

The Mayor said that he saw 3 possible ways the Council could vote:

- deny the project,
- approve the project as is, or
- possibly approve the project with conditions of approval (COA's)

Marty felt that there were problems with public safety along with traffic and that the benefits of the projects don't override the significant impacts of the project on air quality, natural resources and traffic. He made a motion to uphold the appeal and deny the project...although as Jim Markman said, it really was a motion to ask staff to prepare documents to that effect that would be brought back at the next meeting. It died for lack of a second.

Roy then launched into his litany of reasons to approve the project:

- adding a couple of more minutes on to your commute on Carbon Canyon Road was insignificant (even though the EIR said it was!),
- with the tree mitigation plan that will try to replace the oak and walnut trees either onsite or off, the loss of 1400 trees wasn't a big deal and we would eventually end up with more trees,
- Blackstone and La Floresta developments anticipated generating more pollution than Madrona and since the Council approved them, you can't apply a different standard to Madrona. Of course he forgets that Brea didn't approve the Blackstone project...the County of Orange did.
- homes will be built away from known landslide areas and will be constructed to strict building and fire codes,
- water resources are adequate (but no mention that Madrona households will use 5x more water than Brea households),
- approval doesn't assume liability if built correctly. Future buyers should understand the circumstances under which they are purchasing a home. Of course, he didn't mention that whether Brea is right or wrong, if someone sues over this project, the city still has to pay legal fees to defend it.
- since staff said that the project was consistent with the old General Plan and the Carbon Canyon Specific Plan except in two instances (trees and traffic), it's OK with Roy, (although we showed that it actually is overwhelmingly inconsistent, but Roy never asked us why), and
- the property owners should be able to do anything they want so long as they comply with city codes and the old General Plan. So why did we have a hearing in the first place? Oh, yeah, those 3 pesky significant impacts that can't be mitigated!

He finished by saying regurgitating the benefits assigned by city staff (no, Roy, it was actually the staff AND the developer) without saying if they were enough to override the impacts. Besides property tax and sales tax, he mentioned a whole litany of impact fees that are only paid to cover building the project - they're not benefits to the city. With that, he said he must vote in favor of the project.

Ron then basically said he agreed with Roy's list, but added that this project would give us 65% of the property as open space, something that might not happen if the project was turned down and a new project brought to a later Council. Too bad he doesn't understand the process (without the project, it would all be open space!) or understand his own current General Plan which wouldn't allow more than a maximum of 50 houses (probably more like 35-40 once grading and other hillside management regulations were taken into consideration), so even more of the property would be permanent open space!

So...at this point, there were 2 people who were ready to approve the project as is.

Christine and Brett then stated that they couldn't approve the project as it stood, but might be able to get there if some COA's were put in place to make it palatable to them. They then started on a long laundry list of COA's that could help them say yes to the project:

- no gates on the entrance
- no use of Olinda Drive for construction (only as an emergency exit)
- water reclamation of surface runoff on the entire property
- water reclamation at each home for use on site or nearby
- exact a fee from the applicant that would allow Brea to purchase preferred stock from Cal Domestic to cover the cost of water for the project
- offer solar panels as an option on your home
- although fees would be paid to the city in lieu of building a park, the applicant would also be asked to pay improvement costs for things such as landscaping on the park land that was offered, but turned down
- combining some lots to get at least 16 ½-acre minimum lots that could support custom estate homes
- purchase generators to be located on-site at the water pumping station at the entrance to the project
- Caltrans must approve the permit for the entrance road improvements before any grading on-site can occur
- the tree mitigation plan must be approved by the city planning director before grading on-site may begin

They did discuss their desire to get more benefits for the city by asking the applicant to provide money for the school district to build a gym at the junior high and additional fees for the 57/Lambert interchange improvements which would be beyond the applicant's legal fair share. City Attorney Jim Markman shot these down as problematic and potentially illegal.

The Mayor wanted to negotiate on the spot with the applicant, but Mr. Markman kept explaining to him that the hearing was closed, there wasn't a development agreement that could be negotiated and the Council needed to be very clear what they wanted and then would have to wait to see if the applicant either said yes or no.

The Mayor tried to get his other colleagues to sign off on each item, but Marty said they obviously had a long list and wanted to hear them all before deciding. Roy, at about the halfway point into the list, finally had had enough and said that Brett and Christine were trying to hijack the project. He told them to vote no if they didn't like the project, but the COA's were getting unreasonable.

Basically, it felt like "pay to play"...Brea's for sale!

Staff was asked to go back and put together these wishes into final documents with the COA's. They would then come to the Council at the May 6 meeting. The applicant could then decide what, if any, of the conditions they would agree to. Mr. Markman said that there didn't appear to be any environmental impacts from the conditions asked for, but if he has to bring back some ancillary appendix to the EIR, he would add that to the documents.

The vote to ask staff to prepare the necessary documents to deny the appeal and approve the project with all the draft and new COA's was 3-2 with Brett, Christine and Ron saying yes, while Marty said no (he doesn't want the project) and Roy said no (he wants the project without most of the new COA's).

While there are some interesting ideas that were thrown out, there were many awful ones AND they still didn't get the whole idea that there are 3 areas that can't be mitigated (somehow they just can't seem to grasp that idea!) and that the safety of folks in the canyon, especially those who might buy the Madrona homes, will still be in jeopardy. All our work and they still didn't get that.