

DEPARTMENT OF HEALTH, COUNTY OF RIVERSIDE, CALIFORNIA



PERMIT

NON-TRANSFERABLE

PERMIT ISSUED	5/8/98
PERMIT EXPIRES	5/8/98

APPLICABLE TO:

DOGS CATS

OTHER NUMBER 25 MAX

PERMIT NUMBER	91-213
FEE	\$320.00
PENALTY	0.00
TOTAL	\$320.00

Issued Pursuant to Applicable Riverside County Ordinances and all Amendments.

This permit is granted to the below named person(s) on the condition that said person(s) will comply with the laws, ordinances and regulations that are now or may hereafter be in force by the United States Government, the State of California and the County of Riverside pertaining to the owning, keeping, maintaining or harboring of animals. This Permit must be renewed within 30 days of the expiration date as shown above. This Permit may be suspended or revoked by the Health Officer for cause.

"N-9 COMPANIONS"

NAME KAREN DUERT

FIRST INITIAL LAST

13703 JJ LANE

MAILING ADDRESS

LAKE MATHEWS, CALIF 92570

CITY STATE ZIP

13703 JJ LANE (808) 780-5104

RESIDENT ADDRESS PHONE

BRADLEY P. GILBERT M.D.

Director of Health

[Signature]

Chief of Animal Control

Signature of owner _____

WHITE Permitt
GREEN Accounting
CANARY Health Dept.
PINK Chief of Animal Control
GOLDEN ROD Receipt
PM 34A

DEPARTMENT OF HEALTH, COUNTY OF RIVERSIDE CALIFORNIA

PERMIT

CLASS 11

NON-TRANSFERABLE

PERMIT ISSUED	5/8/98
PERMIT EXPIRES	5/8/2000

APPLICABLE TO:

DOGS CATS

OTHER NUMBER _____

PERMIT NUMBER	95-613
FEE	\$320.00
PENALTY	.00
TOTAL	\$320.00

Issued Pursuant to Applicable Riverside County Ordinances and all Amendments.

This permit is granted to the below named person(s) on the condition that said person(s) will comply with the laws, ordinances and regulations that are now or may hereafter be in force by the United States Government, the State of California and the County of Riverside pertaining to the owning, keeping, maintaining or harboring of animals. This Permit must be renewed within 30 days of the expiration date as shown above. This Permit may be suspended or revoked by the Health Officer for cause.

"K-9 COMPANIONS"

NAME FIRST INITIAL LAST

KAREN MUST

MAILING ADDRESS

13703 J.J. LANE

LANE MATTHEW, CALIFORNIA 92570

CITY STATE ZIP

13703 J.J. LANE (909) 780-5004

RESIDENT ADDRESS PHONE

GARY P. BELDMAN M.D.
 Director of Health
 Chief of Animal Control

Signature of owner _____

WHITE-Permit
 GREEN-Accounting
 GANARY-Health Dept.
 PINK-Chief of Animal Control
 GOLDENROD-Receipts

PM 34A

DEPARTMENT OF ANIMAL SERVICES, COUNTY OF RIVERSIDE, CALIFORNIA

CLASS 111

KENNEL LICENSE

NON-TRANSFERABLE

LICENSE ISSUED	5/9/2000
LICENSE EXPIRES	5/8/2001

APPLICABLE TO:	
DOGS <input checked="" type="checkbox"/>	CATS <input type="checkbox"/>
OTHER <input type="checkbox"/>	
NUMBER	10

LICENSE NUMBER	95-213
FEE	\$320.00
PENALTY	0.00
TOTAL	\$320.00

*Issued Lic
New # of dogs
(using # of dogs
on this one)*

Issued Pursuant to Riverside County Ordinance No. 630

This license is granted for the establishment of the below kennel on condition the person named on the license will comply with the laws, ordinances and regulations that are now or may hereafter be in force by the United States Government, the State of California and the County of Riverside pertaining to the below mentioned kennel. This license must be renewed on the expiration date as shown above. This license may be suspended or revoked by the Health Officer for cause.

Name of Owner	KAREN DHEIT
Name of Kennel	"K-9 COMPANIONS"
Breed	
Location	13703 JJ LANE
Mailing Address	13703 JJ LANE
City and State	LAKE MATHews, CALIFORNIA 92570

GARY N. HELDMAN M.D.
Director of Animal Services

[Signature]
Animal Services Operations Chief

DEPARTMENT OF ANIMAL SERVICES, COUNTY OF RIVERSIDE, CALIFORNIA

Class II

KENNEL LICENSE

NON-TRANSFERABLE

LICENSE ISSUED	5/8/00
LICENSE EXPIRES	5/8/02

APPLICABLE TO:	DOGS <input checked="" type="checkbox"/>	CATS <input type="checkbox"/>
	OTHER <input type="checkbox"/>	
NUMBER	25	

LICENSE NUMBER	95-213
FEE	320.00
PENALTY	0.00
TOTAL	320.00

Issued Pursuant to Riverside County Ordinance No. 630

This license is granted for the establishment of the below kennel on condition the person named on the license will comply with the laws, ordinances and regulations that are now or may hereafter be in force by the United States Government, the State of California and the County of Riverside pertaining to the below mentioned kennel. This license must be renewed on the expiration date as shown above. This license may be suspended or revoked by the Health Officer for cause.

Name of Owner	Karen Diet
Name of Kennel	"K-9 Companions"
Breed	
Location	13703.11 J.N.
Mailing Address	Same
City and State	Lake Mathews, CA 92570

Janise Upstone
Director of Animal Services

[Signature]
Animal Services Operations Chief

DEPARTMENT OF ANIMAL SERVICES, COUNTY OF RIVERSIDE, CALIFORNIA
KENNEL LICENSE
 NON-TRANSFERABLE

Class II
 LICENSE ISSUED
 5/8/02
 LICENSE EXPIRES
 5/8/04

APPLICABLE TO:
 DOGS CATS
 OTHER
 NUMBER: 2.5 MAX

LICENSE NUMBER
 K02-095213
 FEE
 \$210.00
 PENALTY
 TOTAL
 \$320.00

Send NEW PERMIT WITH DOC LIMIT

John Williams

Issued Pursuant to Riverside County Ordinance No. 630

This license is granted for the establishment of the below kennel on condition the person named on the license will comply with laws, ordinances and regulations that are now or may hereafter be in force by the United States Government, the State of California and the County of Riverside pertaining to the below mentioned kennel. This license must be renewed on the expiration date as shown above. This license may be suspended or revoked by the Health Officer for cause.

Name of Owner: Karen Duat
 Name of Kennel: K-9 Companions
 Breed:
 Location: 13703 Gajardo Rd
 Mailing Address: same
 City and State: Lake Mathews, Ca 92570

Janice Upstone
 Director of Animal Services
[Signature]
 Animal Services Operations Chief

DEPARTMENT OF ANIMAL SERVICES, COUNTY OF RIVERSIDE, CALIFORNIA

KENNEL LICENSE

NON-TRANSFERABLE

CLASS II

LICENSE ISSUED	5/8/02
LICENSE EXPIRES	5/8/04

APPLICABLE TO:	DOGS <input checked="" type="checkbox"/>	CATS <input type="checkbox"/>
	OTHER <input type="checkbox"/>	
NUMBER	35 MAX	

LICENSE NUMBER	K02-095213
FEE	\$220.00
PENALTY	
TOTAL	\$220.00

Issued Pursuant to Riverside County Ordinance No. 630

This license is granted for the establishment of the below kennel on condition the person named on the license will comply with the laws, ordinances and regulations that are now or may hereafter be in force by the United States Government, the State of California and the County of Riverside pertaining to the below mentioned kennel. This license must be renewed on the expiration date as shown above. This license may be suspended or revoked by the Health Officer for cause.

Name of Owner	Karen Duec
Name of Kennel	K-9 Companions
Breed	
Location	13703 Gajardo Rd
Mailing Address	same
City and State	Lake Matthews, Ca 92570

Janice Dystone
Director of Animal Services

[Signature]
Animal Services Operations Chief

OH-PM-034 (Rev 12/99)

Distribution: WHITE-License; GREEN-Accounting; CANARY-Health Dept.; PINK-Animal Services Operations Chief; GOLDENROLD-Receipt

DEPARTMENT OF ANIMAL SERVICES, COUNTY OF RIVERSIDE, CALIFORNIA

KENNEL LICENSE

Class II

NON-TRANSFERABLE

LICENSE ISSUED 5/8/02
LICENSE EXPIRES 5/8/04

APPLICABLE TO:	
DOGS <input checked="" type="checkbox"/>	CATS <input type="checkbox"/>
OTHER <input type="checkbox"/>	
NUMBER	3.5 MAX

LICENSE NUMBER K02-095213
FEE \$220.00
PENALTY
TOTAL \$220.00

Issued Pursuant to Riverside County Ordinance No. 630

This license is granted for the establishment of the below kennel on condition the person named on the license will comply with the laws, ordinances and regulations that are now or may hereafter be in force by the United States Government, the State of California and the County of Riverside pertaining to the below mentioned kennel. This license must be renewed on the expiration date as shown above. This license may be suspended or revoked by the Health Officer for cause.

Name of Owner	Karen Duet
Name of Kennel	K-9 Companions
Address	
Location	13703 Cajalco Rd
Mailing Address	same
City and State	Lake Mathews, Ca 92570

Janice Upstone
Director of Animal Services

[Signature]
Animal Services Operations Chief

DOH-PM-034 (Rev 12/99)

Distribution: WHITE-License; GREEN-Accounting; CANARY-Health Dept.; PINK-Animal Services Operations Chief; GOLDENROLD-Receipt

DEPARTMENT OF ANIMAL SERVICES, COUNTY OF RIVERSIDE, CALIFORNIA

KENNEL LICENSE

NON-TRANSFERABLE

Ken 2 Un 2

LICENSE ISSUED
5/8/04
LICENSE EXPIRES
5/8/06

APPLICABLE TO:
DOGS <input checked="" type="checkbox"/>
CATS <input type="checkbox"/>
OTHER <input type="checkbox"/>
NUMBER 35 Max


LICENSE NUMBER
K02-095213
FEE
\$650.00
PENALTY
TOTAL
\$650.00

Issued Pursuant to Riverside County Ordinance No. 630

This license is granted for the establishment of the below kennel on condition the person named on the license will comply with the laws, ordinances and regulations that are now or may hereafter be in force by the United States Government, the State of California and the County of Riverside pertaining to the below mentioned kennel. This license must be renewed on the expiration date as shown above. This license may be suspended or revoked by the Health Officer for cause.

Name of Owner	Karen Duet
Name of Kennel	K-9 Companions
Address	
Location	13703 Cajalco Rd.
Mailing Address	same
City and State	Lake Mathews, CA 92570

Janice McLaughlin
 Director of Animal Services



Animal Services Operations Chief

DOH-PM-034 (Rev. 12/98)

Distribution: WHITE-License; GREEN-Accounting; CANARY-Health Dept.; PINK-Animal Services Operations Chief; GOLDENROLD-Receipt



Riverside County Animal Services
Western Riverside County/City Animal Campus
6851 Van Buren Bl., Riverside, Ca 92509
(951)358-7387 www.rcdas.org

Receipt Number: R10-070683

Receipt Date: Tuesday, May 11, 2010

Person Information: KAREN DUET
13703 CAJALCO RD A
LAKE MATHEWS, CA 92570

PID: P001441

Phone: (951) 780-5004

Received From: KAREN DUET

Check No: 15661

Item:	Animal ID:	Reference No:	Price:	Each:	Amount:
KEN2 UN 2	A999998	K10-095213	\$650.00	1	\$650.00
MISC FEE		OCR 59626	.00	1	.00

Note: Vaccinations provided at the time of Adoption or Redemption may need to be followed-up by boosters. It is the pet owner's responsibility to contact a veterinarian and schedule their pet's vaccination boosters.

Total Fees Due: **\$650.00**

Payments: Cash: \$0.00
Check: \$650.00
Credit Card: \$0.00

Total Payments Received: **\$650.00**

Thank You!

Change: \$0.00
Balance Due: \$0.00

Animal Information:

KENNEL LIC - OF AGE, NEUTERED, UNKNOWN, TRICOLOR OTHER

Riverside Shelter Hours

Monday & Tuesday 10:00AM - 6PM Wednesday 10:00AM - 7PM Thursday & Friday 10:00AM - 6:00PM Saturday 10:00AM - 5:00PM
Closed Sundays and Holidays

Clerk: MESTRADA SHELTER

Transaction Date: 05/11/10

Print Date: 05/13/10 on Software\Chameleon\Crystal\Receipt.rpt

00122

KENNEL LICENSE

NON-TRANSFERABLE

LICENSE ISSUED 5/8/06
LICENSE EXPIRES 5/8/08

APPLICABLE TO:	
DOGS <input checked="" type="checkbox"/>	CATS <input type="checkbox"/>
OTHER <input type="checkbox"/>	
NUMBER	35

LICENSE NUMBER	K06-095213
FEE	\$650.00
PENALTY	\$0.00
TOTAL	\$650.00

Issued Pursuant to Riverside County Ordinance No. 630

This license is granted for the establishment of the below kennel on condition the person named on the license will comply with the laws, ordinances and regulations that are now or may hereafter be in force by the United States Government, the State of California and the County of Riverside pertaining to the below mentioned kennel. This license must be renewed on the expiration date as shown above. This license may be suspended or revoked by the Health Officer for cause.

Name of Owner	Duet, Karen
Name of Kennel	
Field	
Location	13703 Cajalco Road A
Mailing Address	13703 Cajalco Road A
City and State	Lake Matthews, CA. 92570

Robert F. Payne
 Director of Animal Services

J. Cas
 Deputy Director of Animal Services

DEPARTMENT OF ANIMAL SERVICES, COUNTY OF RIVERSIDE, CALIFORNIA

KENNEL LICENSE

NON-TRANSFERABLE

LICENSE ISSUED 5/8/06
LICENSE EXPIRES 5/8/08


APPLICABLE TO:
DOGS <input checked="" type="checkbox"/> CATS <input type="checkbox"/>
OTHER <input type="checkbox"/> _____
NUMBER <u>35</u>

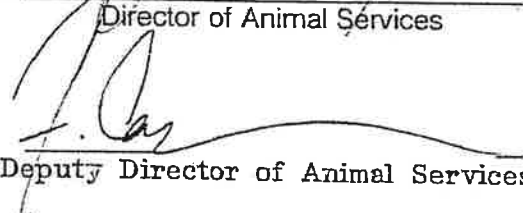
LICENSE NUMBER K06-095213
FEE \$650.00
PENALTY \$0.00
TOTAL \$650.00

Issued Pursuant to Riverside County Ordinance No. 630

This license is granted for the establishment of the below kennel on condition the person named on the license will comply with the laws, ordinances and regulations that are now or may hereafter be in force by the United States Government, the State of California and the County of Riverside pertaining to the below mentioned kennel. This license must be renewed on the expiration date as shown above. This license may be suspended or revoked by the Health Officer for cause.

Name of Owner <u>Duet, Karen</u>
Name of Kennel _____
Breed _____
Location <u>13703 Cajalco Road A</u>
Mailing Address <u>13703 Cajalco Road A</u>
City and State <u>Lake Matthews, CA. 92570</u>


Director of Animal Services


Deputy Director of Animal Services

DEPARTMENT OF ANIMAL SERVICES, COUNTY OF RIVERSIDE, CALIFORNIA

KENNEL LICENSE

NON-TRANSFERABLE

Ken 2 Un 2

LICENSE ISSUED 5/8/04
LICENSE EXPIRES 5/8/06

APPLICABLE TO:	
DOGS <input checked="" type="checkbox"/>	CATS <input type="checkbox"/>
OTHER <input type="checkbox"/>	
NUMBER 35	MARK

LICENSE NUMBER K02-095213
FEE \$650.00
PENALTY
TOTAL \$650.00

Issued Pursuant to Riverside County Ordinance No. 630

This license is granted for the establishment of the below kennel on condition the person named on the license will comply with the laws, ordinances and regulations that are now or may hereafter be in force by the United States Government, the State of California and the County of Riverside pertaining to the below mentioned kennel. This license must be renewed on the expiration date as shown above. This license may be suspended or revoked by the Health Officer for cause.

Name of Owner	Karen Diet
Name of Kennel	K-9 Companions
Breed	
Location	13703 Cajalco Rd.
Billing Address	same
City and State	Lake Mathews, CA 92570

Janice McLaughlin
Director of Animal Services

Animal Services Operations Chief

(Rev. 12/99)

Distribution: WHITE-License; GREEN-Accounting; CANARY-Health Dept.; PINK-Animal Services; Operations Chief; GOLDENFOLD-Receipt

COUNTY OF RIVERSIDE - ANIMAL SERVICES POLICY

POLICY NUMBER: 200-35

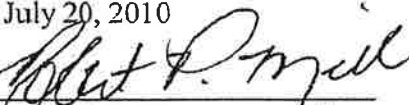
SUBJECT: Issuance of "Sentry/Guard/Attack Dog Business Permit" as required by Health and Safety Code § 121916¹

SCOPE: Applies to all staff involved in the investigation and issuance of the Sentry/Guard/Attack Dog Business Permits.

FORMS: "Standards for Sentry, Guard, and Attack Dog Businesses," "Sentry, Guard, or Attack Dog Business Permit Application," "Sentry/Guard/Attack Dog Business Permit," and "Guard Dog Operator Permit."

EFFECTIVE DATE: July 20, 2010

APPROVED BY:


Director of Animal Services

PURPOSE: To establish a uniform procedure for accepting applications, and issuing Sentry/Guard/Attack Dog Business Permits under Health and Safety Code Section 121916.

DEFINITION:

(H&S 121880)

For purposes of this chapter, "sentry dog" means any dog trained to work without supervision in a fenced facility and to deter or detain unauthorized persons found within the facility.

(H&S 121881)

For purposes of this chapter, "guard dog" or "attack dog" means any dog trained to guard, protect, patrol, or defend any premises, area, or any dog trained as a sentry or to protect, defend, or guard any person or property, or any dog such as a schutzhund or any similar classification.

(H&S 121885)

For purposes of this chapter, "narcotic detection dog" means a dog trained to locate narcotics by scent.

(H&S 121890)

For purposes of this chapter, "tracker dog" means a dog trained to work with a handler in searching facilities for burglary suspects and other intruders.

Defts' Exhibit 4
Date 9-9-10
Depo of: R. Miller
Patricia Shew, CSR 5024

¹ All references shall be to the California Health & Safety Code unless otherwise indicated.

COUNTY OF RIVERSIDE - ANIMAL SERVICES POLICY

FINDINGS (H&S 121916):

- (a) Any person or owner of an attack, guard, or sentry dog that operates or maintains a business to sell, rent, or train an attack, guard, or sentry dog shall obtain a permit from the local public agency or private society or pound contracting with the local public agency for animal care or protection services.
- (b) Each local agency shall adopt and implement a permit program for the administration of subdivision (a) by the local agency or private society or pound contracting with the local public agency for animal care or protection services. A local agency may charge a fee for the issuance or renewal of a permit required under this section. The fee shall not exceed the actual costs for the implementation of the permit program.
- (c) For purposes of this section, "local public agency" means a city, county, or city and county.

APPLICATION PROCEDURE (H&S 121917):

- (a) An applicant, when applying for a permit pursuant to Section 121916, shall furnish the Department of Animal Services (DAS) with a list of the types of animals to be kept or used for any purpose, with the estimated maximum number of animals to be kept.
- (b) An applicant shall furnish DAS with the name and the telephone number of a responsible person who has access to the animals and who can be reached during an emergency.
- (c) An applicant shall notify DAS when any animal for which a permit is required is kept or maintained.
- (d) DAS may establish the maximum number of animals to be kept or maintained on the premises.
- (e) Any permittee shall report in writing any change in address, ownership, or management to DAS at least 15 days prior to any change.
- (f) Any permittee shall maintain a register of the name and address of any person from whom any animal is received and to whom any animal is sold, traded, or given. This list shall be available to a DAS representative upon demand.

DAS STAFF MEMBER REVIEWING APPLICANT MUST INSURE THE FOLLOWING REQUIREMENTS ARE MET:

REQUIREMENTS

Identification (H&S 121920):

COUNTY OF RIVERSIDE - ANIMAL SERVICES POLICY

1. The owner or trainer of any attack, guard, or sentry dog shall ensure that the dog has been microchipped and the owner's identification has been entered into a local or national registry. Each dog subject to this chapter shall, at all times, wear an identification tag. The identification tag shall be provided by the attack, guard, or sentry dog company furnishing the dog for hire. The identification tag shall contain, but not be limited to, the following information:
 - a. The name of the dog.
 - b. The name, address, and telephone number of the attack, guard, or sentry dog company furnishing the dog for hire.
 - c. Any telephone number so provided shall be to a telephone that is manned by a person 24 hours per day every day of the year so that calls from the public may be received and answered.
2. The identification tag required by this section shall be in addition to any tag required or issued by any agency of government to show that a dog has been immunized or inoculated against disease.

Vaccinations (*H&S 121921*):

No person shall sell, give away, or let for hire any guard, attack, or sentry dog unless the following requirements have been met:

- a. The dog has been immunized against distemper and rabies.
- b. A certificate of rabies vaccination has been issued by a licensed veterinarian and is current and valid.

Humane Transportation (*H&S 121925*):

Whenever a dog subject to this chapter is being transported anywhere, it shall be well secured in a humane manner as will reasonably prevent its possible escape.

Visit by Dog Handler (*H&S 121930*):

Each dog subject to this chapter shall, wherever and whenever the dog is kept when on actual duty, be visited by a dog handler at least once every 12 hours to insure that the dog's physical condition, its surroundings, and its food and water supply are adequate, and if inadequate, the dog handler shall do whatever may be necessary to correct or remedy the situation. Such dog handler shall be either the owner of, or be employed by or under contract to, the sentry dog company that placed the dog on assignment.

Keeping of Sentry Dogs, Guard Dogs, Attack Dogs, or Trackers (*H&S 121935*):

- a. No person shall take a sentry dog or a tracker or attack dog into, or keep a sentry dog or a tracker or attack dog in, any portion of any business establishment that is

COUNTY OF RIVERSIDE - ANIMAL SERVICES POLICY

open to the general public, unless any such dog is accompanied or kept by a dog handler.

- b. No person shall keep any sentry dog or tracker or attack dog in any business establishment or any other place open to the general public at any time unless there is posted at every entrance of the business establishment or place a sign of sufficient size and design to warn persons that such a dog is used at the business establishment or place.
- c. This section does not apply to dogs used and accompanied by peace officers or uniformed employees of private patrol operators and operators of a private patrol service who are licensed pursuant to Chapter 11.5 (commencing with Section 7580) of Division 3 of the Business and Professions Code, while employees are acting within the course and scope of their employment as private patrolmen.
- d. This section does not apply to any dog handler or his or her dog while training the dog or another dog handler.

Violations (H&S 121940):

Except as otherwise specified in this chapter, any person violating any provision of this chapter, other than Section 121945, shall be subject to a civil penalty of up to one thousand dollars (\$1,000) per violation. The action pursuant to this chapter may be prosecuted in the name of the people of the State of California by the district attorney for the county in which the violation occurred and in the appropriate court, or by the city attorney in the city in which the violation occurred and in the appropriate court.

Penalties (H&S 121945):

1. In lieu of the civil penalties imposed pursuant to Section 121940, any person or owner who violates The Dog Act of 1969, Health & Safety §§ 121875 *et. seq.*, shall be subject to a civil penalty of up to one thousand dollars (\$1,000), or shall be prohibited from selling, renting, leasing, or training any attack, guard, or sentry dog for up to 30 days, or both.
2. For a second offense, the person or owner shall be subject to a civil penalty of up to two thousand five hundred dollars (\$2,500), or a prohibition from selling, renting, leasing, or training any attack, guard, or sentry dog for up to 90 days, or both.
3. For a third offense, the person or owner shall be subject to a civil penalty of up to five thousand dollars (\$5,000) or a prohibition from selling, renting, leasing, or training any attack, guard, or sentry dog for up to six months, or both.
4. For a fourth or any subsequent offense, the person or owner shall be subject to a civil penalty of up to ten thousand dollars (\$10,000) or a prohibition from selling, renting, leasing, or training any attack, guard, or sentry dog for up to one year, or both.

COUNTY OF RIVERSIDE - ANIMAL SERVICES POLICY

5. For purposes of this section, a violation that occurred over five years prior to the most recent violation shall not be considered. An action for recovery of the civil penalty and for a court order enjoining a person or owner from engaging in the business of selling, renting, leasing, or training any attack, guard, or sentry dog for the period set forth in this section, may be prosecuted by the district attorney for the county where the violation occurred, or the city attorney for the city where the violation occurred, in the appropriate court.

Permit Suspension and Revocation (*H&S 121919*):

DAS may suspend or revoke a permit issued under this chapter if DAS determines that the permittee has done any of the following:

1. Made any false statement or given any false information in connection with an application for a license or a renewal or reinstatement thereof.
2. Violated any provisions of this chapter.
3. Violated any rule of an ordinance adopted pursuant to the authority contained in this chapter.
4. Committed any other act that would be grounds for denial of a license.

County of Riverside

DEPARTMENT OF ANIMAL SERVICES
6851 Van Buren Blvd, Riverside, CA 92509

Robert Miller
DIRECTOR

Office: 951-358-7387
Fax: 951-358-7300
Website: www.rcdas.org

SENTRY, GUARD, OR ATTACK DOG PREMISES PERMIT APPLICATION

Application must be typed or legibly printed. Attach another page if additional space is required. Fee must be submitted along with the application and is non-refundable. Application must be signed. Permit expires annually on the same month and day as originally issued. It is the responsibility of the permittee to know when a permit is due to expire and to make application for renewal.

