



MEMORANDUM

TO: Mayor McLean and Councilmembers **CC:** K. Pulskamp, K. Striplin, P. Brotzman, L. Hardy, F. Follstad

FROM: Joseph Montes

DATE: June 20, 2007

RE: Response to questions raised at the June 12, 2007, City Council meeting regarding the HMNMH Master Plan

The following information is provided for the Council's benefit in response to questions raised at the first City Council hearing on the Henry Mayo Master Plan project. This document is intended to be a public record and a part of the hearing materials.

1. Given the revisions to the scope of the project and the Master Plan, does the project have to be referred back to the Planning Commission?

The Planning Commission serves as the recommending body for the Master Plan. Nothing in the City's municipal code requires a referral back to the Planning Commission if revisions are made to a Project once it is before the City Council. The City Council has the discretion to refer the Project back to the Planning Commission for further consideration.

2. Is it appropriate for the Council to consider the Development Agreement appealed from the Planning Commission as well as a revised Development Agreement?

Procedurally, the City Council must address the Development Agreement, as it was appealed from the Planning Commission. The City Council has several options in this regard:

A. The Council can uphold the Planning Commission's decision to deny the Development Agreement, direct staff to prepare written findings for denial and adopt those by resolution; or

B. The Council can approve the Development Agreement. Because the Project applicant has reduced the scope of the Project, the Development Agreement must be revised to reflect the present description of the Project before it can be approved. Further, because the

Development Agreement is a contract with the Applicant, the Applicant must agree to the revisions to the Agreement. It is my understanding that the revised Development Agreement is Staff's attempt at such a revision, but that the Applicant has not yet agreed to all of the revised terms. Thus, prior to approving a revised Agreement, the Applicant would have to indicate its support for the revisions.

C. The City Council could refer the Development Agreement back to the Planning Commission to finalize the revisions. The Council has the discretion to refer any Development Agreement revisions back to the Planning Commission for further consideration. Before selecting this option, we would advise obtaining concurrence from the Project Applicant that the Applicant wishes to pursue negotiations to revise the Development Agreement and is willing to defer a ruling on its appeal, or is willing to withdraw its appeal.

3. Why not split the entitlement applications for the HMNMH buildings and the G&L Realty Buildings?

Based upon the described Project currently before the Council, the HMNMH and G&L buildings are linked by parking, use, design and phasing. Splitting the buildings into two projects at this point could give rise to a project splitting challenge under CEQA—a project cannot be broken into smaller components to minimize the analysis of the environmental impacts of the project.