MARIPOSA COUNTY BOARD OF SUPERVISORS

MINUTE ORDER

__________________________________________________________

TO: ED JOHNSON, Planning & Building Director

FROM: MARGIE WILLIAMS, Clerk of the Board

SUBJECT: NOVEMBER 12, 1996 - PUBLIC HEARING

__________________________________________________________

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA,

ADOPTED THIS Order on November 12, 1996

ACTION AND VOTE:

B) PUBLIC HEARING to Consider Industrial Standards/Permit Streamlining Program, Including Adoption of (1) Negative Declaration, and (2) Resolution and Ordinance Amending: (a) the General Plan, (b) Titles 2, 16 and 17 of County Code, (c) Appeals Procedures and (d) Environmental Policies and Procedures) (Continued from Policy 10/22/96);

C) PUBLIC HEARING to Consider the Approval or Denial of Amendment #5, Mariposa TPA Specific Plan/Zoning Amendment Application No. 95-1; County of Mariposa, Applicant; and

D) CONTINUED PUBLIC HEARING to Consider Industrial Open Window Period General Plan/Zoning Amendment Applications:
   No. 95-2A and 3A/Robert Northway, Applicant; 
   No. 95-4/Gary Balmain, Applicant 
   No. 95-7A/Wilfred Von Der Ahe, Jr., Applicant; 
   No. 95-8/Richard Doscher, Applicant; 
   No. 95-9/Dennis Seastrom, Applicant; and 
   No. 95-11/James Spacke, Applicant (Continued from 10/8/96)

BOARD ACTION: Chairman Balmain advised of the hearing process. Ed Johnson gave a brief overview of what industrial strategy/permit streamlining is and how we got to this point; and advised there are three areas of permit streamlining to be reviewed: language clean-up for consistency purposes, procedural changes, and policy changes. Ed further advised that performance criteria is scheduled for review in the next calendar year. He advised that he wrote three articles for the newspapers over the last few weeks, and they are attempting to create a balance, looking at fairness, and citizen participation. Throughout the staff presentation, he presented cartoons reflecting opposite points of view and the processes involved in planning matters, and stated a balance needed to be reached. He stated that with regards to these hearings, permit streamlining is the zoning code “rules of the road”; rezonings - currently there are seven applications before the Board for specific properties and this is where the “rules” apply; and the amendments to the Mariposa Specific Plan are being presented as a result of direction given by the Board.
in August, 1996, when other changes were heard. Ed further advised that the basic blueprint for activity in any County or city is the General Plan, which must contain general policy statements; zoning is what allows specific uses on a specific parcel; use permit requirements and building permits allow construction. The industrial sites are only proposing to change the General Plan and zoning by this hearing, and the use permit and building permits would be required later for development. Ed reviewed the history, including formation of the Countywide Economic Development Committee and their efforts, and the review process of the applications accepted during the open window period for industrial rezonings.

Ed Johnson gave a brief review, with a more detailed review later in the staff report, on the three areas of the permit streamlining:

Language clean-up for consistency purposes -  
- Planning Commission responsibilities  
- Use interpretation/allowed uses  
- Procedures and findings  

Procedural changes -  
- Approval authority  
- Review flexibility  
- Noticing and Findings  

Policy change -  
- Administrative practices/additional uses  
- Findings  

Staff responded to questions from the Board relative to proposal for policy changes; staff recommendation to discuss the industrial standard applications for M-1 (light industrial) and M-2 (heavy industrial) zoning and consideration of delaying action on the applications and possibility of establishing a list of permitted and prohibited uses for M-1 zoning and requiring a use permit type determination for any other type of use; and process and timeframes for dealing with the issues before the Board today. There was a question from the audience relative to the process and use of terms for rural and suburban and urban.

3:44 p.m. Recess

4:07 p.m. Further discussion was held concerning the hearing process and consideration of delaying the rezoning applications until after the Title 17 amendment process is complete. Board concurred with starting the process by discussing permit streamlining procedural issues and uses people would like to see in the County. Dick Kunstman stated he felt the Board needed to take formal action to restrict public input during the hearings; and County Counsel responded with regards to the hearing procedures.

An existing list of zoning uses for M-1 and M-2 was made available for the public, and the public portion of the hearing for the industrial standards/permit streamlining was opened for public input with regards to uses they would like to see permitted and prohibited. The following persons provided input:

Alex Crespi commented on the structure of the meeting; shift of requiring that all appeals be heard by the Planning Commission prior to being heard by the Board; stated he felt the following types of industries would be acceptable: light uses for assembly and cottage-type industry that is not heavy manufacturing; agrees that no M-2
heavy industry should be allowed; expressed concern that procedures for environmental protection not be removed in the process and that public noticing procedures remain in effect and he would like to see something better than newspaper noticing; and requested that standards be measurable and definable and not open to interpretation.

Bob DeWitt introduced Doi DeWitt who stated they would like to see the Board appoint a widely-based group of citizens who would volunteer their time and expertise to survey the whole scope of development; they would like to see horticultural-type activities developed in the County due to the new UC Merced Campus and the County’s proximity to markets; and they would like to see the group of citizens pull together the list of permitted and prohibited uses.