Sentry Dog Companies (as defined in Health and Safety Code section 121895) and any person who furnishes a dog for hire for use in guarding any area, with or without supervision, or to deter or detain unauthorized persons (hereinafter referred to as "Guard Dog Operators"), must complete and submit a **separate** GUARD DOG PREMISES PERMIT APPLICATION for **each** premises, area, or yard where a Sentry, Guard, or Attack Dog is assigned, kept or maintained by the Guard Dog Operator for any period of time, within the unincorporated area of Riverside County or any city in which the Department provides animal control services; including, but not limited to, the office, base facility, training facility, or kennel utilized by the Guard Dog Operator, **and** any premises, area, or yard to which a Sentry, Guard, or Attack Dog has been furnished for hire.

Application for GUARD DOG PREMISES PERMIT - \$XX annually (Check correct box)

New
 Renewal Previous SENTRY, GUARD, OR ATTACK DOG PREMISES PERMIT number _____

Premises address _____

Describe premises _____

Owner/renter/leaser of premises _____

Name of business located at premises _____

Type of business _____

List the types of animals to be kept on the premises or used for any purpose and the estimated maximum number of animals to be kept:

A written description (including name, license number, and microchip number) of each Sentry, Guard, or Attack Dog to be assigned and/or maintained on the premises must be submitted along with an application for a SENTRY, GUARD, OR ATTACK DOG PREMISES PERMIT. An individual Sentry, Guard, or Attack Dog may not be assigned and/or maintained on the premises unless such notice has been provided.

SEE REVERSE SIDE

00007

Name and telephone number of responsible person who has access to the animals on the premises and who can be reached during an emergency:

The "Sentry, Guard, or Attack Dog Premises" must be in compliance with the standards and requirements of Riverside County Department of Animal Services and California Health & Safety Code, including posted sign specifications, when the application is submitted to the Department.

The Guard Dog Operator shall also submit a specific written statement to any person who obtains a Sentry, Guard, or Attack Dog for hire. A copy of that statement, including the required acknowledgment by the person who obtained the dog for hire, must be submitted along with an application for a SENTRY, GUARD, OR ATTACK DOG PREMISES PERMIT for the premises of that person. Health & Safety Code Section 121915 also requires that the local law enforcement agency and fire department be notified in writing of where a Sentry, Guard, or Attack Dog is to be maintained or assigned. A copy of such notification must be submitted along with an application for a SENTRY, GUARD, OR ATTACK DOG PREMISES PERMIT.

Name of Guard Dog Operator _____

Business name of Guard Dog Operator _____

Business address _____

Telephone number that is answered 24 hours per day _____

Current GUARD DOG OPERATOR PERMIT number _____

Any false, misleading, or fraudulent statement knowingly or deliberately made on this application may result in denial of the application or revocation of an issued permit.

I CERTIFY UNDER PENALTY OF PERJURY THAT THE INFORMATION I HAVE GIVEN IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. I AGREE TO HAVING ALL REQUIRED NOTICES, UNLESS OTHERWISE SPECIFIED, SENT BY U.S. MAIL TO THE BUSINESS ADDRESS PROVIDED ON THIS APPLICATION. I HAVE RECEIVED A COPY OF RIVERSIDE COUNTY DEPARTMENT OF ANIMAL SERVICES STANDARDS FOR SENTRY, GUARD, AND ATTACK DOG BUSINESSES, AND A COPY OF THE DOG ACT OF 1969 (HEALTH AND SAFETY CODE 121875 ET. SEQ.). I HAVE READ, UNDERSTAND, AND AGREE TO COMPLY WITH THOSE SECTIONS OF CODE AND ACKNOWLEDGE MY DUTY TO BECOME AWARE OF ANY AMENDMENTS OR NEW LAW RELATING TO SENTRY, GUARD, AND ATTACK DOGS AND GUARD DOG OPERATORS.

Signature of Applicant _____ Date _____

OFFICE USE ONLY

- Premises inspected and found to be in compliance with XXXX
- Premises inspected and found not to be in compliance with XXXX

By _____

Date _____

- Premises not inspected

COUNTY OF RIVERSIDE
Department of Animal Services

STANDARDS FOR SENTRY, GUARD AND ATTACK DOG BUSINESSES
Health and Safety Code 121918

All applicants and permittees must meet the requirements as outlined in the California Health and Safety Code, including, but not limited to sections 121920, 121921, 121925, 121930, and 121935. Permittees shall also comply with the following standards:

- (a) Any permittee shall supply each animal with sufficient, good, and wholesome food and water as often as the feeding habits of the animal requires.
- (b) Any permittee shall keep each animal and animal quarters in a clean and sanitary condition.
- (c) Any permittee shall provide each animal with proper shelter and protection from the weather at all times. An animal shall not be overcrowded or exposed to temperatures detrimental to the welfare of the animal.
- (d) Any permittee shall not allow any animal to be without care or control in excess of 12 consecutive hours.
- (e) Any permittee shall take every reasonable precaution to ensure that no animal is teased, abused, mistreated, annoyed, tormented, or in any manner made to suffer by any person or by any means.
- (f) Any permittee shall not maintain or allow any animal to exist in any manner that is, or could be, injurious to that animal.
- (g) Any permittee shall not give an animal any alcoholic beverage, unless prescribed by a veterinarian.
- (h) Animals that are natural enemies, temperamentally unsuited, or otherwise incompatible, shall not be quartered together or so near each other as to cause injury, fear, or torment.
- (i) Any tack equipment, device, substance, or material that is, or could be, injurious or cause unnecessary cruelty to any animal shall be prohibited.
- (j) The permittee shall keep or maintain animals confined at all times on the premises for which the permit has been issued, unless special permission to remove the animals has been obtained from the Department. The permittee shall have full responsibility for recapturing any animal that escapes.
- (k) The permittee shall give proper rest periods to any working animal. Any confined or restrained animal shall be given exercise proper for the individual animal under the particular conditions.

COUNTY OF RIVERSIDE
Department of Animal Services

(l) The permittee shall not work, use, or rent any animal that is overheated, weakened, exhausted, sick, injured, diseased, lame, or otherwise unfit.

(m) No animal that the local public agency has suspended from use shall be worked or used until released by the local public agency.

(n) The permittee shall display no animal bearing evidence of malnutrition, ill health, unhealed injury, or having been kept in an unsanitary condition.

(o) The permittee shall keep or maintain each animal in a manner as may be prescribed to protect the public from the animal, and the animal from the public.

(p) The local public agency may order any animal to be taken to a veterinarian for examination or treatment.

(q) The permittee shall display no animal whose appearance is, or may be, offensive or contrary to public decency.

(r) The permittee shall allow no animal to constitute or cause a hazard or be a menace to the health, peace, or **safety** of the community.

(s) The permittee shall isolate at all times any sick or diseased animal from any healthy animal, and adequately segregate them so that the illness or disease will not be transmitted from one animal to another. In the case of pet shops, no sick, diseased, or injured animal defined by this chapter may be maintained on the premises for any purpose. Any sick or injured animal shall be isolated and given proper medical treatment.

(t) The permittee shall immediately notify the owner of any animal held on consignment or boarded if the animal refuses to eat or drink beyond a reasonable period, is injured, becomes sick, or dies. In case of death, permittee shall retain the body for 12 hours after notification has been sent to the owner.

COUNTY OF RIVERSIDE
DEPARTMENT OF ANIMAL SERVICES
6851 Van Buren Blvd. Riverside, California 92509
951-358-7387

GUARD DOG OPERATOR PERMIT

PERMIT NUMBER _____

EXPIRES _____

NAME OF GUARD DOG OPERATOR _____

BUSINESS NAME _____

BUSINESS ADDRESS _____

TELEPHONE NUMBER _____

TYPE OR NATURE OF BUSINESS _____

Permit must be conspicuously posted at business address and must be presented to an Animal Control Officer or other law enforcement officer on demand.

ROBERT MILLER, DIRECTOR

County of Riverside

DEPARTMENT OF ANIMAL SERVICES
6851 Van Buren Blvd. Riverside, CA 92509

Robert Miller
DIRECTOR

Office: 951-358-7387
Fax: 951-358-7300
Website: www.rcdas.org

SENTRY, GUARD, OR ATTACK DOG PREMISES PERMIT APPLICATION

Application must be typed or legibly primed. Attach another page if additional space is required. Fee must be submitted along with the application and is non-refundable. Application must be signed. Permit expires annually on the same month and day as originally issued. It is the responsibility of the permittee to know when a permit is due to expire and to make application for renewal.

Sentry Dog Companies (as defined in Health and Safety Code section 121895) and any person who furnishes a dog for hire for use in guarding any area, with or without supervision, or to deter or detain unauthorized persons (hereinafter referred to as "Guard Dog Operators"), must complete and submit a **separate** GUARD DOG PREMISES PERMIT APPLICATION for each premises, area, or yard where a Sentry, Guard, or Attack Dog is assigned, kept or maintained by the Guard Dog Operator for any period of time, within the unincorporated area of Riverside County or any city in which the Department provides animal control services; including, but not limited to, the office, base facility, training facility, or kennel utilized by the Guard Dog Operator, and any premises, area, or yard to which a Sentry, Guard, or Attack Dog has been furnished for hire.

Application for GUARD DOG PREMISES PERMIT - \$XX annually (Check correct box)

New
 Renewal Previous SENTRY, GUARD, OR ATTACK DOG PREMISES PERMIT number _____

Premises address 3951 VERNON
RIVERSIDE 92509

Describe premises FAC. KENNEL & TRAINING FACILITY

Owner/renter/leaser of premises DAVID & PHILIP REARER

Name of business located at premises ADLERHORST INT. INC.

Type of business POLICE DOG TRAINING

List the types of animals to be kept on the premises or used for any purpose and the estimated maximum number of animals to be kept:

POLICE SERVICE DOGS - BETWEEN 15 + 50

A written description (including name, license number, and microchip number) of each Sentry, Guard, or Attack Dog to be assigned and/or maintained on the premises must be submitted along with an application for a SENTRY, GUARD, OR ATTACK DOG PREMISES PERMIT. An individual Sentry, Guard, or Attack Dog may not be assigned and/or maintained on the premises unless such notice has been provided.

SEE REVERSE SIDE

Depts' Exhibit 5
Date 9-9-10
Depo of: Miller
Patricia Shaw, CSR 5024

00021

Name and telephone number of responsible person who has access to the animals on the premises and who can be reached during an emergency:

DAVID REAVER 951 [REDACTED] MIKE REAVER 951 [REDACTED]

The "Sentry, Guard, or Attack Dog Premises" must be in compliance with the standards and requirements of Riverside County Department of Animal Services and California Health & Safety Code, including posted sign specifications, when the application is submitted to the Department.

The Guard Dog Operator shall also submit a specific written statement to any person who obtains a Sentry, Guard, or Attack Dog for hire. A copy of that statement, including the required acknowledgment by the person who obtained the dog for hire, must be submitted along with an application for a SENTRY, GUARD, OR ATTACK DOG PREMISES PERMIT for the premises of that person. Health & Safety Code Section 121915 also requires that the local law enforcement agency and fire department be notified in writing of where a Sentry, Guard, or Attack Dog is to be maintained or assigned. A copy of such notification must be submitted along with an application for a SENTRY, GUARD, OR ATTACK DOG PREMISES PERMIT.

Name of Guard Dog Operator _____

Business name of Guard Dog Operator _____

Business address _____

Telephone number that is answered 24 hours per day _____

Current GUARD DOG OPERATOR PERMIT number _____

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I CERTIFY UNDER PENALTY OF PERJURY THAT THE INFORMATION I HAVE GIVEN IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. I AGREE TO HAVING ALL REQUIRED NOTICES, UNLESS OTHERWISE SPECIFIED, SENT BY U.S. MAIL TO THE BUSINESS ADDRESS PROVIDED ON THIS APPLICATION. I HAVE RECEIVED A COPY OF RIVERSIDE COUNTY DEPARTMENT OF ANIMAL SERVICES STANDARDS FOR SENTRY, GUARD, AND ATTACK DOG BUSINESSES, AND A COPY OF THE DOG ACT OF 1969 (HEALTH AND SAFETY CODE 121875 ET. SEQ.). I HAVE READ, UNDERSTAND, AND AGREE TO COMPLY WITH THOSE SECTIONS OF CODE AND ACKNOWLEDGE MY DUTY TO BECOME AWARE OF ANY AMENDMENTS OR NEW LAW RELATING TO SENTRY, GUARD, AND ATTACK DOGS AND GUARD DOG OPERATORS.

Signature of Applicant [Signature] Date 19 Aug 10

OFFICE USE ONLY	
<input type="checkbox"/>	Premises inspected and found to be in compliance with XXXX
<input type="checkbox"/>	Premises inspected and found not to be in compliance with XXXX
By _____	

Page 1

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA
 2 FOR THE COUNTY OF RIVERSIDE, MAIN
 3 --000--
 4
 5 COUNTY OF RIVERSIDE, A
 6 POLITICAL SUBDIVISION OF THE)
 6 STATE OF CALIFORNIA,)
 7 PLAINTIFF,)
 8 -VS-) CASE NO. RIC 10016132
 9 LEVERN FREEMAN, GERALDINE)
 10 FREEMAN; GEORGE DUET; KAREN)
 10 DUET; KINGSDEN'S K-9)
 11 COMPANIONS & K-9 SECURITY)
 11 AND DETECTION INT'L LLC AND)
 12 DOES 1 THROUGH 50,)
 12 INCLUSIVE,)
 13 DEFENDANTS.)
 14
 15
 16 DEPOSITION OF RITA GUTIERREZ
 17
 18 DATE AND TIME: MONDAY, SEPTEMBER 20, 2010
 19 9:10 A.M. TO 12:20 P.M.
 20 PLACE: FULLERTON, LEMANN, SCHAEFER
 20 & DOMINICK
 21 141 NORTH "D" STREET
 21 FIRST FLOOR
 22 SAN BERNARDINO, CALIFORNIA 92401
 23 REPORTED BY: PATRICIA A. SHAW, C.S.R. #5024
 24
 25 JOB NO.: PS-0920

Page 2

1 A P P E A R A N C E S
 2
 3
 4 FOR THE PLAINTIFF:
 5
 6 COUNTY OF RIVERSIDE
 7 BY: PATTI F. SMITH, DEPUTY COUNTY COUNSEL
 8 3960 ORANGE STREET
 8 FIFTH FLOOR
 8 RIVERSIDE, CALIFORNIA 92501
 9 (951) 955-6300
 10
 11 FOR THE DEFENDANTS:
 12
 13 FULLERTON, LEMANN, SCHAEFER & DOMINICK
 14 BY: MICHAEL R. SCHAEFER, ESQ.
 14 215 NORTH "D" STREET
 15 FIRST FLOOR
 15 SAN BERNARDINO, CALIFORNIA 92401
 16 (909) 889-3691
 17
 18 ALSO PRESENT:
 19 LE VERN FREEMAN
 20 KAREN DUET
 20 TRAVIS DUET
 21
 22
 23
 24
 25



Page 3

1 I N D E X
 2
 3 WITNESS EXAMINED BY PAGE
 4
 5 RITA GUTIERREZ MR. SCHAEFER 4, 87
 6 MS. SMITH 86
 7
 8
 9
 10 E X H I B I T S
 11
 12 DEFENDANTS' DESCRIPTION PAGE
 13 1 - DECLARATION OF RITA GUTIERREZ 58
 14 2 - AFFIDAVIT IN SUPPORT OF
 15 INSPECTION WARRANT 19
 16 3 - COUNTY OF RIVERSIDE KENNEL AND
 16 CATTERY RENEWAL INSPECTION
 17 4 - KENNEL LICENSE 5-8-06 30
 18 5 - RIVERSIDE COUNTY PLANNING DEPARTMENT
 19 CONDITIONS OF APPROVAL 34
 20
 21
 22
 23
 24 LEGEND . . . INDICATES SPEAKER TRAILS OFF,
 25 NOT FINISHING SENTENCE.

Page 4

1 SAN BERNARDINO, CALIFORNIA
 2 MONDAY, SEPTEMBER 20, 2010, 9:10 A.M.
 3 -000-
 4
 5 RITA GUTIERREZ,
 6 CALLED AS A WITNESS, HAVING BEEN FIRST DULY SWORN BY
 7 THE DEPOSITION OFFICER, TESTIFIED AS FOLLOWS:
 8
 9 EXAMINATION
 10 BY MR. SCHAEFER:
 11 Q. PLEASE STATE YOUR NAME AND SPELL YOUR LAST
 12 NAME.
 13 A. RITA GUTIERREZ, G-U-T-I-E-R-R-E-Z.
 14 Q. ARE YOU EMPLOYED BY THE COUNTY OF
 15 RIVERSIDE?
 16 A. YES.
 17 Q. WHAT IS YOUR POSITION OVER AT THE COUNTY OF
 18 RIVERSIDE?
 19 A. FIELD SERVICES COMMANDER.
 20 Q. HOW LONG HAVE YOU BEEN A FIELD SERVICES
 21 COMMANDER FOR THE COUNTY OF RIVERSIDE?
 22 A. APPROXIMATELY THREE YEARS.
 23 Q. DID YOU WORK FOR THE COUNTY OF RIVERSIDE
 24 BEFORE YOU TOOK THE POSITION OF FIELD SERVICES
 25 COMMANDER?

Page 5

1 A. YES.
 2 Q. CAN YOU GIVE ME A SUMMARY OF YOUR
 3 EMPLOYMENT HISTORY WITH THE COUNTY OF RIVERSIDE,
 4 WORKING BACKWARDS FROM WHEN YOU TOOK THE POSITION OF
 5 FIELD SERVICES COMMANDER?
 6 A. PRIOR TO BEING A FIELD SERVICES COMMANDER,
 7 I WAS IN A POSITION CALLED CHIEF OF OPERATIONS.
 8 PRIOR TO THAT, I WAS CALLED A SENIOR ANIMAL
 9 CONTROL OFFICER.
 10 PRIOR TO THAT I WAS AN ANIMAL CONTROL
 11 OFFICER.
 12 Q. HOW LONG HAVE YOU WORKED FOR THE COUNTY OF
 13 RIVERSIDE ALL TOTAL?
 14 A. 12 YEARS.
 15 Q. APPROXIMATELY HOW LONG WERE YOU CHIEF OF
 16 OPERATIONS?
 17 A. I BELIEVE ABOUT TWO YEARS.
 18 Q. I KNOW THESE AREN'T GOING TO ADD UP TO
 19 TWELVE. I'M JUST TRYING TO GET A FEEL FOR THINGS.
 20 A. SURE.
 21 Q. HOW LONG DO YOU THINK YOU WERE A SENIOR
 22 ANIMAL CONTROL OFFICER?
 23 A. ABOUT TWO YEARS.
 24 Q. HOW LONG WERE YOU AN ANIMAL CONTROL
 25 OFFICER?

Page 6

1 A. THE REMAINDER.
 2 Q. AS FIELD SERVICES COMMANDER, WHAT DO YOU DO
 3 ON A DAY-BY-DAY BASIS? GIVE ME A GENERAL
 4 DESCRIPTION OF YOUR JOB FUNCTION RESPONSIBILITIES.
 5 A. I OVERSEE ALL OF THE FIELD SERVICES DUTIES
 6 UNDER THE IMMEDIATE SUPERVISION OF DEPUTY DIRECTOR
 7 FRANK CORVENO; THAT ENTAILS KNOWING THE OPERATIONS
 8 FROM RIVERSIDE TO BLYTHE, THE WHOLE COUNTY, ALL OF
 9 THE ANIMAL CONTROL OFFICERS INCLUDING SERGEANTS,
 10 LIEUTENANTS, AND CAPTAINS.
 11 THE NAME THAT I GAVE YOU PREVIOUSLY ARE
 12 WHAT OUR OLD TITLES WERE, BUT SINCE THEN WE HAVE
 13 GONE TO THE MILITARY TITLES. THIS INCLUDES MAKING
 14 SURE THAT CRITICAL CALLS GET TAKEN CARE OF, TRAINING
 15 CONTRACTS TO MAKE SURE THE OBLIGATIONS OF FIELD
 16 SERVICES ARE BEING MET VIA THE CONTRACTS THAT WE
 17 HAVE WITH CONTRACT CITIES, MEETINGS ABOUT ORDINANCES
 18 AND ORDINANCE ORDER CHARGES, THE TRAINING THAT THE
 19 DIRECTOR DEEMS APPROPRIATE FOR ME TO GO OUT AND
 20 TRAIN FOR OTHER AGENCIES, INCLUDING CALIFORNIA
 21 ANIMAL CONTROL DIRECTOR'S ASSOCIATION, AND OTHER
 22 ORGANIZATIONS THAT REQUIRE ADDITIONAL TRAINING, AND
 23 THEY WANT US TO PROVIDE THAT TRAINING, H.R. ISSUES
 24 WITH MY TEAM. I THINK THAT'S A GOOD OVERVIEW.
 25 Q. OKAY.

Page 7

1 A. WELL, MAY I INTERRUPT?
 2 Q. SURE.
 3 A. SO SORRY. ONE OF OUR BIGGEST ONES IS ALSO
 4 REVIEWING THE ANIMAL CRUELTY CASES THAT WE SEND IN
 5 TO THE DISTRICT ATTORNEY.
 6 Q. LET'S KIND OF DEFINE WHAT YOU CALL FIELD
 7 SERVICE DUTIES. I TAKE IT THAT YOUR DEPARTMENT
 8 SERVES A BASIC ANIMAL CONTROL FUNCTION FOR THE
 9 UNINCORPORATED AREAS?
 10 A. YES.
 11 Q. IN OTHER WORDS, TO PUT IT IN LAY TERMS,
 12 YOU'RE THE DOG CATCHERS FOR THE UNINCORPORATED
 13 AREAS. I KNOW YOU HATE THAT WORD.
 14 A. I DON'T HATE IT, BUT YES.
 15 Q. YOUR OFFICERS DRIVE THE ANIMAL CONTROL
 16 TRUCKS AND RESPOND TO CALLS FOR ANIMAL CONTROL
 17 SERVICES FROM THE GENERAL PUBLIC?
 18 A. YES.
 19 Q. THE SAME THING FOR CERTAIN INCORPORATED
 20 CITIES THAT CONTRACT WITH THE COUNTY FOR THAT
 21 PURPOSE?
 22 A. YES.
 23 Q. ALSO YOU ENFORCE LICENSING PERMIT RULES, DO
 24 KENNEL INSPECTION AND THAT SORT OF THING, YOUR
 25 AGENCY DOES?

Page 8

1 A. YES.
 2 Q. IF YOU HAVE CALLS FOR SERVICE FROM THE
 3 PUBLIC THAT RESULT IN WHAT YOU THINK IS A POTENTIAL
 4 ANIMAL CRUELTY CASE, YOU'LL PUT THOSE CASES TOGETHER
 5 AND PRESENT IT TO THE DISTRICT ATTORNEY FOR
 6 PROSECUTION?
 7 A. YES.
 8 Q. YOU WERE SORT OF THE CHIEF OF POLICE, IF
 9 YOU WILL, BASICALLY RESPONSIBLE, IN THE BROADEST
 10 SENSE, FOR ALL THOSE OPERATIONS?
 11 A. YES.
 12 Q. IN YOUR TIME AS FIELD SERVICES COMMANDER, I
 13 IMAGINE THAT YOU SPEND VERY LITTLE TIME IN THE FIELD
 14 ACTUALLY PERFORMING FIELD SERVICES DUTIES; YOU'RE
 15 MORE OF AN ADMINISTRATOR. IS THAT FAIR TO SAY?
 16 A. IT'S FAIR TO SAY THAT THE PERCENTAGE IS
 17 SPENT MORE AS AN ADMINISTRATOR THAN IN THE FIELD.
 18 Q. HOW MUCH TIME DO YOU SPEND IN THE FIELD
 19 ACTUALLY PERFORMING FIELD SERVICE DUTIES?
 20 A. I WOULD SAY IT'S ABOUT 15 PERCENT OF MY
 21 WEEK.
 22 Q. WHEN YOU GO OUT AND DO FIELD SERVICE
 23 DUTIES, WHAT DO YOU DO? DO YOU DRIVE ONE OF THE
 24 TRUCKS AND GO ON PATROL? IS THERE ANYTHING IN
 25 PARTICULAR THAT YOU DO?

