

From: Doyle, Megan [mailto:Megan.Doyle@BOS.SCCGOV.ORG]
Sent: Thursday, August 07, 2008 7:10 PM
To: kirk@kvartan.com
Cc: Katy.Allen@sanjoseca.gov
Subject: RE: Copy of petition for the neighborhood

Hi Kirk-

Thanks for forwarding these emails to me for my input. I spoke with Katy Allen today by phone and clarified her comments. Katy explained that she was interpreting our office not pursuing opposing the EIR (further than the comments contained in San Jose's response to the draft EIR) as expressing satisfaction.

While I can appreciate her understanding, it was based on our lack of action, not on an affirmative statement on Ken's part.

I'm not sure that Ken or our office can be of further assistance here. Obviously, Ken's time at the City is over and these events were more than two years ago. I would encourage you to work with current City staff and see if it is possible to come to resolution starting from where things are today.

I hope this helps, Kirk. Best of luck.

Megan

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From: Kirk Vartan [mailto:kirk@kvartan.com]
Sent: Wednesday, August 06, 2008 5:09 PM
To: Doyle, Megan
Subject: FW: Copy of petition for the neighborhood
Importance: High

Hi Megan,

Please read the item below as Ken's office was identified. Can you please respond to the accuracy of this? I would like to have a response from you and Ken on this so I can take it to the City Council.

"During the community comment period for the project, staff from CM Yeager's office indicated that they were satisfied with the community's input on the project and not going to pursue challenging the EIR findings."

I really need your help here.

Thanks,

-Kirk

From: Allen, Katy [mailto:Katy.Allen@sanjoseca.gov]
Sent: Monday, August 04, 2008 3:53 PM
To: 'kirk@kvartan.com'; Allen, Katy; Shippey, Christine
Cc: 'Andy Gremett (agremett)'; Fedor, Denelle; Oliverio, Pierluigi; Borden, Timm (PW); MayorEmail
Subject: RE: Copy of petition for the neighborhood

Kirk,

Sorry for the delayed response. I believe it helpful to draw a distinction between comments related to the project versus comments related to the signal modification.

During the community comment period for the project, staff from CM Yeager's office indicated that they were satisfied with the community's input on the project and not going to pursue challenging the EIR findings.

The outcome to this was our technical review of the recommended signal modification based on the traffic analysis report from the Barec and Valley Fair projects.

Katy

From: Kirk Vartan [mailto:kirk@kvartan.com]
Sent: Thursday, July 31, 2008 1:02 AM
To: 'Allen, Katy'; 'Shippey, Christine'
Cc: 'Andy Gremett (agremett)'; 'Fedor, Denelle'; 'Oliverio, Pierluigi'; 'Borden, Timm (PW)'; mayoremail@sanjoseca.gov
Subject: RE: Copy of petition for the neighborhood
Importance: High

Hi Katy,

Thank you for the reply.

Can we agree that both the neighborhood and the Council District 6 office did NOT concur with the proposed modification? I think we can and I will assume that to be the case. If you feel otherwise, please let me know why.

Proceeding under the above assumption being true, the City of San Jose is not obligated to challenge the Final EIR. The Final EIR is not invalid because they did not consider alternative designs to the two presented. That is not my argument.

My argument is this: Now that the development has an approved Final EIR and is ready to move forward, the developer now has to do the necessary design work to satisfy the City of San Jose's request. If they do not, the City of San Jose has already stated that they will not approve the second design if the neighborhood and the Council District 6 did not concur.

There really is not much to discuss. The developer now needs to go back and come up with designs that:

1. Are safe (i.e., not design 1)
2. Are compatible with San Jose residents (i.e, not design 2)

I do not understand what the confusion on this is. San Jose does not need to challenge the EIR because the developer and the City of Santa Clara agreed that San Jose had issues with both designs and that San Jose had jurisdiction and final say.

If you look at the EIR comments, there is much dissention about this traffic issue. Yes, the EIR includes it. How does that translate into San Jose approving something it said it would not approve?

Regards,

-Kirk

From: Allen, Katy [mailto:Katy.Allen@sanjoseca.gov]
Sent: Wednesday, July 30, 2008 4:37 PM
To: 'kirk@kvartan.com'; Allen, Katy; Shippey, Christine
Cc: 'Andy Gremett (agremett)'; Fedor, Denelle; Oliverio, Pierluigi; Borden, Timm (PW)
Subject: RE: Copy of petition for the neighborhood

Hello Kirk,

Chris Shippey and I met yesterday to go over a few things after your message to her Monday night. She is heading out of town, and we both wanted to get back to you as soon as possible to clear up what is still an area of confusion related to the City of San Jose's requirement for evaluation of alternative design options.

When I reread paragraph 3-3, page 4-9, Comments and Responses on the DEIR, I believe that the area of different understanding between ourselves is in our statement that "...The report should analyze other design options, **should** the affected San Jose neighborhood and City Council District 6 Office not concur with the modification, such as"

During public meeting process, project information is presented, public comments are exchanged, and though there may not be consensus - the EIR process pulls together the applicants response to comments. After a series of public meetings, the council office did not advance opposition or a formal challenge to the EIR. For this reason, the

alternative analysis that we reviewed was related to Winchester & Forest (west) with or without the signal.

Options outside the two shown in Exhibit 4-11A were not evaluated because the analysis by Hexagon (Valley Fair's traffic consultant) and Fehr & Peers (Barec's traffic consultant) answered our questions and there was no challenge by the City to the EIR.

Hopefully this is helpful in understanding how we managed our review of the project.

Regards,

Katy