Art Baggett, representing the Economic Development Corporation (EDC), read their letter to Planning into the record; commended Ed Johnson and Sarah Williams/Planning Manager, for taking this project on, and noted that it spans four Boards of Supervisors and needs to be resolved; stated he is not speaking as an attorney today, but as a citizen, and he was a member of the Board of Supervisors when this process started; the EDC did not discuss specific industrial uses, but no one wants M-2 uses; he feels there are uses that could be moved to M-1 such as batch cement plant; stated he does not feel people are in favor of heavy manufacturing; and noted the Bay area impacts our air quality.

Mary Dayhoff stated she is a small business owner; stated she supports the streamlining process; her husband is a building contractor and they would not like to see anything prohibited that would obstruct the building industry and cited examples of activities related to the building industry that they support; and further noted that business is here to solve the problem of the consumer.

Dick Kunstman, resident of Midpines since 1980, chemical engineer, referred to his educational background and stated he was a member of the citizen committee that worked on the Title 17 zoning ordinance and its purpose; stated in their efforts, they realized it would not be possible to identify everything that should be permitted, so they established the lists and stated everything else would require a conditional use permit and he feels this direction should continue.

Lowell Young stated he owns a couple of businesses in town; feels we should have guidelines; prohibition of wholesale warehousing would not allow for mini storage; feels setbacks and screening is extremely important; a lot of uses deal with building of homes and we should be careful not to prohibit those things; allowed uses like a concrete batch plant operation should not disturb anyone; boat manufacturing could be important in the Lake Don Pedro area, and stated we should look at those uses to see how they could be allowed.

Mike Bird stated he would like to see very little change in the permitted uses; feels adding uses could hurt neighbors; and there should be restrictions with the uses.

Frances Weir stated they own the Shilling Ranch in Coulterville, and complimented the Board and Planning for working on this process and appreciates the concern about the environment that is shown by the Board; she is a member of a land use committee in Merced for land conservation and agrees that we do not need heavy industrial activities - the atmosphere cannot accommodate it and she referred to the types of pines that are dying due to air pollution; expressed concern with any industry that puts out hydrocarbons and has noise and traffic impacts; understands that cement plants are necessary - but PM-10 particles need to be kept to an area where they can dissipate before
they get into a metropolitan area; stated we need to deal with junkyards; stay away from heavy industry; cited an example in Merced of when a rocket plant was proposed for Santa Nella and it was learned that the emission would be destructive to small agricultural plants and stated those are the kinds of things we do not want; and further stated she agreed with the need for a tax base and with having light industrial activities.

Marion Folker stated she is a new resident of the County and moved here because it is rural and natural; stated she does not want to see oil refinery and smelter activities; stated she felt it is difficult to determine what activities are M-1 and M-2 - that we need to look at each activity and see how it will impact the neighbors and the environment.

Ruth Sellers stated she feels it would be hard to define from the list of uses what would be involved for anything that is listed; stated she supports growth for the County; would prefer rural businesses that are in agreement with the environment; that we should explore uses of the fiber optic medium and publishing; and we need appropriate environmental standards for any businesses for the County and need to know what is involved with each business before knowing if it would be acceptable.

Jim Spacke stated he agrees with Ruth Sellers and does not see a problem with establishing criteria for noise, air, traffic, visual and setback standards in keeping with the environment; and stated he feels it will be impossible to come up with a list of everything to be prohibited; and noted that uses change over time.

Richard Doscher applauded Planning and the Board for taking on this complex issue; and stated he felt performance standards need to be in place before making a list of permitted uses - issues such as noise and hours of operation need to be addressed.

Gail Spilos, Realtor, stated it is difficult to give a list and encouraged the Board to have some M-2 zoning; stated she represented the seller of General Commercial land where Suburban Propane storage tanks are located and Suburban purchased the land because there was no appropriately zoned property for them to relocate in the County; and further stated she agrees with some of the things, but not all of them.

Jack Weir stated he has been involved in an effort in Merced relative to some property to be taken into M-2 zoning near their residence - he was concerned and asked officials what type of industry would be allowed if the zoning for M-2 was approved and he left their offices with the feeling that they were not sure of what zoning a business should be in; noted the Ragu facility in Merced is in M-1 zoning; and stated it is difficult to designate zoning.

Roberta Standen, member of community for 28 years, stated she has been concerned with the imbalance of trade - everything needs to be imported such as clothes, food, and supplies, and we export very little; feels that if this continues over time, it bankrupts a city or town; she would like to see export abilities increased; would not want to see the uses in light industry eliminated; would like to see concrete plants put in M-1 due to the cost of importing that product; food processing is a heavy industry activity, but should allow for some activity in light industry such as the grape processing; stated raw materials are available within the County and we should be able to process them and export them; would like to see expansion of assembly of light equipment; with the development of telecommunications, computer manufacturing and assembly should be expanded and not narrowed so that they can be warehoused, researched or developed; and it should not be so restricted to require permit processing for each activity.
Bob DeWitt stated they raised five children and feels the Board should encourage tourism by finding ways for the children to be involved - they could conduct tours through the County; equestrian activities should be encouraged and this could be made a bluegrass County.