Page 9

1 A. SPECIFIC CRITICAL CASES, INCLUDING ANIMAL
 2 CRUELTY CASES THAT NEED AN ADMINISTRATOR THERE TO
 3 BRING BACK THE INFORMATION TO THE DIRECTOR AS TO
 4 WHAT IS GOING ON. INSPECTIONS, INSPECTION WARRANTS,
 5 SEARCH WARRANTS, LARGE CASES. I WAS PART OF THE
 6 TEAM THAT ACTUALLY RESPONDED TO KATRINA, ACTIONS
 7 LIKE THESE. NOT ONLY DO YOU HAVE TO WORK AT THE
 8 JOB, BUT YOU ALSO HAVE TO MANAGE THE TEAM THAT'S OUT
 9 THERE.
 10 Q. WHAT DID YOU DO BEFORE YOU WENT TO WORK FOR
 11 THE COUNTY OF RIVERSIDE?
 12 A. I WAS A STATE HUMANE OFFICER FOR THE INLAND
 13 VALLEY HUMANE SOCIETY FOR FOUR YEARS.
 14 Q. WHAT DID YOU DO BEFORE THAT?
 15 A. I ACTUALLY BRED DOGS. HAD MY OWN
 16 HOUSEKEEPING BUSINESS AND WAS A HOMEMAKER.
 17 Q. HAVE YOU EVER BEEN IN THE BUSINESS OF
 18 TRAINING DOGS?
 19 A. NO.
 20 Q. DO YOU HAVE ANY EXPERIENCE OR EXPERTISE IN
 21 THE FIELD OF TRAINING DOGS?
 22 A. NO.
 23 Q. WHEN WAS THE FIRST TIME THAT YOU EVER HEARD
 24 OF MY CLIENT, THE DUETS? YOU CAN ANSWER THAT BY
 25 REFERENCE TO EITHER A DATE OR BY THE CIRCUMSTANCES

Page 10

1 UNDER WHICH YOU FIRST HEARD OF THEM.
 2 MS. SMITH: JUST TO INTERJECT. YOU DIDN'T
 3 GO OVER THE GROUND RULES OF A DEPOSITION.
 4 YOU'VE HAD A DEPOSITION BEFORE, BUT I JUST
 5 WANT TO COUNSEL YOU ON THE RECORD NOT TO GUESS OR
 6 SPECULATE, BUT IF YOU DON'T RECALL, YOU CAN SAY
 7 THAT. WE JUST WANT TO GET THE TRUTH OUT.
 8 THE DEPONENT: WHAT I WAS GOING TO RESPOND
 9 TO YOU WAS I WOULDN'T BE ABLE TO RECALL A DATE. I
 10 WOULD SAY MANY YEARS AGO.
 11 Q. (BY MR. SCHAEFER:) DO YOU REMEMBER THE
 12 CIRCUMSTANCES UNDER WHICH YOU FIRST BECAME AWARE OF
 13 THE DUETS?
 14 A. DURING -- JUST THE NORMAL BANTERING OF THE
 15 ANIMAL CONTROL OFFICERS AND THEIR DUTIES, AS TO
 16 GOING OUT AND DOING THE NORMAL KENNEL INSPECTIONS.
 17 Q. HOW DID THE DUETS COME UP IN THAT CONTEXT,
 18 IF YOU RECALL?
 19 A. I BELIEVE IT WAS "IT'S THE TIME FOR US TO
 20 GO OUT AND INSPECT THE DUETS AGAIN."
 21 Q. ONE OF YOUR ANIMAL CONTROL OFFICERS SAYING,
 22 "HEY, WE'RE GOING TO GO OUT AND DO A KENNEL
 23 INSPECTION"?
 24 A. CORRECT.
 25 Q. DID THEY PROVIDE ANY ADDITIONAL INFORMATION

Page 11

1 TO YOU AT THAT TIME?
 2 A. NO. A REGULAR CALL.
 3 Q. SO AT THAT TIME, AT LEAST AS FAR YOU WERE
 4 CONCERNED, YOUR OFFICER SAID, "I'M GOING TO GO OUT
 5 TO THE DUETS' KENNEL ON A ROUTINE INSPECTION," AND
 6 YOU SAID, "OKAY. THAT'S FINE. GO DO IT."
 7 A. I DON'T BELIEVE I RESPONDED. I WAS JUST
 8 HEARING THE BANTERING, THE TALKING.
 9 Q. WHEN WAS THE NEXT TIME YOU HEARD OF THE
 10 DUETS?
 11 A. I BELIEVE THE NEXT CRITICAL TIME -- I SAY
 12 THAT BECAUSE OF SOMETHING THAT WAS ACTUALLY BROUGHT
 13 TO MY ATTENTION WAS WHEN A KENNEL INSPECTION CAME TO
 14 LIGHT OR WAS ABOUT TO GO ON IN 2008.
 15 Q. WHAT HAPPENED, FROM YOUR PERSPECTIVE?
 16 A. FROM MY PERSPECTIVE, FROM WHAT I RECALL,
 17 MS. DUET HAD INQUIRED OF THE DEPARTMENT ON WHAT
 18 WOULD IT TAKE TO INCREASE HER KENNEL OR CHANGE HER
 19 KENNEL LICENSE FROM A II -- AND I'M SORRY. I DON'T
 20 RECALL IF IT WAS A III OR A IV -- BECAUSE SHE WAS
 21 GOING TO BE GAINING OR WANTING TO PURCHASE
 22 ADDITIONAL PROPERTY, AND WHAT WOULD IT TAKE TO MAKE
 23 THIS HAPPEN, SO TO SPEAK. THIS CONVERSATION WAS
 24 FROM ROB MILLER TO MYSELF:
 25 "WHAT WOULD IT TAKE?"

Page 12

1 MY RESPONSE WAS, "I DON'T KNOW, MS. DUET.
 2 WE WILL HAVE TO GO TO PLANNING TO FIGURE THAT OUT."
 3 Q. WAS MS. DUET THERE FOR THAT CONVERSATION,
 4 OR WAS THAT JUST YOU AND MR. MILLER?
 5 A. CORRECT.
 6 Q. WAS THERE ANY FOLLOW-UP ACTIVITY ON YOUR
 7 PART SHORTLY AFTER THE TIME OF THE CONVERSATION?
 8 A. SHORTLY AFTER THAT I ATTENDED A MEETING AND
 9 MS. DUET WAS THERE, SO WAS PLANNING AND A WHOLE
 10 VARIETY OF OTHER DEPARTMENTS WITHIN THE COUNTY. I
 11 COULDN'T EVEN RECALL HOW MANY.
 12 THEY OUTLINED THE PROCESS THAT MS. DUET WAS
 13 GOING THROUGH TO GET THIS NEW KENNEL PERMIT. THE
 14 ONLY COMMENTS THAT CAME FROM ME AND A STAFF MEMBER
 15 THAT WAS WITH ME WAS DURING THIS PROCESS HOW MANY
 16 ANIMALS WOULD MS. DUET BE ALLOWED TO HAVE ON THE
 17 PROPERTY, WHAT WAS OUR RESPONSIBILITY.
 18 IT WAS -- I BELIEVE IT WAS WE WERE GOING TO
 19 WAIT WHILE THE PROCESS WAS GOING ON AND, THEN WE
 20 WOULD START OUR KENNEL INSPECTIONS AGAIN, BECAUSE
 21 THE PROCESS SHOULD BE A REASONABLE AMOUNT OF TIME
 22 FOR HER TO GAIN THE NEW KENNEL PERMIT.
 23 Q. HELP ME GO OVER THIS. WHEN YOU WENT TO
 24 THAT MEETING, YOU HAD THE UNDERSTANDING THAT THE
 25 DUETS WERE APPLYING FOR PERMISSION TO HAVE MORE DOGS

Page 13

1 IN THEIR KENNEL?
 2 A. YES. INSTEAD OF CLASS I, I BELIEVE THEY
 3 WERE ASKING FOR A CLASS III, WHICH WOULD ALLOW THEM
 4 TO HAVE MORE ANIMALS.
 5 Q. BY WAY OF BACKGROUND, WE TALK ABOUT THESE
 6 CLASS I AND CLASS III. IS THAT A CLASS I OR
 7 CLASS III KENNEL LICENSE?
 8 A. YES.
 9 Q. WHO HAS THE AUTHORITY TO ISSUE A KENNEL
 10 LICENSE?
 11 A. PLANNING -- IF I MAY EXPLAIN.
 12 Q. SURE.
 13 A. MY UNDERSTANDING IS IT GOES THROUGH
 14 PLANNING, AND ONCE PLANNING HAS STATED THEY HAVE MET
 15 ALL THE REQUIREMENTS FOR THE CLASS, WHATEVER, THEN
 16 IT COMES TO OUR DEPARTMENT TO GO OUT THERE, DO AN
 17 INSPECTION, AND THEN THE DEPARTMENT SIGNS OFF AND
 18 GIVES A LITTLE PIECE OF PAPER THAT SAYS THEY NOW
 19 HAVE A CLASS WHATEVER PERMIT.
 20 Q. ARE THESE PERMITS LIKE CLASS I, CLASS II,
 21 CLASS III -- IS THAT WHAT THEY'RE CALLED?
 22 A. YES.
 23 Q. WHAT ARE THE REQUIREMENTS FOR A CLASS I
 24 PERMIT?
 25 A. IT ALL GOES THROUGH PLANNING.

Page 14

1 Q. SO YOU DON'T KNOW?
 2 A. I DON'T KNOW.
 3 Q. LIKEWISE, YOU WOULD NOT KNOW WHAT THE
 4 REQUIREMENT FOR A CLASS II AND A CLASS III KENNEL
 5 IS?
 6 A. OR IV, NO.
 7 Q. IF PLANNING SAYS, "OKAY. MS. DUET, YOU CAN
 8 HAVE A CLASS III LICENSE. IT'S OKAY WITH PLANNING,"
 9 DOES THE APPLICANT FOR THE KENNEL PERMIT HAVE TO
 10 COME OVER TO YOUR DEPARTMENT TO GET ANY APPROVALS IF
 11 IT'S OKAY WITH PLANNING THAT THEY HAVE A CLASS III
 12 PERMIT?
 13 A. MY UNDERSTANDING FROM THE DOCUMENTS I HAVE
 14 SEEN IN THE PAST IS ONCE PLANNING SIGNS OFF ON IT,
 15 WHICH MY UNDERSTANDING AGAIN IS THE LAST PERSON TO
 16 SIGN OFF ON IT, IT COMES TO THE DEPARTMENT.
 17 Q. YOUR DEPARTMENT?
 18 A. MY DEPARTMENT. WE FILL OUT JUST A BASIC
 19 NEED TO GO IN AND INSPECT SO THAT WE CAN GIVE THIS
 20 PERSON THEIR KENNEL LICENSE AND THAT'S WHAT WE DO.
 21 Q. WHEN YOU GO TO INSPECT AFTER PLANNING HAS
 22 SAID THAT IT'S OKAY TO HAVE A KENNEL PERMIT, WHAT DO
 23 YOU INSPECT FOR? WHAT DOES ANIMAL SERVICES INSPECT
 24 FOR IN THE INSPECTION THAT IT DOES IN CONNECTION
 25 WITH THE ISSUANCE OF A KENNEL PERMIT AFTER PLANNING

Page 15

1 HAS GIVEN ITS AN APPROVAL?
 2 A. BASIC KENNEL STANDARDS.
 3 Q. WHAT IS THAT?
 4 A. AND THE NUMBER OF DOGS WHICH IS ALLOWED
 5 WITHIN THE CLASS PERMIT, AND THEY'RE BASIC KENNEL
 6 STANDARDS, AND I DON'T HAVE A COPY OF THEM HERE, BUT
 7 THEY'RE SIMPLE THINGS LIKE AIR-TIGHT CONTAINERS FOR
 8 A ROOM FULL OF DEBRIS, FECES, WHAT-NOT, KENNELS THAT
 9 ARE CLEAN AND SANITARY AND IMPERVIOUS TO AND MADE
 10 OUT OF MATERIALS THAT AREN'T GOING TO SUCK UP, YOU
 11 KNOW, URINE, FECES, AND THINGS LIKE THAT, AND THE
 12 NUMBER OF DOGS. WE'RE SEEING IF IT IS A CLEAN AND
 13 SAFE AND HEALTHY ENVIRONMENT FOR THE ANIMALS.
 14 Q. NOW, ONCE PLANNING APPROVES THE KENNEL
 15 PERMIT AND ANIMALS SERVICES APPROVES A KENNEL
 16 PERMIT, HOW LONG IS THAT KENNEL PERMIT GOOD FOR?
 17 A. THERE IS A ONE-YEAR FEE OR I BELIEVE A
 18 TWO-YEAR FEE WHICH THE KENNEL OPERATOR CAN OPT FOR
 19 AND IT'S A DIFFERENT FEE AND. I THINK YOU SAVE MORE
 20 MONEY WHEN YOU PURCHASE THE TWO-YEAR LICENSE.
 21 Q. NOW, IS ISSUING KENNEL PERMITS SOMETHING
 22 THAT FALLS WITHIN YOUR RESPONSIBILITY AS CHIEF OF
 23 OPERATIONS, OR IS THERE SOMEBODY ELSE IN YOUR
 24 DEPARTMENT THAT IS NOT UNDER YOUR COMMAND THAT'S GOT
 25 RESPONSIBILITY FOR ISSUING AND RENEWING THESE KENNEL

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1 PERMITS?
 2 A. IT'S ROB MILLER OR ONE OF THE DEPUTY
 3 DIRECTORS THAT HAS TO SIGN ON THE KENNEL PERMIT
 4 ITSELF. I HAVE A TEAM, JUST AN OFFICE ASSISTANT,
 5 WHO ACTUALLY COMPILES THE INFORMATION AND HANDS THEM
 6 THE FILE.
 7 Q. SO YOUR RESPONSIBILITY IS ONE OF YOUR
 8 OFFICERS HAS TO GO OUT AND INSPECT TO MAKE SURE THAT
 9 IT'S CLEAN --
 10 A. CORRECT.
 11 Q. -- AND UP TO STANDARDS? THEN YOU HAVE AN
 12 ASSISTANT THAT DOES THE PAPERWORK FOR MR. MILLER OR
 13 ONE OF HIS DEPUTIES?
 14 A. CORRECT.
 15 Q. DO YOU KNOW WHO GETS INVOLVED IN THE
 16 APPROVAL OF A RENEWAL PERMIT?
 17 A. IT'S THE SAME PROCESS, EXCEPT FOR THE
 18 RENEWALS DON'T GO THROUGH PLANNING. THE RENEWALS
 19 ARE UP TO OUR DEPARTMENT SOLELY.
 20 Q. YOU GO TO THIS MEETING AND YOU UNDERSTAND
 21 THAT THE DUETS ARE TRYING TO GET A DIFFERENT KENNEL
 22 PERMIT THAT ALLOWS THEM TO KEEP MORE DOGS?
 23 A. YES.
 24 Q. DID YOU HAVE ANY UNDERSTANDING AS TO WHY
 25 YOU WERE BEING ASKED TO ATTEND THIS MEETING?

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1 A. MY UNDERSTANDING WAS SOLELY FOR -- WELL, TO
 2 KEEP US IN THE LOOP, IN THAT SENSE.
 3 Q. ALL RIGHT. SO WHEN YOU GOT TO THE MEETING,
 4 HOW WOULD YOU CHARACTERIZE YOUR ROLE IN THE
 5 MEETING? WERE YOU JUST ANSWERING QUESTIONS? WERE
 6 YOU SAYING, "HEY, I'M RECOMMENDING THAT THE DUETS BE
 7 REQUIRED TO DO THIS, THIS, AND THIS."
 8 WERE YOU JUST KIND OF LISTENING? I'M
 9 TRYING TO UNDERSTAND WHAT YOUR ROLE IN THE MEETING
 10 WAS ONCE THE MEETING GOT GOING.
 11 A. WE HAD VERY LITTLE ROLE IN THE MEETING.
 12 Q. "WE" MEANING ANIMAL SERVICES?
 13 A. YES.
 14 Q. OKAY.
 15 A. THE ONLY -- I BELIEVE -- AND WHEN IT CAME
 16 TO GETTING TO MY PART ON THE TABLE THERE, I HAD NO
 17 QUESTIONS OTHER THAN, WHAT WERE THE POSSIBLE AMOUNT
 18 OF ANIMALS THAT WERE GOING TO BE ALLOWED ON THE
 19 PROPERTY. AND FOR THE LIFE OF ME, I DON'T EVEN
 20 RECALL WHAT THE ANSWER WAS. WE REALLY HAD NO ROLE.
 21 WE WERE INVITED.
 22 Q. YOU WERE LISTENING?
 23 A. YES.
 24 Q. NOW, I'M GOING TO CROSS-EXAMINE YOU ON WHAT
 25 HAPPENED AT THE MEETING, SO GIVE ME YOUR BEST

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1 RECOLLECTION.
 2 WAS THERE ANY TALK ABOUT HOW MANY DOGS WERE
 3 ON THE PROPERTY AT THAT POINT IN TIME?
 4 A. I DON'T RECALL.
 5 Q. OBVIOUSLY THERE WAS SOME CONVERSATION ABOUT
 6 HOW MANY DOGS WOULD BE PERMITTED ON THE PROPERTY IF
 7 THE KENNEL PERMIT WAS APPROVED; CORRECT?
 8 A. CORRECT.
 9 Q. DO YOU REMEMBER WHAT NUMBER THAT WAS?
 10 A. I'M SORRY. I DON'T RECALL.
 11 Q. DO YOU REMEMBER IF THERE WAS ANY DEBATE AS
 12 TO WHETHER IT SHOULD BE THIS NUMBER OR THAT NUMBER?
 13 A. THAT MEETING I DON'T RECALL, NO.
 14 Q. DO YOU REMEMBER THE SUBSTANCE OF ANYTHING
 15 THAT WAS TALKED ABOUT AT THE MEETING?
 16 MS. SMITH: OBJECTION. VAGUE.
 17 Q. (BY MR. SCHAEFER:) OKAY. GO AHEAD. WHAT
 18 DO YOU REMEMBER?
 19 A. THINGS THAT WERE JUST SO FAR BEYOND THE DOG
 20 ISSUES. EGRESSES. I DON'T KNOW WHAT IT'S CALLED
 21 WITH THE KANGAROO RATS, ENVIRONMENTAL IMPACT
 22 STUDIES, WATER TABLES, DRAINAGE. THERE WAS HUGH
 23 ISSUES BROUGHT FORWARD IN THAT MEETING. THE ANIMALS
 24 SEEMED TO BE JUST THE SMALLEST PART OF THAT MEETING.
 25 Q. IS IT FAIR TO SAY THAT ALL THESE OTHER

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1 THINGS THAT WERE BEING TALKED ABOUT THAT WERE
 2 OUTSIDE OF YOUR RANGE OF EXPERI'ISE, SO YOU WEREN'T
 3 TRYING TO KEEP UP-THE-DATE ON ALL THE DETAILS THAT
 4 EVERYBODY WAS TALKING ABOUT?
 5 A. CORRECT.
 6 Q. AFTER THAT MEETING WHEN WAS THE NEXT TIME
 7 YOU AND THE DUETS CROSSED PATHS?
 8 A. MYSELF, PERSONALLY, I BELIEVE AFTER THAT
 9 MEETING THE NEXT TIME I MET WITH THE DUETS WAS THE
 10 MONDAY PRIOR TO THE INSPECTION WARRANT, AND IN ALL
 11 HONESTLY, I DON'T KNOW IF MS. DUET EVEN REMEMBERS ME
 12 AT THAT FIRST MEETING.
 13 Q. NOW, BEFORE WE GET TO THE MONDAY BEFORE THE
 14 INSPECTION, LET ME COVER A FEW OTHER TOPICS.
 15 DID THERE EVER COME A POINT IN TIME WHEN
 16 MR. MILLER CAME TO YOU AND SAID SOMETHING TO THE
 17 EFFECT OF "HEY, THERE IS KENNEL PERMITS FOR 35 DOGS
 18 ON THE DUETS' PROPERTY AND PLANNING ONLY APPROVED
 19 20 DOGS?"
 20 DO YOU KNOW ANYTHING ABOUT HOW THIS STATE
 21 OF AFFAIRS CAME TO BE, OR WORDS TO THAT EFFECT?
 22 A. I DON'T BELIEVE MR. MILLER CAME TO ME. I
 23 BELIEVE HE CAME TO MY ASSISTANT, WHO COMPILES THE
 24 FILES FOR THE KENNEL PERMITS.
 25 Q. ALL RIGHT. SO YOU THINK THAT MR. MILLER

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1 WENT TO YOUR ASSISTANT AND INQUIRED AS TO HOW IT WAS
 2 THAT A KENNEL PERMIT FOR 35 DOGS CAME TO BE ISSUED
 3 WHEN PLANNING HAD ONLY APPROVED 20 DOGS?
 4 A. I BELIEVE. IF I MIGHT ADD, I DON'T KNOW IF
 5 IT WAS A CONVERSATION LIKE THAT OR ANOTHER
 6 CONVERSATION SOMEWHERE, AND IT COULD HAVE BEEN WITH
 7 COUNSEL OR PLANNING THAT MADE US AWARE THAT ALL
 8 ALONG THE DUETS WERE ONLY ALLOWED 20. AND I KNOW IT
 9 CAME TO ME, AND IT MIGHT HAVE BEEN VIA PLANNING
 10 VERSUS MR. MILLER.
 11 Q. IS IT FAIR TO SAY THAT AT SOME POINT BEFORE
 12 THE MONDAY -- BEFORE THE INSPECTION MEETING WITH
 13 MS. DUET, YOU BECAME AWARE THAT THE DEPARTMENT HAD
 14 ISSUED A PERMIT -- A KENNEL PERMIT FOR 35 DOGS HAD
 15 BEEN ISSUED WHERE PLANNING HAD ONLY APPROVED
 16 20 DOGS?
 17 A. YES.
 18 Q. DID YOU EVER DO ANY INVESTIGATION TO FIND
 19 OUT HOW IT CAME TO BE THAT A KENNEL PERMIT HAD BEEN
 20 ISSUED FOR 35 DOGS WHEN PLANNING HAD ONLY APPROVED
 21 20 DOGS?
 22 A. YES.
 23 Q. WHAT DID YOU DO?
 24 A. I TRIED TO UNDERSTAND HOW THAT MISTAKE, SO
 25 TO SPEAK, HAD BEEN MADE, OR HOW WE HAD OVERLOOKED

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1 THAT. IT WAS A BIT CONFUSING; AND BECAUSE OF THE
 2 DIFFERENT CHANGES WITHIN THE DEPARTMENT, I MYSELF
 3 HAD BEEN THROUGH SIX OR SEVEN DIRECTORS. SOMEWHERE
 4 ALONG THE LINE, SOMEBODY HAD SIGNED OFF ON A KENNEL
 5 PERMIT FOR 35.
 6 I MYSELF HAD BEEN RESPONSIBLE FOR THE
 7 KENNEL PROCESS ONLY FOR THE PAST THREE OR FOUR
 8 YEARS, SINCE I'VE BEEN COMMANDER. IT WAS VERY
 9 DIFFICULT TO SEE ALL THESE PEOPLE, AND NONE OF THESE
 10 PEOPLE WERE EVEN WITH THE DEPARTMENT. HOW DID THIS
 11 PAPERWORK GET DONE? HOW WAS THIS DONE? ACTUALLY,
 12 OUR OFFICE CLERK WAS THE ONE THAT SAID "HOW DO WE GO
 13 FROM 35 TO 20?" NOBODY REALLY UNDERSTOOD. WE DON'T
 14 KNOW IF IT WAS AN OVERSIGHT, BUT CLEARLY IT WAS A
 15 MISTAKE.
 16 MS. SMITH: THE QUESTION WAS WHAT DID YOU
 17 DO? YOU CAN LOOK AT THE DOCUMENTS.
 18 THE DEPONENT: IT WAS ALMOST IN HINDSIGHT
 19 AFTER -- I BELIEVE THAT'S MAYBE WHEN THAT
 20 CONVERSATION CAME WAS WITH PLANNING. HOW MANY ARE
 21 THEY ALLOWED TO HAVE? ESPECIALLY NOW THAT
 22 MS. DUET WAS APPLYING FOR THIS NEW PERMIT, HOW MANY
 23 ARE THEY SUPPOSED TO HAVE RIGHT NOW, AND THEY SET US
 24 STRAIGHT, SO TO SPEAK, THAT THEY'RE ONLY ALLOWED
 25 20. OKAY. NOW WE KNOW.

