installation of two septic tanks would indicate a higher use than residential; and suggestion for defining large recreational vehicle. Jeff Green, County Counsel, responded to question from the Board relative to being able to require today's standards if the Board considers this a grandfathered use and advised that the Board would be approving a permitted use and could not require anything unless it is a health and safety issue. (M)Pickard, (S)Stewart, to deny the appeal and uphold the Planning Commission's decision was tabled for a recess.

12:44 p.m. Recess

12:54 p.m. Supervisor Pickard restated his motion to deny the appeal and uphold the Planning Commission's determination with modifications as follows: further define large recreational vehicles as 15 feet in length and as the vehicle that is towed; and the permitted camping applies to both commercial and private use. Motion was amended, agreeable with maker and second, to redefine recreational vehicle as 24 feet in length. Following further discussion, maker of motion withdrew the motion. Motion by Pickard to deny the appeal as well as the recommendations of the Planning Commission and find that no

camping use was legally established prior to October 28, 1971, and there are no grandfathered rights, died for lack of a second. (M)Balmain (who passed the gavel), (S)Parker, to uphold the Planning Commission's determination and deny the appeal, with the exception that no vehicles over 24 feet in length would be included, and deleting the restriction of day use for one month for small group activity, was held for further discussion. Mr. Jamison and Mr. Baggett responded to questions from the Board relative to clarification of their requests for Board action. Mr. Jamison requested that camping be allowed from Memorial Day to Labor Day, not to exceed two to three times a month for large groups and not to exceed a duration of four days; large recreational vehicles be defined as 24 feet in length; that small groups of ten be allowed on a continuous basis in summer months, and agreed to meeting the health and safety criteria relative to electrical and plumbing issues. Mr. Baggett requested that all public use of camping be rescinded. Ayes: Balmain, Parker; Noes: Reilly, Stewart, Pickard. Motion failed. (M)Pickard, (S)Stewart, Res. 96-433 adopted denying the appeal and determining that there is no grandfathered camping use on the property because no camping use was legally established prior to October 28, 1971/Ayes: Reilly, Stewart, Pickard; Noes: Balmain, Parker. Mr. Jamison requested that the Clerk prepare an administrative record containing action taken by the Planning Director, Planning Commission, and the Board of Supervisors, along with copies of tapes of the hearings. Supervisor Reilly commented on the hearing process with the Commission and the Board of Supervisors and mentioned that she does not want everyone to feel like they need to have counsel for a hearing before the Board. Hearing was closed.

cc: File