Dave Lapic stated he owns a small business in town; noted that currently the young adults are involved in making beds and flipping burgers - there is a need to develop jobs; feels the chief export now is our children and there are no jobs in the County for students receiving college education’s to return for.

Don Starchman, Starchman Law Offices, stated he feels we need to create jobs in the community; noted that we have services that we need locally that are served by trucking in from outside of the community and that is not economically or environmentally sound; feels we need uses that can be allowed with a use permit and a hearing to address individual uses; stated he represents Dennis Seastrom and his application for rezoning to M-2 for his existing batch plant operation and they would be happy with that use being changed to M-1; and stated he feels the Board is heading in the right direction with these processes.

Kristine Randal stated they are building a home here and just moved from Los Angeles; they chose the inconvenience of living here because of the natural beauty and fresh air and being close to Yosemite and her husband travels a lot; they are buying everything locally; and stated she feels with the shift of power in making decisions that the issues on deciding development needs to remain with the Board; would not want M-2 uses and if she wanted to live next to a factory, she would have moved to Long Beach; she does not want air pollution, Los Angeles has really changed and she is concerned that this area could change; and stated she feels heavy industry will scare the tourists away.

Rose Elsegood stated she does not care about industry; but is concerned that when you get tourists here, there is nothing for them to do other than visit Yosemite; we need to have something that would make the tourists want to stay longer - should consider country things such as ice rinks, horseback riding and folk music.

5:08 p.m. Dinner

6:15 p.m. Marylou Tiner stated she would like to see environmentally sound businesses in the County; would like to look at publishing; questioned why Blue Cross was not allowed when they considered having an office in the County; stated she felt we should have businesses that have to do with the area such as manufacturing and selling of backpacking equipment, sports equipment, camping and tourism type activities; and she feels something like a batch plant should require a special use permit.

Supervisor Parker responded to the question relative to Blue Shields’ efforts to locate their company here and advised that the move did not occur because there was no existing zoning to allow them and they did not want to wait to process a rezoning application.

Ed Johnson advised, for the benefit of anyone new in the audience, the hearing process and stated input is being received from the public relative to permitted and prohibited uses they would like to see in the County.

Attorney Richard Taylor, on behalf of the Kitchen Table Brigade, advised that David Brower has taken an interest in this work; stated he feels we are working on
making everyone’s suggestions on what we want match what is written on paper; and asked when it would be appropriate to talk about industrial standards.

Staff responded to questions relative to discussing industrial standards; and Board concurred with accepting input at this time.

Attorney Taylor stated he agrees with adopting standards in context with proposed uses and presented a letter to the Board on this matter; stated he felt the standards will need work in terms of establishing how they will be applied - they need to be clear, and he cited water wells and whether there is a significant impact on a neighboring well as an example, and stated the same clarity is needed with the grading plan if the slope is greater than twenty percent; asked how the public, property owner, and staff will know when standards are complied with; stated he felt that in other places, the standards are too absolute and that needs to be addressed, and cited drainage as an example.

Dick Kunstman stated another member of the Title 17 Committee was Don Starchman and he argued that there should be upfront development criteria so people know what they need to comply with, but Don also argued persuasively for industry in the County and employment opportunities for young people so they would not need to leave home and he can understand that; and he further commented that Don’s daughter will not want to come back after receiving her college education as there is nothing offered here for her; and he does not know what type of industry could be offered that would challenge and generate an opportunity for our children to come back to after receiving a college education.

Shirley Schmelzer stated she was relieved to see heavy industry cut back and cited types of heavy industry that she does not want to see in the County; some activities would depend on what they are; and stated she feels we need an environmental assessment each time if we do not know potential pollution impacts, size and what neighbors would be affected.

Karen Schwegman referred to the Board’s approval of a comprehensive industrial strategy in November, 1995, which created industrial rezoning for specific properties, and then there was a need for clarity in the permit process and a new process has been brought to the Board; she believes the Board received what it asked for and the question is whether this is what the public wants; with regards to allegations that this gives the Planning Director too much control - she feels they should do what they are hired to do; if the decision is a bad one, the next level of appeal will reverse the decision; the EDC created a plan that won an award from the American Planning Association and it is a vision for the County’s future; without changes, the County will have nothing to offer to entrepreneurs; and we must move forward with this process, if not, it will stagnant and die, and she does not want that to happen.

Barry Brouillette stated he is opposed to all forms of munitions factories; referred to vertically structured agricultural operations and how we might consider them an exception to this process, and noted that the “right to farming” ordinance was just adopted for the County; and noted that several small agricultural activities are beginning and the scale of operation should be considered.

Wayne Parker stated he is a relatively new-comer to the County and agrees with the Board’s decision to step back and look at characteristics for M-1 and M-2 and see what the people are interested in; agrees that progress needs to take place; industry creates jobs and jobs attract people and people attract more people and it becomes a
vicious cycle; he previously resided in Southern California and feels that World War II changed that area a lot; feels hospitals are an exception to M-1 and M-2 zones; referred to uses he felt should be prohibited such as billboards, distillation of bone, dog/cat food factory, junkyards, manufacturing of gases and explosives, refining of petroleum products, salt works, smelting, and tanning and wood distillation, and stated he feels incineration is questionable; and further stated he feels the Board has done its homework on standards and the work that needs to be done and agrees with the route being taken.