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1 Q. ARE YOU ABLE TO ESTIMATE FOR ME HOW MANY
 2 WEEKS OR MONTHS IT WAS PRIOR TO THIS MONDAY MEETING
 3 WITH KAREN DUET THAT YOU BECAME AWARE THAT THE
 4 PERMIT WAS FOR 35 AND PLANNING HAD ONLY APPROVED 20?
 5 A. I WOULDN'T BE ABLE TO ESTIMATE, NO.
 6 Q. ENFORCEMENT OF ANIMAL CONTROL LAWS IS ONE
 7 OF YOUR JOB, ISN'T IT?
 8 A. YES.
 9 Q. THAT INCLUDES ENFORCEMENT OF THE NUMBER OF
 10 DOGS THAT PLANNING SAYS CAN BE AT A KENNEL; CORRECT?
 11 A. YES.
 12 Q. WHEN YOU FOUND OUT THAT THERE WAS A KENNEL
 13 PERMIT FOR 35 DOGS AND THERE WAS ONLY APPROVAL FOR
 14 20 DOGS, WHAT DID YOU DO, IN TERMS OF ENFORCEMENT OF
 15 THE RULES?
 16 A. I WENT WITH MY FEELINGS THAT THE DUETS WERE
 17 IN THIS PROCESS OF INCREASING THEIR KENNEL DOG
 18 LIMIT, AND STEMMING FROM A MEETING WITH PLANNING
 19 THAT WE NEEDED TO, IN ESSENCE, SIT TIGHT WHILE THE
 20 PROCESS WAS GOING THROUGH BEFORE WE DID ANOTHER
 21 INSPECTION.
 22 Q. NOW, I'M VISUALIZING YOU IN YOUR OFFICE AND
 23 YOU HAVE A KENNEL PERMITS THAT SAYS MAXIMUM 35. YOU
 24 HAVE PLANNING INFORMING YOU THAT THE MAXIMUM IS 20.
 25 NEITHER OF THOSE PIECES OF INFORMATION TELL YOU AT

Page 23

1 THAT POINT IN TIME HOW MANY DOGS ARE ACTUALLY ON THE
 2 PROPERTY.
 3 A. CORRECT.
 4 Q. WHEN YOU FOUND OUT THAT THERE WAS A PERMIT
 5 FOR 35 AND ACTUAL APPROVAL FOR ONLY 20, DID YOU
 6 INSTITUTE ANY ACTION TO FIND OUT HOW MANY DOGS WERE
 7 ACTUALLY ON THE PROPERTY?
 8 A. I DID NOT. MR. MILLER DID.
 9 Q. WHAT DID MR. MILLER DO?
 10 MS. SMITH: IF YOU KNOW.
 11 Q. (BY MR. SCHAEFER:) IF YOU KNOW.
 12 A. HE ASKED -- HE ORDERED THE TEAM TO GO AND
 13 DO AN INSPECTION, EVEN PRIOR TO THE RESOLUTION OF
 14 THE APPLICATION THAT THE DUETS HAD ALREADY
 15 SUBMITTED, AND THAT WAS DONE.
 16 Q. YOU SAY HE ORDERED THE TEAM TO DO AN
 17 INSPECTION. WHO'S THE TEAM?
 18 A. MY TEAM.
 19 Q. SO I TAKE IT, FOLLOWING THE CHAIN OF
 20 COMMAND, HE ASKED YOU TO DO IT RATHER THAN BYPASS
 21 THE CHAIN OF COMMAND AND GO DIRECTLY TO ONE OF YOUR
 22 SUBORDINATES, OR DO I HAVE THAT --
 23 A. NO. AS YOU CAN SEE, I HAVE BEEN FACED WITH
 24 A FEW MEDICAL CHALLENGES. I DON'T RECALL HIM COMING
 25 STRAIGHT TO ME. I DO BELIEVE HE WENT TO THE

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1 LIEUTENANT IN CHARGE OF THAT AREA.
 2 Q. AND TO YOUR UNDERSTANDING, HE BASICALLY
 3 SAID TO THE LIEUTENANT, "GO OUT AND DO AN INSPECTION
 4 AND FIND OUT HOW MANY DOGS THEY'VE GOT"??
 5 A. YES.
 6 Q. DO YOU KNOW IN WHEN THAT HAPPENED?
 7 A. I DO NOT KNOW THE EXACT DATE, NO.
 8 Q. DO YOU KNOW WHAT MONTH IT HAPPENED?
 9 A. NO.
 10 Q. NOW, DO YOU KNOW IF THERE WAS AN
 11 INSPECTION?
 12 A. YES.
 13 Q. DO YOU KNOW IF THERE WAS A REPORT MADE OF
 14 THAT INSPECTION?
 15 A. YES, THE FORM WAS FILLED OUT.
 16 Q. AT THE SAME TIME THAT ALL THIS WAS GOING
 17 ON, DID THE KENNEL LICENSE THAT THE DUETS HAD
 18 EXPIRE?
 19 A. YES.
 20 Q. DID THEY APPLY TO RENEW THAT LICENSE?
 21 A. YES.
 22 Q. DOES THE RENEWAL PROCESS CALL FOR AN
 23 INSPECTION OF THE KENNEL?
 24 A. YES.
 25 Q. DO YOU KNOW IF THE KENNEL WAS EVER

Page 25

1 INSPECTED AS PART OF THE RENEWAL PROCESS?
 2 MS. SMITH: OBJECTION. VAGUE AS TO TIME.
 3 ARE WE STILL TALKING 2008?
 4 MR. SCHAEFER: YES, I'M TALKING 2008.
 5 MS. SMITH: I WANT TO MAKE SURE YOU KNOW
 6 THAT. TALKING 2008.
 7 THE DEPONENT: THE INSPECTION WAS NOT DONE
 8 BECAUSE I WAS UNDER THE IMPRESSION FROM PLANNING
 9 THAT AGAIN WE WANTED TO WAIT UNTIL THE APPLICATION
 10 HAD BEEN COMPLETED.
 11 MS. SMITH: CAN SHE SEE THE DOCUMENTS?
 12 MR. SCHAEFER: WHICH DOCUMENTS DO YOU WANT
 13 TO LOOK AT?
 14 MS. SMITH: THE INSPECTION DOCUMENTS WOULD
 15 PROBABLY HELP. SHE COULD ANSWER BY LOOKING AT
 16 WHETHER OR NOT THERE'S AN INSPECTION FOR 2008.
 17 MR. SCHAEFER: WE'LL GET THERE.
 18 Q. I'M TRYING TO UNDERSTAND THE STORY HERE.
 19 THE DUETS APPLIED FOR A RENEWAL OF THEIR LICENSE AND
 20 YOU SAID OR DECIDED THAT WE WERE GOING TO HOLD OFF
 21 ON THE RENEWAL INSPECTION TO SEE WHAT WOULD HAPPEN
 22 WITH PLANNING. DO I HAVE THIS RIGHT?
 23 A. YES, EXCEPT FOR, AS COUNSEL SAYS, I'M A
 24 LITTLE VAGUE ON THE DATES, AND NOW THAT SHE BRINGS
 25 IT UP, I BELIEVE WAS OUR LAST INSPECTION, AND THEN

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1 THEY APPLIED FOR A NEW INSPECTION.
 2 AGAIN, BY WHAT PLANNING WAS TELLING US AND
 3 THE APPLICATION THAT WAS IN PLACE, YOU KNOW, MY
 4 QUESTION TO PLANNING WAS: DO I MOVE FORWARD WITH MY
 5 INSPECTIONS?
 6 "NO, LET'S JUST WAIT, BECAUSE THIS PROCESS
 7 SHOULD BE A REASONABLE AMOUNT OF TIME."
 8 MS. SMITH: I'M JUST GOING TO MUMBLE
 9 SOMETHING TO MY CLIENT.
 10 (DEPONENT CONFERS WITH HIS ATTORNEY.)
 11 Q. (BY MR. SCHAEFER:) LET ME JUST GET SOME
 12 MORE BACKGROUND INFORMATION HERE.
 13 HOW MANY TIMES HAVE THE DUETS' KENNEL BEEN
 14 INSPECTED IN 2010?
 15 A. ONCE.
 16 Q. WHEN YOU SAY THAT IT HAS BEEN INSPECTED
 17 ONCE, ARE YOU INCLUDING WHAT YOU CALL THE "SURPRISE
 18 INSPECTION" AND WE CALL THE "RAID" AS ONE OF THE
 19 INSPECTIONS?
 20 A. I DON'T BELIEVE I EVER USED THE "SURPRISE
 21 INSPECTION" IN TERMINOLOGY, BUT NO.
 22 Q. SO YOU PERSONALLY WERE OUT THERE ON A
 23 SATURDAY MORNING INSPECTING THIS KENNEL. DO I HAVE
 24 THIS RIGHT?
 25 MS. SMITH: WHY DON'T WE SAY THE DATE OF

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1 JULY 24TH, IF THAT'S THE DATE YOU'RE TALKING ABOUT.
 2 MR. SCHAEFER: THAT'S THE DATE I'M TALKING
 3 ABOUT.
 4 MS. SMITH: THAT DATE IS WHAT YOU CALL "THE
 5 RAID."
 6 Q. (BY MR. SCHAEFER:) THAT'S WHAT WE CALL THE
 7 RAID.
 8 A. THAT WAS THE INSPECTION -- SERVING THE
 9 INSPECTION WARRANT, YES.
 10 Q. LET'S GET OUR TERMINOLOGY STRAIGHT,
 11 SERVING THE INSPECTION WARRANT, AND YOU WERE THERE
 12 PERSONALLY FOR THAT?
 13 A. YES.
 14 Q. AND YOU BELIEVE THAT THERE HAS ONLY BEEN
 15 ONE OTHER INSPECTION OF THE KENNEL OWNED BY THE
 16 DUETS IN 2010.
 17 A. THAT'S MY RECOLLECTION, YES.
 18 MS. SMITH: I THINK I'M GOING TO OBJECT AS
 19 TO VAGUE. DEFINE INSPECTION. THERE ARE VARIOUS
 20 PURPOSES FOR INSPECTION.
 21 Q. (BY MR. SCHAEFER:) "INSPECTION" MEANS
 22 SOMEBODY FROM YOUR DEPARTMENT PHYSICALLY WENT TO THE
 23 PREMISES FOR THE PURPOSE OF INSPECTING IT?
 24 MS. SMITH: FOR ANY REASON?
 25 Q. (BY MR. SCHAEFER:) FOR ANY REASON. ONE OF

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1 YOUR ENFORCEMENT OFFICERS.
 2 A. IN MY INSPECTION THAT I THOUGHT WE WERE
 3 SPEAKING OF IS THE KENNEL INSPECTION AND FOR THE
 4 KENNEL INSPECTION, AND THERE'S A FORM AND WE COUNT
 5 THE ANIMALS AND WE LOOK THE PROPERTY OVER. MY
 6 RECOLLECTION IS THERE WAS ONE INSPECTION THAT WAS
 7 DONE, NOT INCLUDING THE INSPECTION WARRANT, NOT
 8 INCLUDING VISITS FROM THE DEPARTMENT RELATED TO
 9 NOISY ANIMALS. IT WAS JUST THE INSPECTION THAT WAS
 10 DONE BY, I BELIEVE, LIEUTENANT CHRIS MAYER.
 11 MS. SMITH: DO YOU MEAN FOR THE KENNEL
 12 PERMIT?
 13 THE DEPONENT: YES, FOR THE KENNEL PERMIT
 14 INSPECTION.
 15 Q. (BY MR. SCHAEFER:) LET ME TELL YOU WHY I'M
 16 CONFUSED ABOUT THIS.
 17 YOU JUST SAID THAT LIEUTENANT MAYER WENT
 18 OUT IN ORDER TO PERFORM A ROUTINE KENNEL
 19 INSPECTION.
 20 A. CORRECT.
 21 Q. YOU HAVE ALSO TESTIFIED THAT WHEN
 22 MR. MILLER FOUND OUT THAT THERE WAS A PERMIT FOR
 23 35 DOGS BUT LAND USE APPROVAL FOR ONLY 20, HE WENT
 24 TO SOMEBODY ON YOUR TEAM, A LIEUTENANT AND SAID, "GO
 25 OUT TO THE DUETS AND FIND OUT HOW MANY ANIMALS ARE

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1 ACTUALLY THERE," WHICH SUGGESTS TO ME IF THAT
 2 INSTRUCTION WAS FOLLOWED, SOMEBODY WENT OUT THERE.
 3 SO WHEN LIEUTENANT MAYER WENT OUT ON THE
 4 ONE TIME, DO YOU KNOW WHETHER OR NOT HE WAS GOING AS
 5 A ROUTINE INSPECTION, OR IN RESPONSE TO MR. MILLER'S
 6 COMMAND TO FIND OUT HOW MANY ANIMALS ARE ACTUALLY
 7 OUT THERE.
 8 MS. SMITH: OBJECTION. VAGUE AS TO TIME.
 9 MR. SCHAEFER: I'M TALKING ABOUT THIS ONE
 10 TIME HE WENT OUT.
 11 MS. SMITH: IN 2008 OR 2010?
 12 MR. SCHAEFER: 2010.
 13 A. IT WAS, IN ESSENCE, FOR BOTH.
 14 Q. DID ANY . . .
 15 A. AND I BELIEVE YOU USED THE TERM "ROUTINE."
 16 Q. I DID USE THAT TERM.
 17 A. RIGHT, YOU USED THAT TERM, BUT THE QUESTION
 18 THAT WAS ASKED OF ME WAS HOW MANY INSPECTIONS HAVE
 19 WE DONE.
 20 MS. SMITH: STAND BY. LET HIM ASK THE NEXT
 21 QUESTION. OFF THE RECORD.
 22 Q. (BY MR. SCHAEFER:) LET'S LOOK AT THE
 23 EXHIBIT I MARKED AS NO. 3. DO YOU RECOGNIZE THIS
 24 FORM?
 25 A. YES.

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1 Q. WHAT IS IT?
 2 A. IT'S A FORM THAT WE USE WHEN WE GO TO
 3 INSPECT THE KENNELS AND THE CATTERIES.
 4 Q. WHO FILLS THIS FORM OUT?
 5 A. THE OFFICER WHO IS PRESENT FOR THE
 6 INSPECTION.
 7 Q. AND WHAT IS THE SOURCE OF INFORMATION THAT
 8 THE OFFICER USES IN ORDER TO FILL THIS OUT?
 9 A. WHAT THEY SEE WHEN THEY ARE AT THE PROPERTY
 10 THAT THEY'RE INSPECTING.
 11 Q. WELL, I'M LOOKING HERE WHERE THERE IS A
 12 FORM FOR YOU AND IT SAYS "PERMIT ISSUE DATE"; DO YOU
 13 SEE THAT?
 14 A. YES.
 15 Q. WHAT INFORMATION IS CALLED FOR IN THAT BOX?
 16 A. THAT IS, I BELIEVE, THE DATE THAT -- THE
 17 CLERK FILLS OUT THE FORMS. IT'S FOR THE -- THE DATE
 18 THAT'S ON THE APPLICATION FOR THE PERMIT.
 19 MS. SMITH: OR?
 20 Q. (BY MR. SCHAEFER:) LET'S TRY LOOKING AT
 21 EXHIBIT NO. 4. DO YOU RECOGNIZE EXHIBIT NO. 4?
 22 A. I RECOGNIZE THE FORM, YES.
 23 Q. WHAT IS THAT FORM?
 24 A. THAT IS ONCE THEY HAVE BEEN INSPECTED AND
 25 THEN THEY'RE -- YOU KNOW IF EVERYTHING IS APPROVED,

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1 THEN THEY'RE GIVEN A KENNEL LICENSE.
 2 Q. IS EXHIBIT NO. 4 A KENNEL LICENSE?
 3 A. YES, I BELIEVE SO.
 4 Q. IS EXHIBIT NO. 4 A SIGNED-OFF KENNEL
 5 LICENSE THAT YOU BELIEVE WAS FORMALLY ISSUED BY THE
 6 DEPARTMENT?
 7 A. YES.
 8 Q. IS THIS A KENNEL LICENSE FOR THE DUETS'
 9 KENNEL?
 10 A. YES.
 11 Q. DOES IT SHOW WHEN THE KENNEL LICENSE WAS
 12 ISSUED?
 13 A. YES.
 14 Q. WHAT IS THE KENNEL LICENSE ISSUE DATE?
 15 A. MAY 8, '06.
 16 Q. WHAT IS THE KENNEL LICENSE EXPIRATION DATE?
 17 A. MAY 8, '08.
 18 Q. I'M LOOKING AT EXHIBIT NO. 3. IT SAYS
 19 "PERMIT ISSUE DATE." THAT'S THE DATE -- RIGHT
 20 HERE.
 21 YOU'RE SAYING THAT THAT'S THE DATE THAT THE
 22 DUETS CAME IN AND APPLIED TO HAVE THEIR KENNEL
 23 LICENSE RENEWED.
 24 MS. SMITH: OBJECTION. FACTS NOT IN
 25 EVIDENCE. THE DOCUMENT SPEAKS FOR ITSELF. DON'T

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1 SPECULATE IF I DON'T KNOW.
 2 Q. (BY MR. SCHAEFER:) ON THE OTHER HAND,
 3 YOU'RE THE CHIEF ENFORCEMENT OFFICER, AND I'M
 4 ENTITLED TO YOUR OPINION AS TO WHAT THIS MEANS?
 5 MS. SMITH: YOU CAN ANSWER IF YOU KNOW.
 6 THE DEPONENT: I WOULD BE SPECULATING,
 7 BUT . . .
 8 MS. SMITH: THEN DON'T ANSWER IF YOU'RE
 9 SPECULATING.
 10 MR. SCHAEFER: REREAD THE QUESTION.
 11 (THE RECORD WAS READ BY THE REPORTER.)
 12 Q. (BY MR. SCHAEFER:) WAS THAT THE DATE THEY
 13 CAME IN AND APPLIED FOR THEIR LICENSE TO BE RENEWED?
 14 A. NO.
 15 Q. WHAT HAPPENED ON MAY 8TH, 2010, REGARDING
 16 THE DUETS' KENNEL LICENSE, IN YOUR VIEW, BASED ON
 17 ALL THE INFORMATION AVAILABLE TO YOU AS CHIEF
 18 ENFORCEMENT OFFICER?
 19 MS. SMITH: LACK OF FOUNDATION. YOU CAN
 20 ANSWER THE QUESTION.
 21 THE DEPONENT: IN MY OPINION, THOSE DATES
 22 ARE USED BECAUSE IT REFLECTS ON THE PREVIOUS ISSUE
 23 DATES, IN THE PAST, AND THEY WERE MY -- PROBABLY AN
 24 OFFICE ASSISTANT WAS USING THOSE DATES TO REFLECT
 25 THE SAME DATES TO KEEP THE KENNEL PERMIT CONSISTENT.

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1 MS. SMITH: THERE IS A DOCUMENT MISSING IN
 2 BETWEEN HERE. AFTER THIS LICENSE THERE IS A RENEWAL
 3 NOTICE ISSUED BY THE DEPARTMENT AND THEN THAT
 4 INSPECTION OCCURS, SO THERE IS A DOCUMENT THAT WOULD
 5 HAVE --
 6 MR. SCHAEFER: IF I HAD THAT, I WOULD HAVE
 7 -- BUT YOU GUYS DIDN'T PRODUCE THAT FOR ME.
 8 MS. SMITH: I THOUGHT WE DID.
 9 Q. (BY MR. SCHAEFER:) IN ANY EVENT, ON THIS
 10 FORM IT PLAINLY SAYS, "PERMIT ISSUE DATE, 5-8-10"
 11 AND "PERMIT EXPIRATION DATE, 5-8-12."
 12 A. IF GRANTED.
 13 Q. IT DOESN'T SAY THAT ON THE FORM. IT
 14 DOESN'T SAY THAT ON THE FORM?
 15 A. I UNDERSTAND. THIS FORM IS FIELD USED
 16 FORM. THEY USE THIS TO JUST COMPILE ALL THESE NAMES
 17 OF THE ANIMALS AND TO HAVE INFORMATION IN FRONT OF
 18 THEM TO DO AN INSPECTION. THIS IS THE ACTUAL KENNEL
 19 LICENSE.
 20 Q. SO AM I READING THIS CORRECTLY, THAT THE
 21 INSPECTOR FOUND TEN BOARDED DOGS AND TEN PERSONAL
 22 DOGS WHEN HE WENT OUT ON THE DATE OF THIS
 23 INSPECTION, ACCORDING TO WHAT THE PAPERWORK SAYS?
 24 A. CORRECT.
 25 Q. AM I READING THIS PAPER WORK TO SAY THAT

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1 THE DATE OF THE INSPECTION IS MAY THE 11TH, 2010?
 2 A. CORRECT.
 3 Q. DO YOU KNOW WHETHER OR NOT THE DUETS KNEW
 4 IN ADVANCE THAT THIS INSPECTION WAS GOING TO OCCUR
 5 ON MAY THE 10TH?
 6 MS. SMITH: IF YOU KNOW. DON'T SPECULATE.
 7 THE DEPONENT: I DO NOT KNOW.
 8 Q. (BY MR. SCHAEFER:) IT SAYS, DOES IT NOT,
 9 THAT PLANNING APPROVED 20 DOGS?
 10 MS. SMITH: OBJECTION. THE DOCUMENT SPEAKS
 11 FOR ITSELF. YOU'RE SAYING "IT SAYS"?
 12 MR. SCHAEFER: THAT'S WHAT I THINK IT
 13 SAYS.
 14 THE DEPONENT: AGAIN, THIS IS A WORKING
 15 DOCUMENT. IT DOESN'T -- IT REFLECTS WHAT WE WOULD
 16 KNOW AT THIS TIME TO BE PLANNING'S DETERMINATION OF
 17 HOW MANY DOGS ARE ALLOWED ON THE PROPERTY. AGAIN,
 18 THAT'S TO AID THE OFFICER WHEN THEY'RE OUT
 19 INSPECTING. THAT'S HOW MANY THEY'RE SUPPOSED TO
 20 HAVE -- OR ALLOWED TO HAVE, I SHOULD SAY.
 21 Q. IF YOU COULD LOOK 5 OVER, GENERALLY, I'LL
 22 ASK YOU A FEW QUESTIONS ABOUT IT WHEN YOU'RE DONE
 23 LOOKING IT OVER.
 24 A. OKAY.
 25 Q. HAVE YOU EVER SEEN EXHIBIT 5 BEFORE?

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1 A. I DON'T RECALL.
 2 Q. NOW, IN YOUR POSITION AS COMMANDER AND IN
 3 CHARGE OF ENFORCEMENT, HAVE YOU EVER SEEN ANY
 4 DOCUMENTATION THAT ACTUALLY SPELLS OUT THE RULES
 5 THAT PLANNING LAID DOWN FOR THE NUMBER OF DOGS THAT
 6 COULD BE ON THIS PROPERTY?
 7 A. NOT UNTIL RECENTLY.
 8 Q. AND WHEN YOU SAW SOMETHING RECENTLY, WHAT
 9 DID YOU SEE?
 10 A. THEY WERE DOCUMENTS THAT LOOKED SIMILAR TO
 11 THIS.
 12 Q. WHAT DID YOU DO WITH THOSE DOCUMENTS?
 13 A. RECENTLY, MEANING --
 14 MS. SMITH: IF ANYTHING.
 15 THE DEPONENT: THREE WEEKS AGO I DID
 16 NOTHING WITH THEM. IT WAS A PART OF THIS WHOLE
 17 PROCESS THAT WE'RE GOING THROUGH NOW.
 18 Q. (BY MR. SCHAEFER:) AT THE TIME THAT YOU
 19 WENT OUT ON JULY 24TH, 2010, YOU HAD NEVER SEEN ANY
 20 OF THE DOCUMENTS THAT SET FORTH THE LIMIT ON THE
 21 NUMBER OF DOGS ON THE PREMISES. IS THAT FAIR TO
 22 SAY? -
 23 A. I BELIEVE THAT'S FAIR TO SAY. I HADN'T
 24 SEEN THE DOCUMENT, BUT I HAD BEEN BRIEFED ON IT.
 25 Q. YOU HAD BEEN GIVEN VERBAL INFORMATION ABOUT

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1 WHAT THE PLANNING RULES WERE?
 2 A. CORRECT.
 3 Q. AND YOU RELIED ON THAT BRIEFING IN DOING
 4 YOUR WORK ON JULY 24TH AS THE CHIEF OF ENFORCEMENT
 5 OUT THERE?
 6 A. CORRECT.
 7 Q. WHO GAVE YOU THE BRIEFING?
 8 A. ROB MILLER, AS WELL AS COUNSEL.
 9 Q. SO WHEN YOU WENT OUT THERE ON JULY 24TH,
 10 DID YOU THINK THAT THERE WERE ANY RULES THAT --
 11 WELL, LET ME ASK IT THIS WAY.
 12 I'M HEARING THAT WHEN YOU WENT OUT THERE ON
 13 JULY 24TH, YOU THOUGHT THAT THE MAXIMUM NUMBER OF
 14 DOGS THAT YOU COULD FIND ON THAT PROPERTY WAS 20.
 15 THAT'S WHAT YOU THOUGHT?
 16 A. THAT THE MAXIMUM NUMBER OF DOGS ALLOWED ON
 17 THAT PROPERTY WAS 20.
 18 Q. YOU THOUGHT THAT INCLUDED THE PERSONAL PETS
 19 OF THE DUETS?
 20 A. CORRECT.
 21 Q. AND THE BASIS FOR YOUR BELIEVE THAT THE
 22 20 DOGS INCLUDED THE PETS OF THE DUETS WAS WHAT
 23 MILLER AND COUNSEL TOLD YOU?
 24 A. CORRECT.
 25 Q. YOU THOUGHT THAT THE 20-DOG LIMIT DIDN'T

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1 HAVE ANYTHING TO DO WITH THE NUMBER OF DOGS THAT
 2 PERMANENTLY RESIDED ON -- OR AT LEAST RESIDED
 3 OVERNIGHT ON THE PROPERTY, BUT SIMPLY HOW MANY DOGS
 4 WERE ON THE PROPERTY?
 5 MS. SMITH: OBJECTION. COMPOUND. VAGUE.
 6 Q. (BY MR. SCHAEFER:) I'LL GIVE YOU AN
 7 EXAMPLE: IF INDIVIDUAL DOG OWNERS SHOWED UP WITH
 8 THEIR DOGS FOR THE PURPOSE OF A ONE-HOUR EVALUATION
 9 -- THAT'S THE SOLE PURPOSE OF HAVING THEM THERE --
 10 AND YOU ARRIVED ON THE SCENE, AS FAR AS YOU WERE
 11 CONCERNED, THAT DOG THAT WAS THERE FOR ONE HOUR
 12 COUNTED AGAINST THE 20-DOG LIMIT?
 13 A. CORRECT.
 14 Q. IF A DOG WAS A RESIDENT OF THE KENNELS FOR
 15 TRAINING PURPOSES, THAT COUNTED AS PART OF THE
 16 20-DOG LIMIT?
 17 A. YES.
 18 Q. YOU DIDN'T CARE HOW LONG THE DOG WAS GOING
 19 TO STAY ON THE PROPERTY OR THE PURPOSE FOR WHICH THE
 20 DOG WAS ON THE PROPERTY, AS FAR AS YOU WERE
 21 CONCERNED IT WAS ONLY 20 DOGS AND THAT'S THAT --
 22 CORRECT? -- AS FAR AS YOU UNDERSTOOD THE RULES?
 23 A. BUT YOU SAID I DIDN'T CARE.
 24 Q. FROM AN ENFORCEMENT STANDPOINT. OR DID YOU
 25 CARE?