Marsh Pitman stated he was impressed by Don Starchman’s comment that it is important to have industry that is economically and environmentally sound; suggested that the Board look at the oak woodland that is to the east of the reservoir - it looks like it has never been cut or logged and natural grazing is occurring and it is a beautiful area, close to town and could be a nature trail; and asked if a formal action needed to be taken to have staff come back with another list of proposed permitted and prohibited uses.

Phyllis Heine stated that with regards to industry, she would oppose anything that would require a heavy traffic flow in an already impacted area; stated she lives on Highway 49 North across from the Northway property being proposed for rezoning and the traffic (truck and vehicle) is already prolific; and the air and noise pollution is bad.

Bob DeWitt further commented that he has been a (real estate) broker since 1932, and zoning will be worth more than the property and no one should get a free ride; and stated whether they are for light or heavy industry, the seven applications should not receive a free zone change.

Karen Schwegman asked if uses on the list have environmental requirements associated with them, and was advised by staff that any proposal to construct those uses would require significant environmental review.

Marian Folker stated she felt permitted uses should include equestrian activities, stables, horticulture and tourism; disagrees with having to export to be a viable community; noted that the County has a lot of retired people and people with second homes and we should take advantage of our position and emphasize tourism; felt that the Suburban Propane facility would be a great location for a tourist activity such as bowling or skating; and stated she feels the locals will be used for something, but many will leave anyway.

Marylou Tiner asked about an opportunity to make comments on the permit streamlining standards.

Roberta Standen stated she attended the hearings this afternoon with the understanding that the public portion was not going to be limited and she will not be able to come later in the hearing and wants to provide input on the permit streamlining.

Discussion was held relative to accepting public input on the streamlining process at this time versus hearing the detailed staff report first. Board concurred with opening the public portion for comments on permit streamlining standards and policy. Input was provided by the following:

Lowell Young stated he had a concern about development, and now about the lack of it; stating we needed to look at development from the point of view of getting a better quality of life for people; stated he likes basically what he has seen with some changes and felt that it will be necessary to have a continuing dialog even after adoption to
accommodate changes; agreed with need to look at environmental issues and traffic impacts, and noted that there are impacts with citizens having to travel to the valley for services; stated he felt industry is very tuned to what is happening in the world and changes have occurred in industry due to environmental concerns; felt we need to have standards that are very strict, and cited as an example that the noise from a sheet metal shop should not be heard outside of the building - the technology and knowledge is there to keep the standards high; stated he feels we have one of the best programs of any County in the State; feels the zoning density needs to be channeled into the TPAs and keep low density in the rest of the County; felt we needed to create job opportunities for our youth who do not go on to college and want to stay here; stated he felt the five acre minimum will keep open space for quality life; and stated he wants to “export our brains and import bucks.”

Dave Lapic stated he feels Lowell Young has made a lot of contributions to the community, including revitalizing the EDC, and noted that their strategic plan has been recognized by the American Planning Association and received favorable review by the Wilderness Society; stated he felt we needed fairness and a County that is friendly to economic growth with clear and concise answers versus taking the chance of buying a piece of property and not knowing what you will be able to do with it.

Roberta Standen thanked the Board for taking comments this evening; noted that three of their four sons live and work in this community and appreciate the opportunity the County has given them; she is not a non-developing developer - each property she has rezoned has been developed to completion; she noted that the permit process has been cumbersome and confusing and cited examples which have resulted in the loss of having businesses move the County and resulted in higher costs having to be passed on to the consumer due to delays; and stated she agrees with simplification of the process and encouraged administrative approval as recommended.

Dick Kunstman stated he can relate to the comments by Roberta Standen - the process is cumbersome; he does a lot of review of proposals by State and Federal agencies and when reading through them finds that the “devil” is in the details; feels streamlining is positive sounding and the result is a reduction in public accountability, and he encouraged the Board to be very careful in implementing these changes.

Barry Brouillette stated that in order for permit streamlining to work, he feels (assuming it will be an ongoing process to be more efficient) that a higher portion of the budget needs to be designated to planning - we need to have a commitment for a plan that is detailed and thorough and responsive to changes; he cited the Sierra Nevada Eco System Study and stated that in order for that money to be spent in a worthwhile way, the County needs to bring into focus that study; stated he felt that when planning accurately, we are as free as we can be in this democracy; in order to preserve the environment, we need to have knowledge of what it consists of; feels with the UC campus coming, no community in the Sierra Nevada has a clear picture of where we are going - we need adequate plans and to be prepared; and he feels it can destroy the environment by allowing people to do what they want on their five acres - density development should occur in TPAs and we need infrastructure.

Dick Kunstman further referred to the Sierra Nevada Eco System report and the identified areas that serve as biological reserves.

Karen Schwegman referred to Barry Brouillette and Lowell Young’s comments and asked for clarification with regards to Barry’s comments and five acre parcels.
Barry Brouillette stated he felt we need to look at providing for different ways for people moving here - stated he is opposed to five acre parcels for long range planning; and proposed that residences be clustered to maintain open space.

Shirley Schmelzer read her letter into the record - challenging Planning to provide documentation for the number of potential jobs which would be created for local residents by the proposed heavy industry and how the jobs would outweigh the potential impacts; and stated she feels the new streamlining illegally eliminates EIRs and eliminates the reviewing authority of the Board.

Marylou Tiner stated she would like the Board to remain the authority for major projects; referred to the fee for filing an appeal with the Planning Commission and noted that no fee is charged for filing an appeal with the Board - however, the new procedures call for all appeals to be heard by the Commission prior to coming before the Board and she feels this makes it difficult for the public to appeal; stated she does not feel section 17.08.120 is clear with regards to how much time a citizen would have to appeal a decision; would also like Planning to deal with rural home industry, rural home enterprise, light industry and TPAs in this process; would like to see an EIR required for parcels being planned for rezoning; and presented 80 petitions signed by residents opposing the open window project and heavy industry.

Bob DeWitt stated he wants a zone specifically for home industry.

Gail Spilos applauded the permit streamlining process as outlined and stated she feels this is good for the community; stated that in selling real estate for seven years and working with clients, she has to constantly refer them to Planning as Title 17 is not clear; and agrees that some decisions need to remain with the Board, but the Planning Director and Commission should be empowered to handle things as well.

There being no further public input, Chairman Balmain thanked everyone for their comments.

7:50 p.m. Board recessed and continued the public hearings and meeting to November 13, 1996, at 9:00 a.m. at the Old Masonic Hall.

November 13, 1996

9:15 a.m. Board reconvened at the Old Masonic Hall

Continued Public Hearings - Ed Johnson gave a brief re-cap of the staff presentation relative to the hearing process and responded to questions relative to procedures for today's hearings.

Chairman Balmain called for additional public input relative to permitted and prohibited uses.

Marylou Tiner presented a scroll that she said contained 158 messages opposing heavy industry.

Public portion relative to uses was closed, and Board commenced with deliberations. Discussion was held relative to giving specific direction to staff concerning zoning issues,
process and timeframes for bringing the matter back, consideration of establishing categories and types of activities versus specific lists of permitted and prohibited uses, consideration of allowing for possible future needs for special kinds of uses, and the need to develop performance standards. (M) Parker, (S) Pickard, Board concurred with staff recommendation to develop generalized categories of permitted, conditional, and prohibited uses and standards for commercial and industrial zones and bring this back to the Board in January, 1997, with the hearing to be renoticed. Attorney Taylor requested clarification and was advised that staff will re-look at the industrial standards in Title 17 as a part of this process, and this process will include commercial zones. Ayes: Unanimous.

10:14 a.m. Recess

10:37 a.m. Chairman Balmain clarified that the staff will now present its report on Title 17 amendments for permit streamlining procedures and then the Board will take general comments from the public, and then follow-up with a detailed report and input.

Ed Johnson presented staff report relative to procedural changes and approval authority and goal statements; and responded to questions from the Board relative to Planned Residential Development (PRD) permits. Sarah Williams noted that Rural Residential and Mountain Home land use classifications currently allow for a greater density with central water and sewer than TPAs.

Public portion was opened for general comments, and Chairman Balmain advised that time would be allowed for additional input after changes on each specific item is reviewed. The following input was received:

Art Baggett, on behalf of EDC and himself, stated he felt there needs to be some permitted uses such as allowing professional offices in Professional Office zones with performance standards for size limitations, etc.; the EDC feels minor subdivisions and mergers should be considered with change in authority and minor variances; suggested that permitted uses come back without environmental work with a size limit for things like Resort Commercial without going through the use permit process; suggested that in the interim of performance standards, perhaps some permitted uses could be allowed with size restrictions; noted that the permit streamlining procedures are for parcels that are already zoned and not for land where people want to change the zoning; feels a mix between economic development and healthy businesses is necessary for maintaining quality of life; and speaking for himself: stated he agrees with some restrictions for historic standards and requested that if further restrictions are going to be placed which constitute a “taking” as they restrict what a person can do with their property, that there should be some incentive for a person to maintain a building, and suggested such things as a tax break, permit fee waiver for remodeling, etc.; and stated he is impressed with the amount of work by the Planning staff and their efforts in working with people on this process. Art responded to questions from the Board relative to ideas for historic standards and incentives as they relate to demolition, and advised that he felt there should be an incentive to keep the building and restore it, and referred to the TPA historic preservation element for restoring buildings without a use permit - suggested that perhaps this could be considered as an incentive, or that staff could provide additional assistance to persons in this situation. Art further stated he felt that we should be business/user friendly as currently if a business wants to move here, they risk buying property and not being able to develop it after a lengthy process.

Jan Mennig stated he is happy to see progress with these matters; speaking for members of the EDC that spent a lot of time and wrote the report, he is happy to see the issues in the report being addressed today; and stated he feels the decision making
process should be reduced to the lowest level commensurate with maintaining control of the subject matter.