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1 A. OF COURSE. THESE ARE ANIMALS WE'RE TALKING
 2 ABOUT, BUT THE FOCUS WAS ON AND THE BRIEFINGS WERE
 3 INSTRUCTED TO NOTE EVERY ANIMAL THAT WE SAW ON THE
 4 PROPERTY, INCLUDING THOSE THAT CAME AND WENT.
 5 SO WE COUNTED ALL OF THEM, INCLUDING THE
 6 RESIDENT DOGS AND THE PERSONAL DOGS, THE ONES THAT
 7 WE WERE AWARE WERE PERSONAL DOGS.
 8 Q. I'M GETTING AHEAD OF THE STORY A LITTLE BIT
 9 HERE, BUT AS I RECALL, YOUR TOTAL HEAD COUNT FOR
 10 DOGS ON THE 24TH WAS 71. DO I HAVE THAT RIGHT? OR
 11 DO YOU REMEMBER?
 12 A. I REMEMBER 71 TO 73.
 13 Q. THE 71 TO 73, AM I HEARING, DOES NOT --
 14 THAT IS NOT THE NUMBER OF DOGS THAT WERE ON THE
 15 PROPERTY AT ANY ONE TIME; THAT IS THE TOTAL NUMBER
 16 OF DOGS THAT WERE SEEN ON THE PROPERTY DURING THE
 17 TIME YOU WERE THERE, IF YOU GET THE DISTINCTION.
 18 A. I DO. 71 THAT WERE ON THE PROPERTY. TWO
 19 ANIMALS LEFT WHEN WE ARRIVED. THAT WOULD BE MY 73.
 20 THAT'S WHAT I RECALL.
 21 Q. DID ANY DOGS ARRIVE WHEN YOU WERE THERE --
 22 A. YES.
 23 Q. -- FIRST DRIVING UP?
 24 A. YES. BUT THEY -- THE ONE OR TWO DOGS THAT
 25 ARRIVED WHEN WE WERE THERE STAYED.

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1 Q. WELL --
 2 A. THERE WERE ALSO DOGS THAT WHEN WE WERE
 3 THERE THAT HAD COMPLETED THEIR STAY AND LEFT.
 4 Q. NOW YOU GOT ME CONFUSED.
 5 A. I'M CONFUSED TOO.
 6 MS. SMITH: CAN I ASK A QUESTION?
 7 MR. SCHAEFER: SURE.
 8 MS. SMITH: WOULD IT BE ACCURATE TO SAY
 9 THAT THE 71 DOGS WERE ON THE PROPERTY DURING THE
 10 TWO-HOUR INSPECTION OR THE ONE-AND-A-HALF HOUR
 11 INSPECTION WINDOW?
 12 THE DEPONENT: YES.
 13 MS. SMITH: SO DURING THAT TIME, 71 DOGS
 14 WERE COUNTED ON THE PROPERTY?
 15 THE DEPONENT: CORRECT.
 16 MS. SMITH: DURING THAT TIME SOME DOGS HAD
 17 LEFT AND SOME DOGS ARRIVED. OR DID SOME DOGS
 18 LEAVE?
 19 THE DEPONENT: YES. I SAW AT LEAST ONE DOG
 20 LEAVE.
 21 MS. SMITH: DID SOME DOGS ARRIVE?
 22 THE DEPONENT: I SAW AT LEAST ONE DOG
 23 ARRIVE.
 24 MS. SMITH: WOULD THERE BE MORE THAN TEN
 25 DOGS THAT LEFT?

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1 THE DEPONENT: NO.
 2 MS. SMITH: WERE THERE MORE THAN 10 DOGS
 3 THAT ARRIVED?
 4 THE DEPONENT: NO.
 5 MS. SMITH: SO SOMEWHERE BETWEEN ONE AND
 6 TEN DOGS.
 7 DO YOU HAVE A ROUGH ESTIMATE OF HOW MANY
 8 DOGS ARRIVED DURING THAT WINDOW?
 9 THE DEPONENT: I WOULD SAY FIVE OR SIX
 10 DOGS.
 11 MS. SMITH: AND YOU HAVE A ROUGH ESTIMATE
 12 OF HOW MANY DOGS LEFT DURING THAT WINDOW?
 13 THE DEPONENT: ONE TO TWO, THAT I SAW.
 14 Q. (BY MR. SCHAEFER:) YOU KNOW, I'VE BEEN ON
 15 THE GIVING AND RECEIVING ENDS OF THESE INSPECTIONS
 16 OR RAIDS OR WHATEVER YOU WANT TO CALL THEM.
 17 WHAT I VISUALIZE IS THAT WHEN EVERYTHING
 18 STARTS, THERE ARE MULTIPLE COUNTY VEHICLES THAT
 19 DRIVE UP TO THE PROPERTY, FILLED WITH MULTIPLE
 20 COUNTY EMPLOYEES.
 21 WE GOT A LAWYER. WE'VE GOT RIVERSIDE
 22 COUNTY SHERIFF'S DEPUTIES. WE'VE GOT ANIMAL CONTROL
 23 OFFICERS. WE GOT ANIMAL CONTROL SUPERVISORS.
 24 MULTIPLE VEHICLES DRIVE UP AND PARK ON THE
 25 PROPERTY. DID THAT HAPPEN? I'M SETTING THE STAGE.

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1 MS. SMITH: GO AHEAD AND TELL HIM WHAT
 2 HAPPENED.
 3 Q. (BY MR. SCHAEFER:) AT THE BEGINNING DID
 4 ALL YOU GUYS DRIVE UP IN CARS AND PARK ON THE
 5 PROPERTY?
 6 MS. SMITH: HOW MANY VEHICLES? WHO WAS
 7 PRESENT, GO AHEAD AND TELL HIM.
 8 THE DEPONENT: WE DROVE IN ONE VEHICLE.
 9 Q. WHO WAS WITH YOU?
 10 A. ANIMAL SERVICES. THERE WAS ONLY THREE OF
 11 US, BECAUSE IN ALL HONESTY, WE DIDN'T THINK WE'D BE
 12 THERE BUT FOR HALF AN HOUR.
 13 CODE ENFORCEMENT CAME IN ONE VEHICLE AND
 14 THEN EVENTUALLY THE SHERIFF'S CAME, AND I BELIEVE
 15 THEY CAME IN ONE OR TWO VEHICLES. I WASN'T OUT
 16 FRONT FOR WHEN THEY ARRIVED. AND THAT WAS IT.
 17 Q. (BY MR. SCHAEFER:) WHOSE CAR WAS PATTI
 18 IN?
 19 A. SHE WAS RIDING WITH CODE.
 20 Q. SO TWO CARS DRIVE UP AND PARKED?
 21 A. YES. AND WE PARKED AWAY FROM THE ENTRANCE.
 22 Q. OKAY. EVERYBODY GETS OUT?
 23 A. YES.
 24 Q. EVERYBODY WALKS UP TO THE OFFICE?
 25 A. ACTUALLY, WE WALKED DOWN THE DRIVE. AND I

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1 BELIEVE -- I DON'T EVEN RECALL WHO WENT INTO THE
 2 OFFICE, BUT WE KIND OF JUST WAITED SO WE DIDN'T
 3 IMPACT THAT OFFICE. THEY HAD BUSINESS GOING ON. I
 4 CAN'T RECALL WHO ACTUALLY VENTURED INTO THE OFFICE
 5 TO SAY THAT WE ARE HERE AND CAN WE DO THIS
 6 INSPECTION.
 7 Q. I'M GOING TO FREEZE AT THAT POINT IN TIME.
 8 BASED ON ALL THE WORK THAT YOU'VE DONE,
 9 THAT DAY AND SINCE, AT THE POINT IN TIME WHEN YOU
 10 DROVE UP AND PARKED IN FRONT OF -- PARKED AT THE
 11 DUETS, HOW MANY DOGS WERE ON THAT PROPERTY AT THAT
 12 PARTICULAR INSTANT?
 13 A. WHEN I FIRST DROVE UP?
 14 Q. WHEN YOU FIRST DROVE UP.
 15 A. I WOULD SAY A VERY GOOD ESTIMATE WOULD BE
 16 70 DOGS ON THE PROPERTY.
 17 Q. WHAT IS THAT VERY GOOD ESTIMATE BASED ON?
 18 A. ON THE TWO THAT WERE LEAVING.
 19 Q. TWO WERE LEAVING WHILE YOU WERE DRIVING UP?
 20 A. YES -- WELL, NOT AT THE SAME TIME, BUT
 21 BEFORE WE STARTED TO WALK IN TO DO THE INSPECTION
 22 ONE WAS LEAVING IN A VEHICLE, AND THEN VERY SOON
 23 THEREAFTER ANOTHER ONE WAS LEAVING, BECAUSE THERE
 24 WAS BUSINESS GOING ON, TRAINING GOING ON, AND HELLOS
 25 AND GOOD BYES BY OWNERS WHO WERE THERE.

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1 Q. YOU SAY ABOUT 70. DID THE TWO THAT WERE
 2 LEAVING COUNT IN THE 70?
 3 A. NO.
 4 Q. OKAY.
 5 A. BUT YOUR QUESTION WAS ON THE PROPERTY.
 6 THEY WERE IN VEHICLES GETTING READY TO DO THEIR
 7 THING.
 8 Q. I'M TRYING TO GET EVERYBODY ON THE SAME
 9 PAGE HERE. IF THEY'RE IN THE VEHICLES, I SUPPOSE
 10 TECHNICALLY THEY'RE ON THE PROPERTY. SO THEN I SAY
 11 WOULD YOU ESTIMATE HOW MANY DOGS WERE ON THE
 12 PROPERTY INCLUDING THE TWO THAT ARE IN VEHICLES
 13 ABOUT TO LEAVE. OKAY?
 14 A. 72. I'M GIVING MYSELF ONE DOG LEEWAY.
 15 Q. YOU ESTIMATE 72 WITH -- PLUS OR MINUS ONE?
 16 A. YES.
 17 Q. TWO ON THE WAY OUT?
 18 A. YES.
 19 Q. THAT LEAVES ME 70, PLUS OR MINUS ONE IN ALL
 20 THE REST OF THE PREMISES.
 21 A. CORRECT.
 22 Q. LEAD ME THROUGH YOUR THOUGHT PROCESS THAT
 23 LEADS YOU TO CONCLUDE THERE WERE 70 ON THE PREMISES,
 24 PLUS OR MINUS ONE, EXCLUDING THE TWO THAT WERE ON
 25 THEIR WAY OF OUT.

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1 A. IN THE OFFICE THERE WERE CLIENTS AND THEY
 2 KEPT COMING. MORE CLIENTS CAME. AND IT WAS VERY
 3 HARD TO KEEP COUNT OF THE NEW CLIENTS THAT WERE
 4 COMING IN. THE MORE FIRM NUMBERS WERE THE ONES THAT
 5 WERE IN THE KENNELS, AS YOU WALKED THROUGH, THERE
 6 WERE DIFFERENT SECTIONS OF KENNELS. THEN THERE WAS
 7 TWO SHEDS. THEY WERE IN THERE AND NOT LEAVING UNTIL
 8 THE KENNELS WERE CLEANED.
 9 MS. SMITH: WHO DO YOU MEAN BY "THEY"?
 10 THE DEPONENT: THE ANIMALS. THOSE WERE
 11 FIRM NUMBERS IN THOSE TWO SHEDS. THEN IN THE DUETS'
 12 GARAGE THERE WERE MORE DOGS. THEY WERE NOT GOING
 13 ANYWHERE EITHER, ASIDE FROM THE ONE DOG THAT WAS ON
 14 THE LAWN WHEN WE FIRST ARRIVED AND THEN WENT BACK
 15 INTO ITS CRATE IN THE GARAGE AFTER IT COMPLETED ITS
 16 TRAINING.
 17 Q. (BY MR. SCHAEFER:) OKAY.
 18 A. THEN THERE WAS ANOTHER DOG TO THE FARTHEST
 19 END OF THE PROPERTY THAT WAS NOT GOING ANYWHERE, AND
 20 THAT'S HOW THESE NUMBERS CAME ABOUT.
 21 Q. GREAT. NOW, I WANT TO GET BACK TO THE
 22 STORY. I'M BACK TO BEFORE YOU MET WITH THE DUETS,
 23 THE MONDAY BEFORE THIS VISIT THAT YOU MADE TO THE
 24 PROPERTY, BEFORE THAT WE WERE IN THE PROCESS OF
 25 FIGURING OUT WHAT INFORMATION WAS AVAILABLE TO THE

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1 DEPARTMENT ON THE NUMBER OF DOGS THAT WAS ACTUALLY
 2 THERE.
 3 REMEMBER, WE'VE GOT A PERMIT FOR 35. WE'VE
 4 GOT WHAT YOU UNDERSTAND TO BE LAND USE APPROVAL FOR
 5 20. WE'VE GOT MR. MILLER INSTRUCTING YOUR
 6 LIEUTENANT TO GO OUT AND ACTUALLY DO AN INSPECTION,
 7 WHICH HE DID ONE INSPECTION TO SERVE TWO PURPOSES,
 8 AND HE FOUND 20 DOGS THERE. OKAY.
 9 SO WAS ANYTHING ELSE DONE BEFORE THE
 10 SURPRISE VISIT BY THE DEPARTMENT TO DETERMINE THE
 11 NUMBER OF DOGS THAT WAS ACTUALLY ON THE PREMISES?
 12 A. NO. NO. WE DID THIS INSPECTION. WE FOUND
 13 20. WE WERE SATISFIED WITH THAT INSPECTION.
 14 YOU KNOW WHAT, LET ME BACK THAT UP. I WAS
 15 SATISFIED WITH THAT INSPECTION.
 16 Q. NOW, THIS INSPECTION HERE THAT LIEUTENANT
 17 MAYER DID IS IN MAY.
 18 A. CORRECT.
 19 Q. THE SURPRISE VISIT IS ON JULY 24.
 20 IN JUNE DID THE DEPARTMENT GET A REPORT
 21 FROM A NEIGHBOR THAT THERE WERE TOO MANY DOGS ON
 22 THIS PROPERTY?
 23 A. I DON'T HAVE THE RECORDS IN FRONT OF ME.
 24 Q. DO YOU HAVE ANY KNOWLEDGE OF ONE OF YOUR
 25 ENFORCEMENT OFFICERS IN JUNE RESPONDING TO THE

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1 PROPERTY, RESPONDING TO THE DUETS' PROPERTY, AS THE
 2 RESULT OF A COMPLAINT CALLED IN BY THE NEIGHBOR, AND
 3 INSPECTING THE PROPERTY FOR THE NUMBER OF DOGS?
 4 A. I DO NOT RECALL.
 5 Q. ARE YOU ABLE TO STATE WITH CERTAINTY THAT
 6 SUCH AN INSPECTION BY ONE OF YOUR OFFICERS IN JUNE
 7 EITHER DID OR DID NOT TAKE PLACE?
 8 A. I DON'T KNOW IF THAT INSPECTION TOOK PLACE.
 9 Q. IF THERE WERE A CITIZEN COMPLAINT OF TOO
 10 MANY DOGS ON THE DUETS' PROPERTY AND ONE OF YOUR
 11 ENFORCEMENT OFFICERS RESPONDED TO THE DUETS'
 12 PROPERTY TO ASCERTAIN THE ACCURACY OF THE COMPLAINT,
 13 WOULD THERE BE ANY RECORD OF THAT, ANY WRITTEN
 14 RECORD OF THAT, MAINTAINED IN THE DEPARTMENT?
 15 A. YES.
 16 Q. WHERE WOULD IT BE?
 17 A. IT WOULD BE IN OUR SYSTEM CALLED CHAMELEON,
 18 WHICH CREATES AN ACTIVITY NUMBER AND GOES INTO OUR
 19 DISPATCH CENTER, WHICH THEN SENDS THE CALL OUT TO
 20 THE OFFICER.
 21 Q. IF WE WANTED TO GO AND CLICK THE CHAMELEON
 22 SYSTEM TO SEE IF SUCH A CALL TOOK PLACE, HOW WOULD
 23 WE GO ABOUT DOING THAT?
 24 MS. SMITH: CAN YOU ASCERTAIN THAT
 25 INFORMATION AND PROVIDE THOSE DOCUMENTS?

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1 THE DEPONENT: GENERALLY, THE NORMAL
 2 PROCESS IS A PERSON DOES A REQUEST FOR RECORDS AND
 3 THEN OUR RECORDS RETENTION PERSON, FILLS THE REQUEST
 4 AND IT'S GIVEN. I'M SURE THERE ARE OTHER AVENUES,
 5 SUBPOENAS AND WHATNOT.
 6 MS. SMITH: IN OTHER WORDS, CAN YOU JUST
 7 ASK THE DISPATCH OR THE RECORDS FOR THEM?
 8 THE DEPONENT: I CAN ASK OUR RECORDS
 9 KEEPER, YES. OR WE CAN PHYSICALLY LOOK IT UP.
 10 Q. (BY MR. SCHAEFER:) NOW I'M GOING TO ASK
 11 YOU WHAT IS SUPPOSED TO BE REPORTED IN WRITING.
 12 IS DISPATCH REQUIRED TO KEEP A RECORD OF
 13 THE COMPLAINT?
 14 A. YES. AND IT'S NOT WRITTEN. IT'S A PROGRAM
 15 IN THE COMPUTER.
 16 Q. IT'S FAIR TO SAY THAT DISPATCH IS REQUIRED
 17 TO REPORT IN THE COMPUTER THAT THIS CALL CAME IN.
 18 IS THAT FAIR TO SAY?
 19 A. NOT EXACTLY. THE CALLS COME IN TO OUR CALL
 20 PHONE CENTER. GENERALLY, UNLESS THEY'RE AN
 21 EMERGENCY, DO THEY COME INTO DISPATCH. THEY COME IN
 22 TO THE CALL CENTER. THE CALL CENTER TYPES THEM UP,
 23 AND VIA THIS COMPUTER PROGRAM, THEY GETS MERGED DOWN
 24 INTO THE DISPATCH CENTER. AND I SAY "DOWN" BECAUSE
 25 CALL CENTER'S UPSTAIRS AND DISPATCH IS DOWNSTAIRS.

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1 ALL THEY DO IS SHOW THIS ACTIVITY. THE
 2 DISPATCHER SAYS, "YOU HAVE A CALL," TO THE OFFICER,
 3 AND THEY PLACE THAT CALL -- IT ACTUALLY CAN JUST BE
 4 PICKED UP LIKE A CUT-AND-PASTE, INTO THEIR CALL
 5 BOX. AND THEN THEY GO OUT TO THE CALL.
 6 THE COMMENTS THAT ARE GIVEN BACK TO THE
 7 DISPATCHER ARE WHEN THEY ARRIVE AT THE CALL.
 8 USUALLY IT WILL SAY, IN ACRONYMS, "MAKE CONTACT WITH
 9 C.A.," MEANING COMPLAINT AGAINST, SO IT WOULD BE AN
 10 ACRONYMS M.C.C.A., MAKE CONTACT WITH THE COMPLAINT
 11 AGAINST, AND THEN WHATEVER MAY HAVE HAPPENED, NOTICE
 12 OF VIOLATION GIVEN OR NO VIOLATION OBSERVED.
 13 THERE'S DIFFERENT ACRONYMS THAT -- BECAUSE IT'S A
 14 QUICK FIX.
 15 THEN THE OFFICERS -- IT'S UP TO THEM TO
 16 COME IN, AND IF THEY WANT TO PUT ANYTHING FURTHER,
 17 AS FAR AS NOTES, THEY TYPE THEM IN AND IT'S IN THE
 18 SYSTEM. WE CANNOT DELETE A CALL OUT OF THE SYSTEM.
 19 WE DON'T HAVE THAT KNOWLEDGE OF HOW TO DO THAT.
 20 Q. SO IF POLICY AND PROCEDURE WERE FOLLOWED --
 21 AND THIS EVENT THAT I'VE DESCRIBED OCCURRED -- WE
 22 WOULD FIND A REPORT OF THE COMPLAINT TO THE
 23 DISPATCHER.
 24 MS. SMITH: TO THE CALL CENTER.
 25 Q. (BY MR. SCHAEFER:) TO THE CALL CENTER.

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1 AND WE WOULD ALSO FIND SOME RESPONSE FROM THE
 2 OFFICER AS TO WHAT HE FOUND WHEN HE RESPONDED AND
 3 INVESTIGATED THIS COMPLAINT?
 4 A. CORRECT.
 5 Q. IF PROCEDURE WAS FOLLOWED?
 6 A. CORRECT.
 7 Q. LET'S SEE WHAT WE CAN DO ABOUT THAT. SO
 8 GETTING BACK TO THE STORY, WHAT I'M HEARING IS THAT
 9 PRIOR TO THE MEETING WITH THE DUETS ON THE MONDAY
 10 BEFORE THE JULY 24TH INSPECTION, YOU WERE AWARE THAT
 11 THERE WAS A PERMIT FOR 35 DOGS, LAND USE APPROVAL
 12 FOR 20 DOGS. YOU DIDN'T KNOW HOW MANY DOGS WERE OUT
 13 THERE IN REALITY, BECAUSE THAT'S NOT WHAT YOU DID.
 14 YOU HAD NO INSPECTIONS.
 15 MS. SMITH: OBJECTION. MISSTATES THE
 16 EVIDENCE AND ARGUMENTATIVE.
 17 Q. (BY MR. SCHAEFER:) I WANT TO GET YOUR
 18 STATE OF AFFAIRS AND YOUR KNOWLEDGE GOING INTO THIS
 19 MONDAY MEETING.
 20 YOU KNEW, NUMBER ONE, THAT A PERMIT IN THE
 21 PAST HAD BEEN ISSUED FOR 35 DOGS?
 22 A. YES.
 23 Q. YOU KNEW THAT LAND USE APPROVAL WAS ONLY
 24 FOR 20 DOGS?
 25 A. CORRECT.