Dick Kunstman presented a handout on sustainable growth and referred to the Sierra Nevada Eco System report that Barry Brouillette spoke about earlier in the hearing process, and stated he feels staff should become real familiar with Volume 1 of the report, stated he agrees it is bad to have five acre minimum parcel size and single-family residences, but does not know what the minimum parcel size should be, noted that science can tell us the consequences of our activities, but what we should do is a political decision and a decision by the community as to what level of degradation is acceptable - everything contributes to degradation to some degree; noted that many people came here because it is more environmentally acceptable than city living; and further commented that with regards to Art Baggett's comments on historic preservation that "those who ignore mistakes of the past, are condemned to repeat them."

There was no further public input, and staff addressed the comments provided by the public, noting that authority to approve mergers of parcels at staff level requires designation of an advisory agency and the Planning Commission has that authority - the Planning Director could be designated as a deputy advisory agency; and with regards to minor variances, in most cases there are provisions in State law for staff to be able to review these.

Ed Johnson reviewed recommendation for the approval authority for Planned Residential Development permits to be transferred from the Board to Planning Commission; clarification that the Planning Commission may declare a public nuisance after hearings; approval authority for certificates of compliance to be transferred from Planning Commission to Planning Director with the addition of notice requirements; approval authority for lot line adjustments to be transferred from Planning Commission to Planning Director with the addition of notice requirements; allowance for Planning Director's discretion to refer applications/permits to the Planning Commission; approval authority of minor modifications to use permits to be transferred from Planning Commission to Planning Director which do not result in a cumulative expansion of more than ten percent of the original site or use area, with the addition of findings and notice requirements. It was noted that the elimination of CIM plans which are currently approved by the Board and proposed to be replaced by conditional use permits to the Planning Commission, the approval authority for Neighborhood Commercial 1 and 2 uses in TPAs being transferred from Planning Commission to the Planning Director, are included in the items for Planning to bring back in January. Staff responded to questions from the Board relative to definition of "public nuisance" - it is included in the definition section; timeline between submission of an application and the Planning Director's determination for certificates of compliance; proposed process for noticing the decisions that are made by the Planning Director and the appeal timeframes - notifying will include the newspaper and posting in three public places; and definition of "cumulative expansion" - total of ten percent.

Chairman Balmain asked for public input on this portion:

Lowell Young advised that he just received notice that the grant was awarded to restore the Von der Ahe property in town.

Mike Bird asked for clarification of what is being referred to January in this section. Staff responded that CIM plans and Neighborhood Commercial 1 and 2 are being deferred.
Dick Kunstman suggested that the appeal period be twenty “working” days versus “calendar” days; suggested that notices include the appeal period and suggested that there be a shorter period of which to sign a notice of intent to appeal.

Janet Tarpley stated she feels a terrific job has been done; asked who has current authority for prohibited uses in section 17.88.020 and why it is being changed to the Planning Director. Ed Johnson advised that authority is currently with the Planning Director and there will be further detailed discussion of this issue later in the hearing process.

Ralph Bayless stated he feels it is too much authority for the Planning Director to be able to make use determinations and interpretations - he feels the Planning Commission should make the decisions with them being appealable to the Board; and he stated he feels the ability to expand non-conforming uses by fifty percent is too much authority without holding a hearing.

11:59 a.m. Lunch

1:12 p.m. Mike Bird stated his suggestions leave ninety percent of what is proposed intact, but maintains public accountability; stated he feels Planned Residential Developments can have tremendous traffic impacts and he would like to see the approval authority remain with the Board of Supervisors; he would like to see wording where significant issues go to the Planning Commission for conditional use permit revisions and the Director can handle detail items.

Dick Kunstman asked for an explanation on the difference between a Planned Residential Development (PRD) and a subdivision. Staff advised that a subdivision divides a piece of property into a number of parcels which could be owned by different people, and a PRD is owned by the same persons and is more of a design exercise versus ownership. Sarah Williams further advised that PRDs occur outside of TPAs.

Public portion on this section was closed and Board commenced with deliberations. Staff responded to questions from the Board relative to noticing timeframes - this will be further discussed with the appeals section; change in approval authority for lot line adjustments, certificates of compliance and minor modifications - the only change is for staff to review; and suggestion relative to consideration of including variances in the change in approval authority. Board concurred with the changes as recommended and agreed with having staff bring back the minor variance criteria and mergers in January for consideration.

Ed Johnson presented general staff report on recommended changes for review flexibility.

There were no general comments from the public.

Ed Johnson gave a detailed review of the recommended changes for review flexibility for the following areas: to allow the Planning Commission to initially grant additional time for use permits if the extension is not detrimental to the public health, safety and welfare; to require review of development agreements every three years instead of every year; to allow the Planning Director flexibility with violations to grant additional compliance time if compliance plan is submitted; to allow concurrent processing of applications with differing approval authorities; and to increase the initial life of subdivision maps from one to three years. Staff responded to questions from the Board relative to allowing for
phasing of a project and encouraging the applicant to present a whole project in the beginning; staff advised of wording change for reviewing development agreements - every twelve months the agreement would be reviewed by staff to comply with State law and if there are any problems, the agreement would be referred to the Planning Commission, and otherwise the Commission would review the agreement every three years or earlier if non-compliance occurs; consideration of allowing applicants to apply to the Board or the Commission for an extension on a violation; definition of providing a “reasonable” schedule for abatement in section 17.144.040; whether staff would be able to provide all information that is required when an applicant comes into the office for concurrent processing of applications; and relative to the initial life of subdivision maps and the State law of two years.