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1 Q. YOU KNEW THAT LIEUTENANT MAYER HAD GONE OUT
 2 THERE ON MAY 11TH AND HAD FOUND 20 DOGS?
 3 A. CORRECT.
 4 Q. OTHER THAN DEPUTY MAYER'S INFORMATION, YOU
 5 DIDN'T HAVE ANY REPORTS OF HOW MANY DOGS WERE
 6 ACTUALLY ON THE PREMISES?
 7 A. CORRECT.
 8 Q. AND YOU HAD DECIDED NOT TO DO ANYTHING
 9 ABOUT THE -- PRIOR TO THIS MONDAY MEETING, YOU WERE
 10 NOT GOING TO TAKE ANY ACTION ON ANY OF THIS BECAUSE
 11 YOU WERE WAITING FOR THE PLANNING PROCESS TO RUN ITS
 12 COURSE, THE LAND USE ON THE APPLICATION TO INCREASE
 13 THE NUMBER OF DOGS?
 14 A. CORRECT, TO A CERTAIN EXTENT.
 15 Q. ALL RIGHT. WHAT DO WE NEED TO ADD?
 16 A. ALL THAT WE NEED TO ADD IS WHEN YOU SAY
 17 "ME," IT'S THE -- THESE ARE SIGNED OFF BY THE
 18 DIRECTOR.
 19 Q. THE PERMITS ARE SIGNED OFF BY THE DIRECTOR?
 20 A. YES. THE KENNEL LICENSE IS SIGNED OFF BY
 21 THE DIRECTOR. I WAS AT A STANDSTILL AS FAR AS WHAT
 22 I COULD DO. THIS IS AS FAR AS WHAT ME AND MY TEAM
 23 COULD DO, JUST A GENERAL INSPECTION.
 24 Q. WHEN I'M TALKING ABOUT YOU, I'M TALKING
 25 ABOUT YOU IN YOUR CAPACITY AS THE CHIEF ENFORCEMENT

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1 OFFICER.
 2 A. GOTTCHA.
 3 Q. SO AS OF MONDAY, YOU WERE NOT PLANNING ON
 4 ANY ENFORCEMENT ACTION BECAUSE -- AT THE START OF
 5 THE MEETING ON MONDAY, WERE YOU CONTEMPLATING ANY
 6 ENFORCEMENT ACTION?
 7 A. NO.
 8 Q. AND THE REASON YOU WERE NOT CONTEMPLATING
 9 ANY ENFORCEMENT ACTION WAS YOU DIDN'T FEEL IT WAS
 10 WARRANTED, GIVEN THE INSPECTION BY MAYER AND THE
 11 PENDING PLANNING PROCESS AT LAND USE.
 12 DO I HAVE THAT RIGHT? LET ME ASK IT
 13 DIRECTLY.
 14 WHY WERE YOU NOT PLANNING ANY ENFORCEMENT
 15 ACTION, GOING INTO THE MEETING WITH KAREN DUET ON
 16 THE MONDAY BEFORE JULY 24TH?
 17 A. BECAUSE WE FELT VERY SATISFIED WITH THIS.
 18 Q. WITH THE INSPECTION DEPARTMENT?
 19 A. I DID, YES.
 20 Q. OKAY. NOW --
 21 A. NOW, AS FAR AS -- LET'S STOP RIGHT THERE.
 22 GO AHEAD.
 23 Q. WHY WERE YOU HAVING A MEETING WITH
 24 KAREN DUET?
 25 A. TO DISCUSS THE ISSUE WITH SENTRY DOGS AND

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1 GUARD DOGS.
 2 Q. ANY OTHER REASON FOR THE MEETING?
 3 A. NO.
 4 Q. IN YOUR MIND AT THE START OF THE MEETING,
 5 WHAT WERE THE ISSUE WITH THE GUARD DOGS AND THE
 6 SENTRY DOGS?
 7 A. THE ISSUE WAS THAT ACCORDING TO THE DUET
 8 WEBSITE, THEY SHOW THAT THEY HAVE THESE SENTRY DOGS,
 9 GUARD DOGS, PROTECTION DOGS ON THE PROPERTY. AND IT
 10 HAD BEEN BROUGHT TO MY ATTENTION, VIA THE DIRECTOR.
 11 I BELIEVE, THAT WE WERE NOT IN COMPLIANCE WITH THE
 12 HEALTH AND SAFETY CODE THAT WAS IN THE STATE, AS FAR
 13 AS WHAT OUR OBLIGATIONS WERE WITH RESPECT TO THAT
 14 LAW.
 15 Q. OKAY.
 16 A. AND THEN ALSO IN THAT LAW THERE ARE ALL
 17 SORTS OF RULES ON WHAT YOU HAVE TO HAVE OR NOT HAVE
 18 WHEN IT COMES TO HAVING GUARD DOGS, PROTECTION DOGS,
 19 OR SENTRY DOGS. WE HAD THE MEETING WITH THE DUETS.
 20 Q. I'M NOT AT THE MEETING YET.
 21 A. OKAY.
 22 Q. SO WE'RE GOING INTO THIS MEETING AND -- I
 23 MEAN, YOU ARE GOING INTO THIS MEETING AND MR. MILLER
 24 HAS TOLD YOU THAT THE DEPARTMENT IS NOT IN
 25 COMPLIANCE WITH THE DEPARTMENT'S OBLIGATIONS WITH

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1 REGARDS TO GUARD DOGS AND SENTRY DOGS.
 2 DO I HAVE THAT PART RIGHT?
 3 A. YES.
 4 Q. GOING INTO THE MEETING WITH THE DUETS, WHAT
 5 DID YOU BELIEVE THE DEFENDANT WAS NOT DOING THAT IT
 6 SHOULD HAVE BEEN DOING?
 7 A. I DON'T HAVE HEALTH AND SAFETY HERE IN
 8 FRONT OF ME, BUT WE WERE NOT DOING ANY OF IT.
 9 Q. ISN'T PART OF THE HEALTH AND SAFETY CODE
 10 REQUIREMENTS THAT THERE IS A CERTAIN PERMIT PROCESS?
 11 A. YES.
 12 Q. GOING INTO THIS MEETING WITH THE DUETS THE
 13 MONDAY BEFORE THE SURPRISE INSPECTION THERE WAS NO
 14 PERMIT PROCESS IN PLACE?
 15 A. CORRECT.
 16 Q. AS WELL AS MAYBE OTHER THINGS THAT YOU
 17 CAN'T RECALL RIGHT NOW?
 18 A. WITH REGARDS TO THE HEALTH AND SAFETY
 19 CODES.
 20 Q. OKAY. THE DEPARTMENT IS DEFICIENT IN NOT
 21 HAVING A PERMIT PROGRAM, AND YOU THOUGHT THAT THE
 22 DUETS HAD MAYBE THESE GUARD DOGS AND SENTRY DOGS
 23 BECAUSE OF WHAT WAS ON THEIR WEBSITE; RIGHT?
 24 A. CORRECT.
 25 Q. HOW DID THAT FIGURE INTO THE NEED TO HAVE A

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1 MEETING WITH THE DUETS?
 2 A. BECAUSE WE FELT THAT THEY MET THE
 3 REQUIREMENTS OF WHAT WE WERE READING IN HEALTH AND
 4 SAFETY.
 5 Q. WHAT WAS YOUR PLAN GOING INTO THIS MEETING?
 6 A. TO GET INFORMATION FROM THE DUETS AS TO HOW
 7 MANY SENTRY, GUARD, AND PROTECTION DOGS THAT THEY
 8 HAD, BECAUSE THERE IS ALSO AN ORDINANCE -- OUR
 9 COUNTY ORDINANCE, BUT IT ONLY NOTES IF YOU HAVE MORE
 10 THAN FIVE SENTRY DOGS OR WHATEVER.
 11 SO WE DID NOT BELIEVE THAT THE DUETS -- WE
 12 DIDN'T KNOW AT THE TIME BECAUSE WE DIDN'T KNOW HOW
 13 MANY DOGS THAT THEY HAD. WE WANTED TO SEE WHICH OF
 14 THESE LAWS THAT WE NEEDED TO FIGURE OUT HOW TO GO
 15 WITH, JUST ON -- I'M STUMBLING OVER MY WORDS -- BUT
 16 -- BECAUSE THE DUETS, WHEN SHE CAME IN -- OR I
 17 THINK EVEN MAYBE ON THE PHONE -- THERE WERE ONLY A
 18 COUPLE OF DOGS OUT THERE. SO WE WERE KIND OF OKAY,
 19 NOT THE SENTRY DOGS FOR TITLE 6 BUT CERTAINLY FOR
 20 HEALTH AND SAFETY. AND WE NEEDED TO BUCKLE DOWN
 21 WHAT WE NEEDED TO DO TO GET THEM INTO COMPLIANCE.
 22 Q. YOU WERE BASICALLY ASKING KAREN DUET TO
 23 COME IN TO GIVE YOU INFORMATION ABOUT WHAT SHE WAS
 24 DOING?
 25 A. HOW MANY SENTRY, PROTECTION, GUARD DOGS SHE

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1 HAD ON THE PROPERTY.
 2 Q. HOW WOULD THAT INFORMATION FIGURE INTO WHAT
 3 THE COUNTY NEEDED TO DO TO GET ITSELF IN COMPLIANCE
 4 WITH THE LAW? WHAT YOU WERE THINKING?
 5 A. IT WOULD HAVE BEEN TWO-FOLD.
 6 Q. I'M LOOKING AT WHAT YOU WERE THINKING AT
 7 THE TIME.
 8 A. OKAY. IN MY OPINION IT WAS TWO-FOLD. IF
 9 MS. DUET HADN'T OF SAID SHE HAD SEVEN OR EIGHT
 10 SENTRY DOGS, THEN WE HAD TO GET TITLE 6 UP TO SPEED,
 11 AND THAT WOULD HAVE ALMOST SENT HER INTO ANOTHER
 12 PERMIT. IF SHE HAD UNDER THAT FIVE DOGS, THEN WE
 13 WERE GOING TO FOCUS ON THE HEALTH AND SAFETY PROCESS
 14 INTO SPEED.
 15 NOT ONLY THAT IS KNOWING THAT IF THE DUETS
 16 -- ACTUALLY KAREN BROUGHT THIS UP -- IF THE DUETS
 17 HAVE THESE GUARD DOGS, SENTRY DOGS, PROTECTION DOGS
 18 ON THEIR PROPERTY, OTHER PLACES DO, TOO, AND WE
 19 NEEDED TO GET IT IN ORDER FOR THE OTHER KENNELS OUT
 20 THERE.
 21 Q. YOU WANTED TO GET EVERYBODY IN COMPLIANCE
 22 WITH THE LAW?
 23 A. YES.
 24 Q. YOU WANTED THE DUETS IN COMPLIANCE WITH THE
 25 LAW?

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1 A. YES.
 2 Q. YOU WANTED THE COUNTY IN COMPLIANCE WITH
 3 THE LAW?
 4 A. YES.
 5 Q. SO YOU ASKED KAREN TO COME IN?
 6 A. YES.
 7 Q. WHAT HAPPENED IN THE MEETING?
 8 A. YES. KAREN SHOWED US A VIDEO OF THE
 9 TRAINING, WHICH WAS VERY NICE, AND THEN ALSO
 10 DESCRIBED ONLY TWO DOGS ON THEIR PROPERTY THAT WERE
 11 USED FOR THE PROTECTION SERVICE, SENTRY DOG BUSINESS
 12 THAT SHE'S GOT. ONLY TWO.
 13 SO IN THAT MEETING WE DISCUSSED, OKAY, THEN
 14 WE NEED TO FOCUS HERE ON THIS. WE BELIEVE THEY MET
 15 THE REQUIREMENTS FOR THE HEALTH AND SAFETY LAW AND
 16 THAT WE WERE GOING TO MOVE AS QUICKLY AS WE CAN TO
 17 GET THEM INTO COMPLIANCE, GET THIS SYSTEM IN PLACE
 18 WITHIN THE DEPARTMENT.
 19 Q. SO AT THE END OF THAT MEETING, IT SOUNDS
 20 LIKE YOU STILL WERE NOT CONTEMPLATING ANY
 21 ENFORCEMENT ACTION AGAINST THE DUETS?
 22 A. NO, I WAS NOT.
 23 Q. HOW MUCH TIME GOES BY BETWEEN THE TIME OF
 24 THE MEETING WITH THE DUETS AND THE TIME THAT YOU
 25 ARRIVED AT THE DUETS' PLACE ON THE 24TH?

1 A. HOW MUCH TIME --
 2 MS. SMITH: YOU COULD STIPULATE THAT WOULD
 3 BE THE 19TH OF JULY.
 4 THE DEPONENT: THAT WAS A MONDAY AND THEN
 5 THAT FOLLOWING SATURDAY. SO IT WAS SIX DAYS.
 6 Q. (BY MR. SCHAEFER:) WHAT HAPPENED DURING
 7 THE SIX DAYS TO CHANGE YOUR MIND ABOUT ENFORCEMENT
 8 ACTION?
 9 A. I LIKE IT THAT YOU USED THE TERM "CHANGE MY
 10 MIND." I WAS DIRECTED TO DO SO.
 11 Q. ALL RIGHT. WHAT WERE YOU DIRECTED TO DO?
 12 A. I WAS INFORMED THAT AN INSPECTION WARRANT
 13 WAS BEING WRITTEN UP AND THAT IT WOULD PROBABLY BE
 14 SIGNED VERY SOON -- AND THIS WAS EITHER LATE IN THE
 15 DAY WEDNESDAY OR LATE IN THE DAY THURSDAY -- AND
 16 THAT THE INSPECTION WARRANT WOULD BE SERVED ON THE
 17 DUETS SATURDAY MORNING.
 18 Q. WHO TOLD YOU THAT?
 19 A. ROBERT MILLER.
 20 Q. WERE YOU CONSULTED IN THE PROCESS OF
 21 DETERMINING WHETHER OR NOT TO GET AN INSPECTION
 22 WARRANT?
 23 A. NO.
 24 Q. THEN I TAKE IT THAT YOU IN RESPONSE TO YOUR
 25 BOSS'S DIRECTIONS WENT OUT THERE TO SERVE THIS

1 INSPECTION WARRANT ON SATURDAY MORNING?
 2 A. CORRECT.
 3 Q. WE KIND OF GOTTEN INTO THIS A LITTLE BIT,
 4 WHERE YOU DROVE UP AND PARKED AND WALKED UP TO THE
 5 OFFICE THERE. CAN YOU KIND OF WALK ME THROUGH WHAT
 6 HAPPENED WHEN YOU WERE THERE, STARTING WITH HOW LONG
 7 WERE YOU PERSONALLY THERE?
 8 A. I DON'T HAVE MY PAPERWORK --
 9 Q. WERE YOU ON YOUR LUNCHTIME, AN HOUR?
 10 MS. SMITH: YOU CAN ESTIMATE, ROUGHLY.
 11 THE DEPONENT: I BELIEVE WE WERE THERE TWO
 12 HOURS.
 13 MS. SMITH: YOU HAVE DOCUMENTS YOU SAID
 14 REGARDING THIS THAT WE MIGHT HAVE COPIES OF, THAT WE
 15 PRODUCED.
 16 THE DEPONENT: THE STATEMENT THAT I WROTE
 17 TO YOU, AND I DON'T KNOW IF IT WAS SUBMITTED.
 18 Q. (BY MR. SCHAEFER:) I'VE GOT THIS, BUT I'M
 19 TRYING TO GET THE BIG PICTURE.
 20 A. I THOUGHT I WAS VERY CLEAR ON THAT. MAY I
 21 LOOK AT IT?
 22 Q. SURE.
 23 A. BECAUSE I CAN WALK YOU THROUGH IT.
 24 Q. SHOW YOU EXHIBIT 1.
 25 A. I'LL WAIT FOR THE NEXT QUESTION.

1 Q. NOW, YOU SAID IF YOU COULD READ IT THAT
 2 WOULD HELP YOU TO WALK ME THROUGH THE WHOLE THING.
 3 MS. SMITH: YOUR QUESTION WAS ROUGHLY HOW
 4 LONG WERE YOU THERE. LOOK'S LIKE YOU STATED THREE
 5 HOURS.
 6 THE DEPONENT: OKAY. I'M READY.
 7 Q. (BY MR. SCHAEFER:) ABOUT WHAT TIME OF DAY
 8 DID YOU ARRIVE?
 9 A. 10:30, APPROXIMATELY.
 10 Q. AND YOU WENT UP TO THE -- OR YOUR TEAM WENT
 11 UP TO THE OFFICE AND INTRODUCED YOURSELF.
 12 WHAT DID YOU DO NEXT?
 13 A. WE ASKED THE OFFICE MANAGER/SUPERVISOR -- I
 14 DON'T RECALL WHAT SHE CALLS HERSELF -- IF WE COULD
 15 INSPECT THE PROPERTY, AND SHE SAID CERTAINLY. AND
 16 SHE STARTED TO SHOW US THROUGH THE WHOLE PROPERTY.
 17 WHEN WE GOT TO THE DUETS' HOME, THAT'S WHEN
 18 SHE SAID, "NO, I CANNOT OPEN THE DOORS OF THE DUETS'
 19 HOME. YOU WILL HAVE TO CALL KAREN AND SEE IF YOU
 20 CAN GET IN, AND YOU WOULD NEED A WARRANT." AND THE
 21 WARRANT WAS PRODUCED FOR HER. THEN THE PROPERTY WAS
 22 OPENED UP SO WE COULD SEE AND COUNT EVERY ANIMAL
 23 THAT WAS ON THE PROPERTY.
 24 I COUNTED THE ANIMALS. MY TEAM AND I SPLIT
 25 UP. LIEUTENANT MAYER AND SERGEANT LEE WERE ASSIGNED

1 WHILE WE WERE WAITING FOR OUR S.O. TO COUNT THE
 2 ANIMALS THAT WERE CRATED. THEY HAVE A SYSTEM IN
 3 PLACE WHERE THE ANIMALS ARE TAKEN FROM THEIR KENNELS
 4 AND THEY'RE CRATED IN THEIR OWN CRATES, LABELED WITH
 5 THEIR NAMES, AND THEN THE KENNELS ARE ALL SCRUBBED
 6 AND CLEANED. AND THEN THE ANIMALS ARE TAKEN FROM
 7 THEIR CRATES AND PUT BACK IN THEIR KENNELS. THAT
 8 WAS THE STAGE THAT THE KENNELS WERE IN AT THAT TIME
 9 IN THE MORNING. THAT WAS THE OPERATIONAL STATE THEY
 10 WERE IN. AND SO IT WAS VERY EASY TO COUNT THE
 11 ANIMALS ALL IN THEIR CRATES WITH THEIR NAMES ON
 12 THEM, AND WE PHOTOGRAPH THEM. THEY HAD BEEN DOING
 13 THE ONE SECTION. I WAS LOOKING AT THE DUETS'
 14 PROPERTY, WHERE I NOTED THE ANIMALS INSIDE THE
 15 GARAGE AND IN THE HOME.
 16 THEN I WENT BACK TO MY TEAM AND JUST WENT
 17 AHEAD OF THEM. SO THEY COUNTED THE ANIMALS THAT
 18 WERE IN THE FIRST SECTION OF KENNELS. AS I WALKED
 19 DOWN THROUGH THE LITTLE BREEZEWAY, THERE WERE MORE
 20 DOGS, AND THE SAME PROCESS WAS GOING ON IN THOSE
 21 KENNELS, THE SCRUB DOWN, MORNING CLEANING, AND THEY
 22 WERE ALL IN THEIR CRATES.
 23 THEN I OPENED UP THE SHEDS, AND I FOUND
 24 MORE DOGS, COUNTED THOSE. TOLD MY TEAM THAT THESE
 25 ANIMALS WERE ALL THERE. THEN THEY PROCEEDED TO

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1 FOLLOW ME THROUGH THAT, AND THEN I MADE SURE THAT
 2 THEY WENT BACK TO THE DUETS' GARAGE AND TOOK
 3 PHOTOGRAPHS AND NOTED THOSE ANIMALS AS WELL. AFTER
 4 WE HAD INVENTORIED ALL THE ANIMALS -- AND THAT WAS
 5 OUR GOAL FOR THE DAY -- AND THEN WE DISCUSSED WHAT
 6 FURTHER ACTIONS WOULD BE TAKEN.
 7 Q. NOW, LET'S LOOK AT PAGE 4 OF THIS
 8 DECLARATION. UP AT THE TOP, LINES 3 TO 5, IT SAYS,
 9 "SERGEANT LEE AND LIEUTENANT MAYER
 10 PHOTOGRAPHED AND DOCUMENTED 70 DOGS
 11 OBSERVED ON THE PROPERTY DURING
 12 THAT THREE-HOUR INSPECTION,
 13 INCLUDING TWO GUARD DOGS."
 14 DO YOU SEE THAT?
 15 A. YES.
 16 Q. I TAKE IT THAT YOU'VE SPENT A LITTLE TIME
 17 WITH THE HEALTH AND SAFETY CODE THAT'S APPLICABLE
 18 HERE?
 19 A. YES.
 20 Q. IT USES THE TERM "GUARD DOG," DOES IT NOT?
 21 A. YES. IT'S USES GUARD DOG, SENTRY DOG, AND
 22 PROTECTION DOG.
 23 Q. ARE YOU UP-TO-DATE IN YOUR MIND ABOUT THE
 24 TECHNICAL LEGAL DEFINITIONS AS THE TERM "GUARD DOG"
 25 AS OPPOSED TO "SENTRY DOG" AS OPPOSED TO "PROTECTION

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1 DOG," AS IT IS SPELLED OUT IN THAT HEALTH AND SAFETY
 2 SECTION?
 3 A. A BIT.
 4 Q. LET'S TRY THIS OUT.
 5 A. MS. SMITH: WELL, YOU HAVE THE HEALTH AND
 6 SAFETY CODE.
 7 Q. (BY MR. SCHAEFER:) I HAVE THE HEALTH AND
 8 SAFETY CODE, BUT I GET TO ASK YOU QUESTIONS.
 9 A. WELL, I HOPE I CAN ANSWER THEM FOR YOU.
 10 MS. SMITH: JUST DO YOUR BEST. DON'T
 11 GUESS.
 12 Q. (BY MR. SCHAEFER:) WHAT IS THE TECHNICAL
 13 DEFINITION OF A SENTRY DOG AS OPPOSED TO A GUARD
 14 DOG?
 15 A. A SENTRY DOG IS A DOG THAT CAN WORK
 16 INDEPENDENTLY, WITHOUT A HANDLER.
 17 Q. WHAT DOES THIS SENTRY DOG DO INDEPENDENTLY
 18 WITHOUT A HANDLER?
 19 A. IT GUARDS THE PERIMETER.
 20 Q. WHAT DOES A GUARD DOG DO AS OPPOSED TO A
 21 SENTRY DOG?
 22 A. I DON'T KNOW THE DIFFERENCE OF THE
 23 DEFINITION, BUT TO ME -- MY UNDERSTANDING IS IT'S
 24 THE SAME.
 25 Q. YOUR UNDERSTANDING IS THAT GUARD DOGS AND

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1 SENTRY DOGS HAVE THE SAME LEGAL DEFINITION?
 2 MS. SMITH: OKAY. PULL OUT THE HEALTH AND
 3 SAFETY CODE. YOU'RE JUST PLAYING WITH HER.
 4 MR. SCHAEFER: NO, NO. I'M NOT PLAYING
 5 WITH HER.
 6 Q. I JUST WANT TO KNOW WHAT YOU THINK, BECAUSE
 7 I'M GOING TO GET TO THE POINT OF THIS.
 8 A. I'M NOT QUITE SURE. THE SENTRY DOG IS THE
 9 ONE THAT WE WERE SO FOCUSED ON.
 10 Q. WHY WERE YOU FOCUSSED ON SENTRY DOGS?
 11 A. BECAUSE THAT'S HOW IT STATES IN TITLE 6 AND
 12 THAT'S HOW IT STARTS OUT OFF IN HEALTH AND SAFETY
 13 AND THEN BUILDS UP ON THIS GUARD, PROTECTION, ATTACK
 14 DOG.
 15 Q. NOW I'M LOOKING AT YOUR LANGUAGE HERE. ON
 16 LINE 4, IT SAYS:
 17 "SERGEANT LEE AND LIEUTENANT MAYER
 18 PHOTOGRAPHED AND DOCUMENTED 70 DOGS
 19 OBSERVED ON THE PROPERTY DURING THAT
 20 THREE-HOUR INSPECTION, INCLUDING TWO
 21 GUARD DOGS. ONE GUARD DOG WAS IN
 22 THE RESIDENCE AND ONE WAS IN THE
 23 GENERAL POPULATION."
 24 DO YOU REMEMBER THE TWO GUARD DOGS?
 25 A. YES.

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1 Q. HOW DID YOU KNOW THEY WERE GUARD DOGS?
 2 A. BECAUSE MS. DUET TOLD ME THEIR NAMES.
 3 Q. WAS MS. DUET THERE ON JULY 24TH WHEN YOU
 4 WERE ACTUALLY PHYSICALLY INSPECTING THE PROPERTY?
 5 WAS SHE PHYSICALLY THERE?
 6 A. NO.
 7 Q. THE MONDAY BEFORE, MS. DUET SAYS, "I'VE GOT
 8 TWO GUARD DOGS."
 9 A. YES.
 10 Q. THEN YOU GO OUT ON THE PROPERTY THE
 11 FOLLOWING SATURDAY --
 12 A. MAY I BACK IT UP JUST A SECOND?
 13 Q. SURE.
 14 A. I BELIEVE MS. DUET USED "PROTECTION DOGS."
 15 Q. MS. DUET SAYS, "I HAVE PROTECTION DOGS" ON
 16 MONDAY?
 17 A. YES.
 18 Q. THE FOLLOWING SATURDAY YOU GO OUT TO THE
 19 PROPERTY; RIGHT?
 20 A. RIGHT. MS. DUET AFFORDED US THE NAME OF
 21 THOSE TWO DOGS.
 22 Q. SPARKO AND BOSSY?
 23 A. I BELIEVE SO, YES.
 24 Q. WHEN YOU GO OUT THERE ON SATURDAY AND
 25 MS. DUET IS NOT THERE, 70 DOGS ON THE PROPERTY, HOW

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1 DO WE KNOW THAT SPARKO AND BOSSY WERE THERE?
 2 A. BECAUSE HER STAFF TOLD US.
 3 Q. SO YOU WERE REPLYING ON THE STAFF
 4 INFORMATION?
 5 A. YES.
 6 Q. DID THEY PERSONALLY SHOW YOU WHERE SPARKO
 7 WAS AND WHERE BOSSY WAS?
 8 A. YES.
 9 Q. WHERE WAS SPARKO?
 10 A. IT WASN'T THAT THEY SHOWED US. WHEN WE GOT
 11 TO THE ONE DOG -- AND I DON'T REMEMBER WHICH NAME
 12 WENT TO WHICH DOG -- ONE DOG WAS UP BY THE DUETS'
 13 PROPERTY IN ITS OWN RUN.
 14 MS. SMITH: THE PERSON YOU DESCRIBE AS
 15 BEING IN THE BARN?
 16 THE DEPONENT: NO.
 17 MS. SMITH: HOW ABOUT THE EAST SIDE OF THE
 18 HOUSE?
 19 THE DEPONENT: YES, THE KENNELS ON THE BACK
 20 -- ALMOST ON THE FURTHEST SIDE OF THE BACK AREA OF
 21 THE PROPERTY. IT WASN'T BY THE DOGS THAT WERE BEING
 22 TRAINED OR HOUSED UP BY THE OFFICE. THERE WAS
 23 ANOTHER KENNEL FURTHER BACK BY THE DUETS' HOME, I
 24 SHOULD SAY.
 25 WHEN WE GOT TO THAT DOG, THE KENNEL STAFF

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1 NOTED THAT DOG'S NAME, AND I DON'T REMEMBER WHICH
 2 NAME IT WAS. IT WAS ONE OF THE TWO.
 3 Q. ALL RIGHT.
 4 A. AND THEN WHEN WE WERE -- THE OTHER DOG WAS
 5 LOCATED IN THE GENERAL POPULATION, AND I BELIEVE
 6 THAT ONE EVEN HAD ITS NAME ON THE KENNEL BUT THE
 7 STAFF NOTED THAT ONE TOO. BECAUSE WE WERE GOING,
 8 ARE THESE THE RIGHT NAMES FOR THE DOG? YES, THEY
 9 ARE.
 10 Q. WHEN YOU GOT OUT THERE, YOU WERE LOOKING
 11 FOR SPARKO AND BOSSY?
 12 A. WE JUST WANTED TO KNOW WHERE THEY WERE.
 13 Q. WHEN YOU GOT THERE, YOU WANTED TO KNOW
 14 WHERE SPARKO AND BOSSY WAS?
 15 A. I DON'T THINK THAT WAS THE FULL INTENT,
 16 NO. WHEN WE CAME ACROSS THEM, IT WAS, OH, THERE'S
 17 SPARKO AND OH, THERE'S BOSSY.
 18 Q. THE STAFF IS BASICALLY WALKING YOU AROUND
 19 THE PREMISES AND THE STAFF POINTS OUT, WHEN YOU GET
 20 TO WHERE SPARKO IS, THEY SAY, "HEY, THIS IS
 21 SPARKO."
 22 A. YES.
 23 Q. THEN WHEN YOU ARE IN THE KENNEL ITSELF,
 24 THEY POINT OUT, "HEY, THIS IS BOSSY, AND ACTUALLY
 25 BOSSY'S GOT HIS OR HER NAME ON THE KENNEL."

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1 A. CORRECT. IF NOT, THE OPPOSITE NAMES. I
 2 DON'T RECALL WHICH ONE WAS THERE.
 3 Q. NOBODY WAS TRYING TO HIDE ANYTHING?
 4 A. NO, NOT AT ALL.
 5 Q. THEY WERE PRETTY COOPERATIVE WITH YOU
 6 EXCEPT WHEN YOU TRIED TO GET IN THE HOUSE?
 7 A. EXTREMELY COOPERATIVE.
 8 Q. THE ONE THAT WAS UP BY THE HOUSE, ISN'T
 9 THIS LIKE A TWO-ACRE PROPERTY?
 10 A. I DON'T KNOW THE EXACT SIZE OF THE
 11 PROPERTY. I'M SORRY.
 12 Q. PRETTY BIG THOUGH?
 13 A. YES. VERY NICE.
 14 Q. AND PART OF THE PROPERTY HAS GOT THE DUETS
 15 PERSONAL RESIDENCE ON IT?
 16 A. CORRECT.
 17 Q. AND THERE'S A SEPARATE FENCE AROUND THEIR
 18 PERSONAL PROPERTY THAT SEPARATES THE PERSONAL
 19 PROPERTY FROM THE KENNEL AND THE BUSINESS PROPERTY?
 20 A. TO A CERTAIN EXTENT. MY RECOLLECTION -- I
 21 APOLOGIZE -- I APOLOGIZE IF I SAY IT WRONG -- WAS
 22 THAT THEY WERE ACTUALLY -- THERE WAS A POINT WHERE
 23 THEY WERE TAKING DOGS FROM THE GARAGE AND USING THE
 24 LAWN RIGHT IN FRONT OF THE GARAGE. THE GARAGE KIND
 25 OF FACES A DIFFERENT WAY, AND THEY WERE USING THAT

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1 LAWN TOO.
 2 THERE WERE SEVERAL DIFFERENT FENCED-IN
 3 AREAS SO THEY COULD CONDUCT -- AND I SHOULDN'T SAY
 4 WHAT THEIR BUSINESS DOES -- BUT WHAT IT APPEARED TO
 5 BE, WHERE THEY COULD USE SEPARATE TRAININGS SAFELY
 6 IN THESE GATED AREA. LARGE AREAS FOR TRAINING.
 7 THE REPORTER: I NEED TO PUT SOME MORE
 8 PAPER IN MY MACHINE.
 9 MS. SMITH: PERFECT TIME FOR A BREAK.
 10 (A RECESS WAS TAKEN.)
 11 MR. SCHAEFER: LET'S GO BACK ON THE RECORD.
 12 Q. I'M TRYING TO UNDERSTAND WHAT EXACTLY YOU
 13 SAW WITH YOUR OWN EYES. I HEARD YOU SAY THAT THEY
 14 WERE TAKING ANIMALS FROM A GARAGE AREA TO ANOTHER
 15 AREA AND TRAINING THEM IN SOME OTHER AREA.
 16 WHAT DID YOU ACTUALLY SEE RELATIVE TO
 17 TRAINING ACTIVITIES?
 18 A. I SAW STAFF MEMBERS -- I PRESUMED THEY WERE
 19 STAFF MEMBERS -- TAKING THE ANIMALS, AND THEY WOULD
 20 ACTUALLY TELL US "WE'RE GOING TO CONDUCT A TRAINING
 21 HERE. CAN YOU PLEASE BE WARY OF THE GATES AND NOT
 22 REACH INTO THE TRAINING." THEY WERE COGNIZANT OF
 23 WHAT THEY WERE DOING. WE TRIED NOT TO DO THAT.
 24 AND THEY WOULD TAKE ANIMALS INTO -- SOME OF
 25 THEM FROM THE KENNELS. ONE OF THEM I NOTICED CAME

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1 FROM THE GARAGE -- INTO THESE LARGE GATED AREAS AND
 2 CONDUCT TRAINING WITH THE DOGS. SOME OF THEM WERE
 3 WITH -- THEY WOULD EVEN SAY "THESE RE THE OWNERS OF
 4 THE ANIMALS," WITH THE A STAFF MEMBER CONDUCTING THE
 5 TRAINING.
 6 Q. YOU SAW INDIVIDUALS WHOM YOU BELIEVED TO BE
 7 EMPLOYEES OF THE DUETS CONDUCT TRAINING WITH DOGS
 8 AND DOG OWNERS?
 9 A. CORRECT.
 10 Q. HOW MANY DOGS DID YOU OBSERVE BEING TRAINED
 11 IN THIS FASHION DURING THE TWO HOURS THAT YOU WERE
 12 ON THE PREMISES?
 13 MS. SMITH: JUST TRAINING WITH DOG OWNERS?
 14 MR. SCHAEFER: LET'S TRY THIS, OUR BIG
 15 PICTURE.
 16 Q. HOW MANY DOGS DID YOU OBSERVE BEING TRAINED
 17 DURING THE TWO HOURS THAT YOU WERE ON THE PREMISES?
 18 A. MAYBE FIVE TO SIX.
 19 MS. SMITH: YOU MIGHT WANT TO DEFINE
 20 "TRAINED."
 21 Q. (BY MR. SCHAEFER:) WHEN YOU USE THE WORD
 22 "TRAINED," WHAT ACTIVITY DID YOU SEE THAT LED YOU
 23 TO BELIEVE THAT THESE DOGS WERE BEING TRAINED?
 24 A. ONE OF THE MAIN THINGS THAT WE KNEW IS THE
 25 STAFF WOULD TELL US, "I'M TAKING THE DOING INTO THIS

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1 AREA FOR TRAINING." THEY DIDN'T WANT US TO BREACH
 2 THOSE GATES BECAUSE I BELIEVE THEY WANTED THAT DOG
 3 TO BE FOCUSSED ON THEM AND NOT ON PEOPLE JUST
 4 ROAMING IN THE LAWNS.
 5 Q. OKAY.
 6 A. I OBSERVED MANY TIMES, AS WELL AS STAFF
 7 NOTIFYING US, "I'M TAKING THE DOG INTO TRAINING.
 8 PLEASE DON'T OPEN THOSE GATES."
 9 MS. SMITH: CAN I CLARIFY?
 10 THE FIVE OR SIX DOGS YOU SAW YOU THOUGHT
 11 WERE BEING TRAINED, WERE THEY ALL IN AN AREA? OR
 12 WERE THEY AT THE OFFICE?
 13 THE DEPONENT: DIFFERENT AREAS OF THE
 14 PROPERTY. SOME WERE BEHIND THE OFFICE AREA CLOSEST
 15 TO THE FRONT PARKING LOT. SOME WERE IN THE CENTER
 16 LAWN AREA, AND THEN SOME WERE IN THE AREA CLOSEST TO
 17 THE DUETS' HOME, IF I RECALL CORRECTLY. THERE WERE
 18 SEVERAL LARGE, GATED AREAS WHERE TRAINING COULD GO
 19 ON. IF I MIGHT INTERJECT.
 20 Q. SURE.
 21 A. TRAINING, WORKING, HANDLING -- I BELIEVE
 22 THEY WERE BEING -- THE DOGS WERE BEING TRAINED, IS
 23 THE BEST WORD, I BELIEVE.
 24 Q. THE FIVE OR SIX DOGS THAT YOU OBSERVED
 25 BEING TRAINED, AS YOU JUST DESCRIBED, WERE THEY ALL



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1 TOGETHER IN THE ONE GROUP, OR WERE THEY INDIVIDUAL
 2 DOGS BEING TRAINED INDIVIDUALLY?
 3 A. INDIVIDUAL.
 4 Q. ALL FIVE OR SIX WERE IN INDIVIDUAL
 5 SESSIONS?
 6 A. YES.
 7 Q. IN YOUR CAPACITY AS CHIEF ENFORCEMENT
 8 OFFICER, ARE YOU AWARE OF ANY INFORMATION THAT WOULD
 9 LEAD YOU TO BELIEVE THAT GROUP CLASSES ARE CONDUCTED
 10 ON THIS PROPERTY?
 11 A. NOT THAT I'M AWARE OF.
 12 Q. IN ANY EVENT, YOU DIDN'T SEE ANY GROUP
 13 CLASSES GOING ON IN THE TWO HOURS THAT YOU WERE ON
 14 THE PROPERTY?
 15 A. NO, I DID NOT.
 16 Q. AFTER YOU LOCATED SPARKO AND BOSSY, DID YOU
 17 GIVE ANY INSTRUCTIONS WITH REGARDS TO WHAT YOU
 18 WANTED DONE WITH SPARKO AND BOSSY?
 19 A. WE DID NOT GIVE THOSE INSTRUCTIONS UNTIL WE
 20 HAD COMPLETED OUR WHOLE WALK-THROUGH AND
 21 DOCUMENTATION.
 22 Q. WHAT INSTRUCTIONS DID YOU GIVE?
 23 A. THAT THE TWO DOGS SHOULD BE REMOVED
 24 IMMEDIATELY.
 25 Q. I TAKE IT THAT ON THE MONDAY PRIOR WHEN

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1 KAREN TOLD YOU THAT YOU HAD TWO PROTECTION DOGS, YOU
 2 DID NOT TELL HER TO REMOVE THOSE TWO PROTECTION DOGS
 3 IMMEDIATELY?
 4 A. CORRECT.
 5 Q. WHAT HAPPENED BETWEEN MONDAY AND SATURDAY
 6 WHICH LED TO YOUR INSTRUCTION OR THE DEPARTMENT'S
 7 INSTRUCTION TO REMOVE THE TWO PROTECTION DOGS
 8 IMMEDIATELY?
 9 A. IT WAS UNDER ADVICE OF COUNSEL.
 10 Q. SO THIS WAS NOT A DECISION THAT YOU MADE.
 11 YOU WERE BASICALLY RELAYING THE INSTRUCTIONS THAT
 12 HAD BEEN GIVEN TO YOU?
 13 A. CORRECT.
 14 Q. I'M NOT GOING TO MARK THIS, BUT I HAVE TWO
 15 BLUE PIECES OF PAPER THAT ARE TITLED "OFFICIAL
 16 NOTICE OF VIOLATION." BOTH OF THEM ARE DATED
 17 7-24-10. WHAT ARE THOSE?
 18 A. A NOTICE OF VIOLATION IS A PIECE OF PAPER
 19 THAT WE ISSUE TO OWNERS GIVING THEM THE WARNING THAT
 20 THEY ARE PLACED ON NOTICE, AND GENERALLY THERE ARE
 21 INSTRUCTIONS WRITTEN ON IT AS TO WHAT WE WANT TO SEE
 22 HAPPEN.
 23 Q. ARE THESE NOTICES OF VIOLATION THAT WERE
 24 ISSUED WHEN YOU WERE OUT AT THE PREMISES ON
 25 JULY 24TH?

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1 A. YES.
 2 Q. AND THE FIRST ONE SAYS, "PER CALIFORNIA
 3 HEALTH AND SAFETY CODE SECTION 121916
 4 AND 121935, SENTRY/GUARD DOGS KNOWN AS
 5 SPARKO, MALE, MALINOIS -- M-A-L-I-N-O-I-S
 6 -- AND BOSSY, FEMALE MALINOIS, CANNOT
 7 BE MAINTAINED WITHIN RIVERSIDE COUNTY
 8 AND MUST BE REMOVED FROM YOUR PROPERTY
 9 IMMEDIATELY."
 10 DID YOU KNOW THAT THAT WAS BEING ISSUED AT
 11 THE TIME IT WAS ISSUED?
 12 A. YES.
 13 Q. AT THE TIME DID YOU AGREE WITH EVERYTHING
 14 THAT WAS ON THIS CITATION?
 15 A. YES.
 16 Q. WHEN YOU WERE OUT THERE ON THE PREMISES AND
 17 YOU ARE, ON ADVICE OF COUNSEL, TELLING MY CLIENTS
 18 THAT THEY CAN'T HAVE THESE GUARD DOGS OUT THERE, WAS
 19 THERE ANY DISCUSSION ABOUT THE PERMIT PROGRAM?
 20 A. YES.
 21 Q. WHAT DISCUSSION WAS THERE ON THAT SATURDAY
 22 MORNING ABOUT THE PERMIT PROGRAM?
 23 A. I BELIEVE IT WASN'T ON THE PROPERTY. IT
 24 WAS PRIOR TO US GOING TO THE PROPERTY.
 25 MS. SMITH: DID YOU HAVE A DISCUSSION WITH

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1 THE PROPERTY OWNERS OR -- HE MEANT DID YOU HAVE
 2 DISCUSSIONS DURING THE INSPECTION?
 3 Q. (BY MR. SCHAEFER:) IN OTHER WORDS, ON
 4 MONDAY YOU SAID, "LOOK. THE COUNTY IS OUT OF
 5 VIOLATION. THE DUETS ARE NOT COMPLYING WITH THE
 6 LAW. WE'RE GOING TO WORK TOGETHER AND COMPLY WITH
 7 THE LAW." THAT WAS THE MESSAGE ON MONDAY?
 8 A. YES.
 9 Q. ON THE SATURDAY THE MESSAGE WAS THESE DOGS
 10 ARE ILLEGAL AND GET THEM OUT OF THE COUNTY.
 11 MS. SMITH: WITHOUT THE VOICE INFLECTION.
 12 Q. (BY MR. SCHAEFER:) NOW I'M GOING TO
 13 STEP 2.
 14 WHEN YOU'RE OUT THERE ON THE PROPERTY
 15 SAYING THAT THESE DOGS HAVE TO BE REMOVED FROM THE
 16 COUNTY, AT THAT TIME WAS THERE ANY DISCUSSION ABOUT
 17 WHAT WAS GOING TO HAPPEN WITH THIS PERMIT PROGRAM TO
 18 GET THE COUNTY AND THE DUETS IN COMPLIANCE WITH THE
 19 LAW. DID THAT SUBJECT COME UP?
 20 A. THE CONVERSATION WITH WHO, THOUGH?
 21 Q. WITH ANYBODY OUT AT THE DUETS' PROPERTY.
 22 A. I DON'T BELIEVE SO. I DON'T RECALL.
 23 Q. SINCE YOU LEFT THE DUETS' PROPERTY ON THE
 24 24TH, HAVE YOU DONE ANYTHING RELATIVE TO ENFORCEMENT
 25 ACTION AGAINST THE DUETS?

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1 MS. SMITH: WELL, OTHER THAN THIS DOCUMENT
 2 SPEAKS FOR ITSELF. SHE SIGNED THIS.
 3 Q. (BY MR. SCHAEFER:) ANYTHING ELSE?
 4 A. NO, NOT THAT I RECALL.
 5 Q. TO YOUR KNOWLEDGE, PRIOR TO YOUR VISIT TO
 6 THE PROPERTY ON JULY 24TH, WERE THE DUETS EVER
 7 ADVISED THAT THEY NEEDED TO REDUCE THE NUMBER OF
 8 ANIMALS ON THEIR PROPERTY TO 20?
 9 A. TO MY KNOWLEDGE, I WAS BRIEFED ON THE
 10 NOTIFICATION THAT WAS GOING TO BE SENT TO THE DUETS,
 11 NOT BY MYSELF, RELAYING THE OUTLINES OF WHAT THEIR
 12 ORIGINAL PLOT PLAN WAS, OR WHATEVER TERMINOLOGY WAS
 13 USED, REITERATING TO THEM WHAT THE GUIDELINES WERE
 14 FOR THEM TO REMAIN IN COMPLIANCE WITH WHAT PLAN THEY
 15 HAD.
 16 Q. LET ME APPROACH IT THIS WAY, TO PUT IT IN A
 17 BETTER CONTEXT FOR YOU.
 18 AS THE CHIEF ENFORCEMENT OFFICE, DO YOU
 19 FEEL THAT ONE OF YOUR JOBS IS TO ENFORCE COMPLIANCE
 20 WITH LAND USE REGULATIONS REGARDING THE NUMBER OF
 21 DOGS THAT CAN BE KEPT IN A KENNEL?
 22 A. YES.
 23 Q. SO IN THE PERFORMANCE OF YOUR ROLE AS
 24 ENFORCING THE LIMIT ON THE NUMBER OF DOGS, WERE YOU
 25 MADE AWARE THAT THE DUETS HAVE A NEIGHBOR WHO HAS

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1 THOUGHT FOR SOME PERIOD OF TIME THAT THE DUETS HAVE
 2 MORE THAN THE PERMITTED NUMBER OF DOGS?
 3 A. YES.
 4 Q. WERE YOU MADE AWARE THAT THIS NEIGHBOR HAS
 5 REPEATEDLY COMPLAINTD TO ANIMAL CONTROL AS WELL AS
 6 OTHER COUNTY OFFICIALS THAT THE DUETS MAINTAINED
 7 MORE THAN 20 DOGS ON THE PREMISES?
 8 A. YES.
 9 Q. AS THE CHIEF ENFORCEMENT OFFICER, IS IT
 10 FAIR TO SAY THAT UNTIL YOU GOT OUT THERE ON THE
 11 JULY 24TH, YOU DIDN'T HAVE ANY HARD INFORMATION THAT
 12 THE DUETS HAD MORE THAN 20 DOGS ON THE PROPERTY?
 13 A. CORRECT.
 14 Q. AND THEREFORE, AS AN ENFORCEMENT OFFICER,
 15 IT'S FAIR TO SAY THAT NEITHER YOU, NOR TO YOUR
 16 KNOWLEDGE, ANYBODY IN ANIMAL CONTROL WERE GOING TO
 17 THE DUETS SAYING, "HEY, GET THE NUMBER OF DOGS DOWN
 18 TO 20," PRIOR TO THE TIME THAT YOU WENT OUT THERE ON
 19 JULY 24TH AND FOUND THE 70 DOGS?
 20 MS. SMITH: THAT'S A COMPOUND QUESTION. IF
 21 YOU WANT TO GO THROUGH PARTS OF IT, YOU CAN.
 22 A. FIRST HALF FIRST.
 23 Q. WHEN WAS THE FIRST TIME THAT YOU THOUGHT
 24 THE DUETS HAD MORE THAN 20 DOGS?
 25 A. I COULDN'T GIVE YOU A DATE. ALL I KNOW IS

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1 WHEN THE DUETS WENT TO PLANNING TO START THIS WHOLE
 2 PROCESS, WE WERE REVIEWING OUR FILES AND WE NOTICED,
 3 AS YOU DID, THAT THERE HAD BEEN KENNEL PERMITS FOR
 4 35 AND AT THOSE TIMES SHE HAD 35.
 5 THEN WHEN WE WERE TOLD AT WHATEVER GIVEN
 6 DATE -- I WOULDN'T BE ABLE TO TELL YOU WHEN -- THAT
 7 NO, THEY'RE ONLY ALLOWED 20, THEY WERE, I BELIEVE,
 8 NOTIFIED THAT YOU CAN ONLY HAVE 20, AND PER OUR
 9 INSPECTION, THEY COMPLIED.
 10 Q. OKAY.
 11 A. BUT I DO BELIEVE THAT THERE WAS SOME NOTICE
 12 WRITTEN -- I'M SORRY. I WAS AT THE MEETING, I
 13 BELIEVE, WITH CODE ENFORCEMENT WHERE THEY STATED
 14 THAT A LETTER WOULD BE WRITTEN THAT OUTLINED ALL OF
 15 THE VIOLATIONS THAT THE DUETS WERE IN AND WHAT THEY
 16 HAD TO COMPLY WITH. THAT WAS PRIOR TO OUR MAY
 17 INSPECTION AND OUR INSPECTION WARRANT.
 18 Q. DO YOU KNOW IF THAT LETTER WAS EVER
 19 WRITTEN?
 20 A. I DO NOT KNOW.
 21 Q. SO YOU'VE NEVER ACTUALLY SEEN IT?
 22 A. NO.
 23 Q. BECAUSE I'VE NEVER SEEN IT.
 24 MS. SMITH: I'VE NEVER SEEN IT.
 25 MR. SCHAEFER: OKAY.

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1 Q. IN YOUR ENFORCEMENT CAPACITY, IF YOU FIND
 2 THAT A KENNEL OR ANYONE IS OUT OF COMPLIANCE WITH
 3 APPLICABLE REGULATIONS, IS THERE ANY SORT OF POLICY
 4 OR PROCEDURE ABOUT GIVING THEM AN OPPORTUNITY TO GET
 5 INTO COMPLIANCE?
 6 A. YES. YOU CAN WRITE A NOTICE OF VIOLATION
 7 AND THE INSTRUCTIONS WERE GIVEN AS TO WHAT THEY
 8 NEEDED TO DO.
 9 Q. WAS THAT FOLLOWED IN THIS CASE?
 10 A. YES. A NOTICE OF VIOLATION WAS WRITTEN.
 11 IT WOULD BE THE SECOND ONE, I BELIEVE.
 12 Q. I'M SEEING TWO NOTICES OF VIOLATION, BOTH
 13 OF WHICH ARE DATED JULY 24TH.
 14 TO YOUR KNOWLEDGE AS THE CHIEF ENFORCEMENT
 15 OFFICER, ARE THESE THE FIRST WRITTEN NOTICES OF
 16 VIOLATION THAT YOUR DEPARTMENT ISSUED TO THE DUETS?
 17 A. I DON'T RECALL.
 18 Q. IT SAYS HERE -- THE SECOND ONE SAYS,
 19 "PER RIVERSIDE COUNTY ORDINANCE,
 20 NO MORE THAN 20 DOGS ARE ALLOWED
 21 AT THE PROPERTY. MUST IMMEDIATELY
 22 REDUCE NUMBER OF ADULT DOGS TO 20
 23 OR LESS."
 24 IF YOU HAVE A SITUATION WHERE SOMEBODY HAS
 25 70 DOGS AND THEY'RE ONLY SUPPOSED TO HAVE 20 DOGS,

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1 IS THERE A POLICY THAT YOU FOLLOW WITH REGARDS TO
 2 GIVING THEM MORE TIME TO IMMEDIATELY DISPOSE OF THE
 3 50 DOGS?
 4 A. IT WOULD DEPEND ON -- YES, AND THOSE WOULD
 5 VARY DEPENDING ON IF THEY HAD A KENNEL PERMIT OR
 6 NOT.
 7 Q. SO IN YOUR VIEW ON JULY 24, AS THE
 8 ENFORCEMENT OFFICER, DID THE DUETS HAVE A KENNEL
 9 PERMIT OR NOT?
 10 A. THEY DON'T HAVE A CURRENT KENNEL PERMIT.
 11 Q. THEY HAD A KENNEL PERMIT?
 12 A. YES.
 13 Q. WHAT IS THE POLICY FOR INDIVIDUALS WHO HAVE
 14 A KENNEL WITHOUT A PERMIT IN ORDER TO BRING
 15 THEMSELVES INTO COMPLIANCE?
 16 A. THEN THEY ARE IN VIOLATION OF OWNING WAY
 17 TOO MANY DOGS. YOU'RE ONLY ALLOWED FOUR, IF YOU
 18 DON'T HAVE A KENNEL PERMIT. THOSE FOUR HAVE TO BE
 19 LICENSED, RABIES VACCINATION, MICROCHIPPED.
 20 THE REST OF THEM WOULD BE -- THEY WOULD
 21 RECEIVE THE NOTICE OF VIOLATION SAYING ALL OF THAT.
 22 THEY ARE ONLY ALLOWED FOUR, AND THIS IS WHAT YOU
 23 HAVE TO DO TO THE FOUR AS WELL AS GET RID OF ALL THE
 24 OTHER DOGS OVER FOUR MONTHS OF AGE.
 25 Q. DON'T YOU HAVE A NUMBER OF KENNELS IN THE

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1 COUNTY THAT ARE OPERATING WITHOUT PERMITS BECAUSE OF
 2 A GRANDFATHER PROVISION THAT ALLOWED THEM TO OPERATE
 3 WITHOUT PERMITS EXPIRED?
 4 A. NOT THAT I'M AWARE OF.
 5 Q. YOU'RE NOT AWARE OF THAT?
 6 A. NO. A NUMBER OF KENNELS?
 7 Q. YES.
 8 MS. SMITH: ARE THERE ANY KENNELS OPERATING
 9 IN THE COUNTY WITHOUT THE PERMIT BECAUSE OF THIS
 10 GRANDFATHER CLAUSE?
 11 THE DEPONENT: I'M AWARE OF TWO.
 12 Q. (BY MR. SCHAEFER:) HOW LONG HAVE THEY BEEN
 13 OPERATING WITHOUT A PERMIT?
 14 A. SINCE DECEMBER.
 15 Q. WHAT'S BEEN DONE IN THEIR CASE?
 16 A. THEY ARE WITH PLANNING AT THE TIME.
 17 Q. DID THEY GET A NOTICE OF VIOLATION TELLING
 18 THEM TO DIVEST THEMSELVES OF ALL THEIR ILLEGAL DOGS
 19 IMMEDIATELY?
 20 A. NO. THEY WERE TOLD THAT THEY DID NOT ANY
 21 LONGER HAVE A CURRENT KENNEL PERMIT WITHIN THE
 22 COUNTY AND THAT THEY WERE SUBJECT TO VIOLATIONS EACH
 23 ONE OF THEM -- WELL, THESE TWO -- WE HAVE CONTACTED
 24 PLANNING, AND THEY ARE WELL WITHIN THE PLANNING
 25 APPLICATION PROCESS TO COME INTO COMPLIANCE.