Public portion for this section was opened and the following input was provided:

Dick Kunstman asked if a couple of developers could purchase a large tract of property under separate organizations/titles and still do an ongoing project of three years each and would they be piece mealng and conflict with CEQA requirements. Ed Johnson advised that the project(s) would be reviewed for cumulative effects.

Mike Bird asked whether the Planning Director’s decision on the schedule for abatement could be appealable to the Board of Supervisors.

Public portion of this section was closed and Board commenced with deliberations. Board concurred with deleting “reasonable” from section 17.144.040; with dealing with the issue of appealing matters to the Board under the appeals section later in the hearing; and with approving other recommendations as presented by staff.

2:23 p.m. Recess

2:41 p.m. Ed Johnson presented general staff report on recommendations for noticing and findings. Staff responded to questions from the Board relative to change in noticing requirements and State law requirements.

Public portion for this section was opened and the following input was provided:

Mike Bird suggested that for the projects that affect more than 1,000 people, that there be longer newspaper noticing.

Public portion of this section was closed.

Ed Johnson presented detailed staff report on recommendations for noticing and findings: to standardize notice radius to 300 feet from the project parcel boundary in TPAs and 600 feet from the parcel boundaries for all other areas, with requirements for CG-1, CG-2, CR, M-1 and M-2 zones to remain at 2,500 feet - this increases the radius for use determinations and appeals; to standardize notice requirements and increase notice time from 14 days to 20 days and decrease newspaper notice from 14 to 10 days; to add findings to protect adjacent properties from nuisance; and to require a notice for projects that currently require none.

Public portion for this section was opened and the following input was provided:

Mike Bird stated he felt Planning Director determinations should be noticed in a newspaper at least ten days prior to the end of an appeal period to be more consistent. Staff responded relative to logistics in meeting publication deadlines.
Dick Kunstman requested that findings of no detriment to the health and safety and welfare be supported by substantive and quantitative and documented information.

Public portion for this section was closed and the Board commenced with deliberations. Staff responded to questions from the Board relative to noticing projects that affect more than 1,000 people in the newspaper two times; inclusion of definitions in the definition section versus throughout the document; and relative to noticing Planning Director determinations. Board concurred with staff recommendations for this section, and added requirement that for projects affecting more than 1,000 people that the newspaper notice appear twice.

Ed Johnson presented staff report for administrative practices/additional uses change which would require appeals from Planning Director decisions to be heard at the Planning Commission level before being heard by the Board. Ed further noted that the following items were deferred: to allow General Commercial 1 uses in TPAs without specific plans, with Planning Commission review; to add “indoor assembly” use, to allow businesses which are consistent with Mariposa’s rural lifestyle, to General Commercial 1 use list; and adding Industrial Standards applicable to the M-1 and M-2 District to the Use Permit section.

There was no public input on this section and the Board commenced with deliberations. Staff responded to questions from the Board relative to recommendation that all appeals must be heard by the Planning Commission before being heard by the Board of Supervisors. (M)Pickard, (S)Reilly, Board approved recommendation of staff to require all appeals to go through the Planning Commission prior to coming to the Board of Supervisors/Ayes: Reilly, Balmain, Stewart, Pickard; Noes: Parker.

4:04 p.m. Board recessed and continued the public hearings and meeting to November 14, 1996, at 9:00 a.m. at the Board meeting room in the Courthouse.

November 14, 1996

9:06 a.m. Board reconvened at the Board meeting room in the Courthouse.

Continued Public Hearings - Chairman called for general comments from the public:

Art Baggett, speaking on behalf of a lot of people in business, stated he felt authority needed to be given to staff in order to decrease the cost of running the department and the cost of government and to increase efficiency and working with the public from a cost-containment standpoint; noted that the Planning Director’s authority is only what the Board gives and how sensitive he is to the Board’s direction and that constantly changes with the make-up of the Board; stated he feels it is important to standardize and clarify required findings; with regards to the appeals procedure, he would like to see more specific grounds/reasons for filing appeals versus just a right to file, and stated he felt there should be a fee for people to be serious about filing appeals; and questioned whether it is fair to use economic grounds for an appeal.
Supervisor Stewart noted the receipt of a memo from Mike Bird relative to Design Review Overlay and Historical Design Review Overlay; and Supervisor Pickard read the letter received from Bob and Doi DeWitt into the record relative to their suggestion for forming a countywide committee.

Ed Johnson presented detailed staff report on the following use interpretation/allowed uses changes: clarification that Planning Director makes use interpretations; clarification of "prohibited use" sections and allowing Planning Director discretion on "similar uses" as currently stated in the zoning code; and adds findings and notice requirements for similar use determinations. Staff responded to questions from the Board relative to definition of "findings"; existing authority; and how categories could be used for permitted and prohibited uses without an EIR and making findings for permitted uses.

Public portion of the hearing for this section was opened and the following input was received:

Art Baggett stated he felt indoor permitted uses will be different that outdoor uses and he does not feel there is any way to list all of the uses; and stated he felt that noticing Planning Director determinations provide protection for the public.

Public portion was closed and Board commenced with deliberations. Staff responded to questions from the Board relative to the environmental review process for permitted uses and process for allowing for similar uses; and process for dealing with use determinations until performance standards are in place. Jeff Green, County Counsel, suggested that for all of the zones that do not include the ones being brought back in January, that the Board approve the changes as recommended and amended. Ed Johnson asked for clarification of the Board's direction for bringing matters back in January. Art Baggett asked for clarification of which zones will be coming back in January and what issues apply to what. It was clarified that the CIM plan is still in effect until after the actions in January; and that some zones may need to be re-reviewed and the zoning changed if there is not an M-2 zone when the process is finished. Board concurred with the recommended changes.

Ed Johnson presented detailed staff report on the following changes to procedures and findings: clarification of procedures and findings for amendments to the General Plan, Zoning Ordinance text, or zoning designations for specific properties; standardization and clarification of required findings; clarification of standards for design and historic design review; standardization and increase appeal periods; and various changes for consistency. Staff responded to questions from the Board relative to requirement for Planning Commission to act with 60 and 90 days and the State requirements. Art Baggett suggested that this requirement be waivable. Staff advised that changes were not made in findings, they were just moved from another section, so they may need to be addressed. Board concurred with giving direction to staff to review the findings and go through the appropriate process and return with recommendations in January.

10:55 a.m. Recess

11:06 a.m. Ed Johnson and Jay Pawlek/Associate Planner, responded to additional questions from the Board relative to the design review overlay changes. Staff clarified that if an appellant chooses to pay for staff to copy materials submitted for an appeal, that the Planning Department would handle the staff work to duplicate the materials. It was noted that the page numbering and three-hole punching requirements for materials submitted for appeals need to be enforced.
There was no public input on this section, and Board commenced with deliberations. Board concurred with deleting items 1 through 12 from sections B) 17.66.010B and B) 17.67.010B with regards to guidelines for the Planning Director to consider in reaching a determination for design review overlays. Board concurred with adding the requirement for a resolution to be adopted by the Board, as is required for the Planning Commission, at the end of an appeal hearing. Board concurred with staying with the original language relative to not allowing a hearing officer or a member of a Board appointed committee or commission which rendered the decision being appealed to testify before the Board on the appeal matter. Board concurred with the other changes recommended by staff.

Ed Johnson presented detailed staff report on changes to Planning Commission responsibilities to clarify their roles and responsibilities, and to relocate technical requirements for public notice, hearings, findings, appeals and other matters from Title 2 Administration and Personnel, to Title 17 Zoning.

There was no public input on this section, and Board commenced with deliberations. Board concurred with the recommended changes as modified.

Final action on the industrial standards/permit streamlining hearing was continued until after the following hearing.

Public Hearing to consider the approval or denial of amendment No. 5, Mariposa Town Planning Area Specific Plan/Zoning Amendment application No. 95-01. Ed Johnson presented staff report and reviewed the proposed changes. There was no public input on this matter and Board commenced with deliberations.

Discussion was held concerning the actions pending before the Board on these hearings. Chairman Balmain noted that the Board received a lot of documentation, oral and written input, and it was all reviewed and considered and very much appreciated. (M)Pickard, (S)Reilly, first reading was waived and the following ordinances were introduced as recommended by staff, and as amended by the Board during the hearing process: 1) ordinance amending Title 17; 2) ordinance amending Title 2; 3) ordinance amending Title 16; and 4) ordinance amending environmental procedures/Ayes. Unanimous. Direction was given for staff to prepare the ordinances in final form for second reading and adoption on January 7, 1997. Direction was given for staff to bring back the following resolutions on January 7, 1997: 1) adopting the appeal procedures; 2) adopting the General Plan amendments; and 3) for the amendments to the Mariposa TPA Specific Plan; and to bring back the adoption of findings for the industrial standards/permit streamlining program. Public Hearings for the industrial standards/permit streamlining program and Mariposa TPA Specific Plan/Zoning Amendment were continued to January 7, 1997, at 10:00 a.m.

Continued public hearing to consider industrial open window period General Plan/Zoning Amendment applications - Discussion was held concerning the status of the seven pending applications. (M)Parker, (S)Pickard Res. 96-467 adopted directing that the public hearing process for the open window period General Plan/Zoning Amendment applications be concluded without any action at this point; with direction given for staff to reschedule this matter when they are ready and after the Title 17 final issues are adopted/Ayes: Unanimous. Hearing was closed.

1:58 p.m. Closed Session to Interview Applicants for County Administrative Officer Position (County Counsel)
BOARD ACTION:  (M)Pickard, (S)Reilly, action was taken for Board to hold closed session when it reconvenes on November 15, 1996, at 8:30 a.m. at the Mariposa Public Utilities District Office (MPUD), with Mike Coffield, former County Administrative Officer to be present/Ayes: Unanimous.

Board recessed and continued the meeting to November 15, 1996, at 8:30 a.m. at the MPUD Office.

November 15, 1996

8:30 a.m.  Board convened in Closed Session at the MPUD Office to interview applicants for County Administrative Officer position.

4:21 p.m.  Board reconvened in open session with direction given to staff as a result of closed session.

cc: Jeff Green, County Counsel
    File