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 2 GIVING THEM MORE TIME TO IMMEDIATELY DISPOSE OF THE
 3 50 DOGS?
 4 A. IT WOULD DEPEND ON -- YES, AND THOSE WOULD
 5 VARY DEPENDING ON IF THEY HAD A KENNEL PERMIT OR
 6 NOT.
 7 Q. SO IN YOUR VIEW ON JULY 24, AS THE
 8 ENFORCEMENT OFFICER, DID THE DUETS HAVE A KENNEL
 9 PERMIT OR NOT?
 10 A. THEY DON'T HAVE A CURRENT KENNEL PERMIT.
 11 Q. THEY HAD A KENNEL PERMIT?
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 15 THEMSELVES INTO COMPLIANCE?
 16 A. THEN THEY ARE IN VIOLATION OF OWNING WAY
 17 TOO MANY DOGS. YOU'RE ONLY ALLOWED FOUR, IF YOU
 18 DON'T HAVE A KENNEL PERMIT. THOSE FOUR HAVE TO BE
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 21 RECEIVE THE NOTICE OF VIOLATION SAYING ALL OF THAT.
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 23 HAVE TO DO TO THE FOUR AS WELL AS GET RID OF ALL THE
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Page 80

1 COUNTY THAT ARE OPERATING WITHOUT PERMITS BECAUSE OF
 2 A GRANDFATHER PROVISION THAT ALLOWED THEM TO OPERATE
 3 WITHOUT PERMITS EXPIRED?
 4 A. NOT THAT I'M AWARE OF.
 5 Q. YOU'RE NOT AWARE OF THAT?
 6 A. NO. A NUMBER OF KENNELS?
 7 Q. YES.
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 9 IN THE COUNTY WITHOUT THE PERMIT BECAUSE OF THIS
 10 GRANDFATHER CLAUSE?
 11 THE DEPONENT: I'M AWARE OF TWO.
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 13 OPERATING WITHOUT A PERMIT?
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 15 Q. WHAT'S BEEN DONE IN THEIR CASE?
 16 A. THEY ARE WITH PLANNING AT THE TIME.
 17 Q. DID THEY GET A NOTICE OF VIOLATION TELLING
 18 THEM TO DIVEST THEMSELVES OF ALL THEIR ILLEGAL DOGS
 19 IMMEDIATELY?
 20 A. NO. THEY WERE TOLD THAT THEY DID NOT ANY
 21 LONGER HAVE A CURRENT KENNEL PERMIT WITHIN THE
 22 COUNTY AND THAT THEY WERE SUBJECT TO VIOLATIONS EACH
 23 ONE OF THEM -- WELL, THESE TWO -- WE HAVE CONTACTED
 24 PLANNING, AND THEY ARE WELL WITHIN THE PLANNING
 25 APPLICATION PROCESS TO COME INTO COMPLIANCE.

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1 Q. HOW MANY DOGS ARE IN EACH ONE OF THESE
 2 KENNEL TODAY?
 3 A. I DON'T KNOW.
 4 Q. HOW MANY WERE THERE THE LAST TIME YOU
 5 INSPECTED?
 6 A. I HAVEN'T BEEN OUT TO THOSE PROPERTIES SO I
 7 DON'T KNOW.
 8 Q. ARE THE DUETS GIVEN ANY TIME TO BRING
 9 THEMSELVES INTO COMPLIANCE WITH THE APPLICABLE
 10 RULES?
 11 MS. SMITH: ARE THEY OR WERE THEY?
 12 MR. SCHAEFER: ARE THEY.
 13 MS. SMITH: OBJECTION, VAGUE.
 14 THE DEPONENT: I BELIEVE THEY HAVE.
 15 Q. (BY MR. SCHAEFER:) THEY ARE IN COMPLIANCE,
 16 BUT WHEN THEY WERE CITED ON THE 24TH, WERE THEY
 17 GIVEN ANY TIME?
 18 A. I DON'T BELIEVE A TIME LIMIT WAS STATED ON
 19 HERE.
 20 Q. IT SAYS "IMMEDIATELY."
 21 A. IT SAYS "IMMEDIATELY" FOR THE SENTRY
 22 DOGS.
 23 Q. AND IT SAYS "IMMEDIATELY"; I'M SHOWING IT
 24 TO YOU.
 25 A. OKAY.

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1 Q. WHY WERE THEY GIVEN NO TIME TO BRING
 2 THEMSELVES INTO COMPLIANCE OTHER THAN TO DO IT
 3 IMMEDIATELY, WHICH MEANS, I GUESS, THAT DAY.
 4 MS. SMITH: OBJECTION. VAGUE.
 5 A. UNDER ADVICE OF COUNSEL WE USED THAT WORD,
 6 UNDER ADVICE OF COUNSEL.
 7 Q. HAVE YOU, FROM ANY SOURCE, RECEIVED
 8 INFORMATION THAT THE DUETS ARE DOWN TO ONLY 20 DOGS
 9 ON THE PREMISES?
 10 A. I HAVE AND I DON'T RECALL THE SOURCE. I
 11 BELIEVE IT MAY HAVE BEEN COUNSEL.
 12 Q. HAVE YOU SENT ANY ENFORCEMENT OFFICERS TO
 13 VERIFY WHETHER OR NOT THAT'S TRUE?
 14 A. NO.
 15 Q. WHY NOT?
 16 A. I DIDN'T FEEL IT WAS NECESSARY.
 17 Q. WHY DIDN'T YOU FEEL IT WAS NECESSARY?
 18 A. I HOPE IN MY HEART OF HEARTS THAT THEY
 19 UNDERSTAND WHAT'S GOING ON AND THAT THEY'RE ABIDING
 20 BY THE PARAMETERS THAT HAVE BEEN PLACED BEFORE
 21 THEM. IT WAS A GREAT SHOCK TO FIND OVER 70 DOGS.
 22 Q. EXCEPT FOR THE NUMBER OF DOGS, IT IS A
 23 BEAUTIFUL AND WELL MAINTAINED FACILITY?
 24 A. YES.
 25 Q. IN FACT, IT'S PROBABLY A BETTER MAINTAINED

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1 FACILITY THAN MOST KENNELS IN THE COUNTY.
 2 A. I DON'T KNOW ABOUT THAT, BUT THE FACILITY
 3 ITSELF IS JUST BEAUTIFUL.
 4 Q. IS IT AGAINST THE LAW TO MAINTAIN A KENNEL
 5 WITHOUT THE KENNEL PERMIT?
 6 A. IT'S AGAINST COUNTY ORDINANCE, YES.
 7 Q. WERE THE DUETS CITED FOR MAINTAINING A
 8 KENNEL WITHOUT A PERMIT ON JULY 24TH?
 9 A. YES, THEY WERE.
 10 Q. ONE OF THESE NOTES HAS A BLUE SLIP FOR A
 11 NOTICE OF VIOLATION?
 12 A. NO.
 13 Q. IT WAS A CITATION THAT WAS ISSUED?
 14 A. YES.
 15 Q. SHOWING YOU A CRIMINAL CITATION ISSUED TO
 16 ONE DIANE LYNN VAUGHN.
 17 MS. SMITH: ONE OR TWO?
 18 MR. SCHAEFER: TWO.
 19 Q. THE COMMENTS, OPERATOR HAS 20-DOG LIMIT
 20 OVER THE 70 DOGS -- OFFENDER HAS 20 DOG LIMIT OVER
 21 THE 70 DOGS FOUND ON PROPERTY?
 22 A. CORRECT.
 23 Q. WHAT IS THAT A CITATION FOR: 70 DOGS ARE
 24 OPERATING WITHOUT A PERMIT?
 25 A. THAT IS FOR -- IN ESSENCE, THE COUNTY

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1 ALLOWS YOU TO HAVE FOUR DOGS. THE ORDINANCE READS
 2 IF YOU'RE FOUND WITH MORE THAN FOUR DOGS. BECAUSE
 3 THEY DIDN'T HAVE A KENNEL PERMIT, THEY WERE CITED
 4 FOR BEING OVER THE LIMIT ON DOGS.
 5 Q. HOW COME IT SAYS 20 DOGS?
 6 A. I AM INCORRECT WHEN I STATE THAT. THIS IS
 7 FOR THEIR KENNEL PERMIT BEING OVER THE LIMIT.
 8 MS. SMITH: DO YOU WANT TO CLARIFY THAT?
 9 MR. SCHAEFER: I'M TRYING TO SAY WHAT THEY
 10 GOT THE CITATION FOR.
 11 THE DEPONENT: THE CITATION IS FOR UNDER
 12 KENNEL LICENSES, VIOLATING YOUR KENNEL PERMIT.
 13 Q. (BY MR. SCHAEFER:) LOOK AT EXHIBIT 4. UP
 14 AT THE TOP IT SAYS "KENNEL LICENSE." YOU SAID "THE
 15 CITATION IS FOR VIOLATING YOUR KENNEL PERMIT."
 16 A. OR KENNEL LICENSE, I APOLOGIZE.
 17 Q. KENNEL LICENSE AND KENNEL PERMIT ARE THE
 18 SAME THING?
 19 A. YES.
 20 Q. SO THIS CITATION ASSUMES THAT THEY HAD A
 21 PERMIT AT THE TIME?
 22 A. YES, CORRECT.
 23 Q. WAS THIS CITATION ALSO ISSUED ON
 24 INSTRUCTIONS OF COUNSEL?
 25 A. YES.

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1 Q. YOU WERE JUST DOING WHAT YOU WERE TOLD OUT
 2 THERE?
 3 A. YES.
 4 Q. ONE MORE THING I WANT TO BACKTRACK ON.
 5 THEN I'M GOING TO TALK TO MY CLIENTS AND WE'RE
 6 PROBABLY OUT OF HERE.
 7 MS. SMITH: I WANT TO GO BACK AND CLARIFY
 8 SOMETHING.
 9 Q. (BY MR. SCHAEFER:) YOU WANT TO GO BACK TO
 10 WHEN YOU WERE INSTRUCTED TO PARTICIPATE IN THIS
 11 UNANNOUNCED INSPECTION. YOU TESTIFIED THAT
 12 MR. MILLER INSTRUCTED YOU TO PARTICIPATE IN THAT
 13 INSPECTION ON SATURDAY?
 14 A. YES.
 15 Q. DO YOU HAVE ANY INFORMATION AS TO WHO
 16 BESIDES MR. MILLER PARTICIPATED IN THE DECISION TO
 17 HAVE THE UNANNOUNCED INSPECTION?
 18 A. NO.
 19 MR. SCHAEFER: OKAY. OFF THE RECORD AND
 20 LET ME TALK TO MY CLIENTS.
 21 MS. SMITH: I HAVE A CLARIFYING QUESTION.
 22 MR. SCHAEFER: ALL RIGHT.
 23 /// ///
 24 /// ///
 25

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1 EXAMINATION
 2 BY MS. SMITH:
 3 Q. YOU STATED THAT YOU SAW FIVE TO SIX DOGS
 4 BEING INDIVIDUALLY TRAINED ON THE PROPERTY.
 5 A. YES.
 6 Q. THEN YOU SAID YOU DID NOT SEE ANY GROUP
 7 CLASSES.
 8 A. CORRECT.
 9 Q. IS IT YOUR OPINION THAT A GROUP CLASS IS
 10 DEFINED AS MORE THAN ONE DOG IN THE SAME TRAINING,
 11 WITH THE SAME TRAINER? HOW DO YOU DEFINE GROUP
 12 CLASS?
 13 A. THAT WOULD BE MY DEFINITION, IS THAT YOU
 14 WOULD HAVE AT LEAST TWO DOGS.
 15 Q. WITH THE SAME TRAINER?
 16 A. CORRECT.
 17 Q. DO YOU HAVE AN OPINION AS TO HOW PLANNING
 18 DEPARTMENT DEFINES GROUP CLASSES?
 19 MR. SCHAEFER: NO FOUNDATION.
 20 Q. (BY MS. SMITH:) HAVE YOU TALKED WITH
 21 PLANNING ABOUT WHAT THEY DEFINE AS GROUP CLASSES?
 22 A. NO.
 23 Q. WHEN YOU STATE THAT YOU DID NOT SEE ANY
 24 GROUP CLASSES, DO YOU MEAN AS DEFINED BY YOU?
 25 A. YES.

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1 Q. AND NOT AS DEFINED BY PLANNING?
 2 A. CORRECT. I DON'T KNOW THEIR DEFINITION.
 3 MS. SMITH: THAT'S ALL I WANTED TO
 4 CLARIFY.
 5
 6 FURTHER EXAMINATION
 7 BY MR. SCHAEFER:
 8 Q. I JUST WANT TO FOCUS ON WHAT YOU SAW. WHAT
 9 I'M HEARING YOUR SAY -- CONFIRM THIS FOR ME -- IS
 10 THAT YOU SAW INDIVIDUAL DOGS WORKING WITH ONE OR
 11 MORE TRAINERS AT FIVE OR SIX DIFFERENT LOCATIONS AT
 12 DIFFERENT TIMES WHEN YOU WERE THERE ON THE PROPERTY
 13 FOR TWO HOURS.
 14 A. CORRECT.
 15 Q. DID YOU SEE ANY OWNERS PARTICIPATING IN ANY
 16 OF THESE TRAINING SESSIONS?
 17 A. YES.
 18 Q. WERE YOU ABLE TO -- HOW DID YOU KNOW THEY
 19 WERE OWNERS?
 20 A. THE STAFF WOULD SAY.
 21 Q. THE STAFF WOULD SAY, IN ESSENCE, "THIS IS
 22 THE OWNER OF THIS DOG, AND THIS OWNER IS
 23 PARTICIPATING IN THE TRAINING SESSION"?
 24 A. NOT THE LATTER PART OF YOUR STATEMENT.
 25 Q. THE STAFF WOULD SIMPLY SAY, "THIS PERSON

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1 THAT IS IN THE TRAINING IS THE OWNER."
 2 SO YOU WOULD HAVE ONE PERSON IDENTIFIED AS
 3 A TRAINER, WHO IS AN EMPLOYEE, AND ANOTHER PERSON
 4 IDENTIFIED AS AN OWNER, AND THE DOG?
 5 A. CORRECT, TO A CERTAIN EXTENT. THAT'S WHAT
 6 I SAW, BUT THE STAFF DIDN'T SAY IT LIKE THAT.
 7 Q. HOW DID THEY SAY IT?
 8 A. THE STAFF WOULD MAKE MENTION, HERE WE'RE
 9 HAVING TRAINING AGAIN AND THESE ARE SO-AND-SO'S
 10 OWNERS, AND THEY ALL GO TO THE LAWN TO BE WITH THE
 11 ANIMAL. THEY DIDN'T SAY WHETHER THEY WERE
 12 PARTICIPATING OR NOT, BUT THEY WERE ALL TOGETHER
 13 DURING THE TRAINING.
 14 Q. THANKS.
 15 MR. SCHAEFER: LET'S SEE YOU OUTSIDE.
 16 (A RECESS WAS TAKEN.)
 17 MR. SCHAEFER: I'D OFFER TO STIPULATE TO
 18 RELIEVE THE COURT REPORTER OF HER CUSTODIAL
 19 RESPONSIBILITIES UNDER THE CODE.
 20 THE ORIGINAL DEPOSITION IS TO BE SENT TO
 21 COUNSEL FOR THE PLAINTIFF. SHE IS TO HAVE THE
 22 DEPOSITION REVIEWED AND SIGNED. I'M ASKING THAT IT
 23 BE SIGNED WITHIN TWO WEEKS OF THE TIME OF RECEIPT.
 24 MS. SMITH: FINE.
 25 MR. SCHAEFER: COUNSEL WILL NOTIFY ME OF

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1 ANY CHANGES. THE SIGNATURE MAY BE UNDER PENALTY OF
 2 PERJURY;
 3 COUNSEL FOR PLAINTIFF IS TO RETAIN CUSTODY
 4 OF THE ORIGINAL, AND SHALL BRING IT TO TRIAL OR
 5 ARBITRATION AS REQUIRED;
 6 IF THE SIGNED ORIGINAL IS NOT PRESENT AT
 7 TRIAL OR ARBITRATION, THEN A CERTIFIED COPY MAY BE
 8 USED FOR ALL PURPOSES AS THOUGH SIGNED.
 9 MS. SMITH: SO STIPULATED.
 10 MR. SCHAEFER: GREAT.
 11 (THE PROCEEDINGS CONCLUDED AT 12:20 P.M.,
 12 AT WHICH TIME THE AFOREMENTIONED EXHIBITS
 13 WERE MARKED FOR IDENTIFICATION BY THE
 14 DEPOSITION OFFICER.)
 15 --000--
 16
 17
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1 (SIGNATURE PAGE TO THE DEPOSITION
 2 OF RITA GUTIERREZ)
 3
 4
 5 I HEREBY CERTIFY UNDER PENALTY OF PERJURY
 6 THAT I HAVE READ THE FOREGOING TRANSCRIPT.
 7 CORRECTIONS, IF ANY, WERE NOTED BY ME, AND THE SAME
 8 IS NOW A TRUE AND CORRECT TRANSCRIPT OF MY
 9 TESTIMONY.
 10 EXECUTED THIS DAY OF ,
 11 2010, AT
 12
 13
 14 RITA GUTIERREZ
 15
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1 REPORTER'S CERTIFICATE
 2 STATE OF CALIFORNIA } ss.
 3 COUNTY OF SAN BERNARDINO)
 4
 5 I, PATRICIA A. SHAW, A CERTIFIED SHORTHAND
 6 REPORTER WITHIN AND FOR THE STATE OF CALIFORNIA,
 7 HEREBY CERTIFY:
 8 THAT PRIOR TO BEING EXAMINED, THE WITNESS
 9 NAMED IN THE FOREGOING DEPOSITION, RITA GUTIERREZ,
 10 WAS SWORN BY ME TO TESTIFY TO THE TRUTH, THE WHOLE
 11 TRUTH, AND NOTHING BUT THE TRUTH;
 12 THAT THE SAID DEPOSITION, TAKEN DOWN BY ME IN
 13 STENOGRAPHY AT THE TIME AND PLACE THEREIN STATED, WAS
 14 THEREAFTER REDUCED TO TYPEWRITING BY COMPUTER-AIDED
 15 TRANSCRIPTION UNDER MY DIRECTION, AND IS AN ACCURATE
 16 TRANSCRIPTION OF THE ORAL PROCEEDINGS IN THIS
 17 MATTER, TO THE BEST OF MY ABILITY.
 18 I FURTHER CERTIFY THAT I AM NOT IN ANY WAY
 19 INTERESTED IN THE EVENT OF THIS ACTION AND THAT I AM
 20 NOT RELATED TO ANY OF THE PARTIES THERETO.
 21 DATED THIS DAY OF , 2010.
 22
 23 PATRICIA A. SHAW, C.S.R. #5024
 24 §
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1 PAMELA J. WALLS, County Counsel (SBN 123446)
2 PATTI F. SMITH, Deputy County Counsel (SBN 158397)
3 3960 Orange Street, Fifth Floor
4 Riverside, California 92501
5 Telephone: (951) 955-6300
6 Facsimile: (951) 955-6363

7 Attorneys for the County of Riverside

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF RIVERSIDE

10 COUNTY OF RIVERSIDE, a political
11 subdivision of the State of California,

12 Plaintiff,

13 v.

14 LEVERN FREEMAN; GERALDINE
15 FREEMAN; GEORGE DUET; KAREN DUET;
16 KINGSDEN'S K-9 COMPANIONS & K-9
17 SECURITY AND DETECTION INT'L, LLC;
18 AND DOES 1 THROUGH 50, INCLUSIVE,

19 Defendants.

Case No. RIC

DECLARATION OF RITA GUTIERREZ IN
SUPPORT OF EX PARTE APPLICATIN FOR
TEMPORARY RESTRAINING ORDER AND
ORDER TO SHOW CAUSE RE:
PRELIMINARY INJUNCTION

Date: August 13, 2010
Dept.: 2 (Sitting in Dept. 12)
Time: 8:30 a.m.

20 I, Rita Gutierrez, declare:

21 I am currently employed by the Riverside County Department of Animal Services as a
22 Commander of Field Services and have been so employed for approximately four (4) years. Prior to this
23 position I was employed by the County of Riverside for over twelve years in various capacities including
24 Sergeant, Lieutenant and Operations Chief. My duties include supervising the entire Animal Services
25 field staff, dispatch center, kennel and aggressive animal clerk for the county including contact cities.

26 ///

27 ///

28 *Depto* Exhibit 1
Date 9-20-10
Depo of: Gutierrez
Patricia Shaw, CSF 5024



1 The following facts contained within this declaration are within my personal knowledge except to
2 the extent that certain information is based on information and belief and if called as a witness in this
3 matter, I could and would competently testify thereto.

4 Based on my review of county documents and on information and belief it is my understanding
5 that in 1995 Defendants requested land use approval from the County of Riverside to construct and
6 operate a Class II Kennel which could house up to twenty-five (25) dogs on The Property. Subsequent to
7 an appeal to the Riverside County Board of Supervisors, I have been advised that the County issued land
8 use approval to Levern and Geraldine Freeman, and George and Karen Duet via Plot Plan 13992, as
9 Amended in April, 1995 with a maximum number of dogs allowed on their property (13703 Cajalco Rd.,
10 Riverside, aka 13703 J.J. Lane, Riverside) ("The Property") limited to twenty (20) based on noise and
11 traffic issues raised by neighbors. (1)

12 Animal Services records reflect that after issuance of Plot Plan 13992, as Amended, Defendants
13 George and Karen Duet obtained Class II Kennel licenses from 1995 to 2008 for various numbers of
14 dogs, none of which were at or under twenty (20). I am informed and believe and based thereon allege
15 that the Freemans or the Duets never appeared to advise Animal Services that their land use approval was
16 conditioned to a maximum of twenty (20) dogs. (2)

17 I am further informed and believe and based thereon allege that Animal Services discovered the
18 discrepancy of too many dogs on The Property (in excess of land use approval) in or about April, 2008
19 Records reveal that Karen Duet applied for a kennel license renewal in April, 2008, however a renewal
20 license never issued. During this time I attended at least one meeting observing that Karen Duet was
21 attempting to get land use approval for additional dogs. (3)

22 In or about April, 2010, Karen Duet again applied for a kennel license renewal. Animal Services
23 inspected The Property on May 11, 2010 and observed twenty (20) dogs, eleven (11) of which were
24 personal dogs owned by the Duets.

25 ///
26 ///
27 ///

28

1 On or about June, 2010 Animal Services received a citizen complaint that guard or attack dogs
2 were being trained, maintained and kept on The Property. I reviewed K-9 Companion's website and
3 noted that they were selling a dog, "Sparko" as a "patrol trained" dog. I further noticed pictures of what
4 appeared to be training of attack or guard dogs. I additionally observed that K-9 Companions offered a
5 protection and security service to the public with the same address as the K-9 Companions kennel.

6 Thereafter, on Monday, July 19, 2010 I, along with Lieutenant of Field Services, Chris Mayer met
7 with Karen and Travis Duet, owners of K-9 Companions at the Western Riverside County/City animal
8 shelter to discuss violations of Health and Safety Section 121916, "Permit Required for Sentry Dog (4)
9 Business." During the discussion, Ms. Duet confirmed that she owned and used two (2) protection dogs
10 that were available to rent for personal protection. She stated along with the obedience training offered at
11 K-9 Companions, a small portion of the business included the rental of the two (2) dogs. She stated the
12 dogs were named "Sparko" and "Bossy." We advised the Duet's that although the County had never
13 issued any permits for Attack Dogs, we were currently reviewing our procedures with the Health and
14 Safety Code s requiring her to obtain the permit. (6)

15 On July 24, 2010, Lt. Mayer, Sergeant of Field Services Cynthia Lee and I responded to K-9
16 Companions at the Property to investigate allegations of excessive dogs, unpermitted training and
17 maintaining of guard dogs, and lack of compliance related to the renewal of a Class II Kennel Permit.

18 We arrived with Code Enforcement Officers Ron Welch and Terrance Wiggins and Deputy
19 County Counsel Patti Smith pursuant to Inspection Warrant MISC 201079 issued by the Riverside
20 Superior Court.

21 We met with a woman who identified herself as Ms. McGraw and stated that she was the office
22 manager who escorted us throughout our inspection.

23 I opened the doors to small sheds which I was advised had been constructed without permits and
24 found dogs stacked in carriers. I counted 42 (forty-two) dogs in the two (2) small sheds in under the patio
25 cover connecting the sheds.

26 ///

27 ///

28

(7)

1 A total of 71 (seventy-one) dogs were found to be kept and maintained on the property. In
2 addition, I saw 1 (one) dog leave the property in a vehicle, and 3 (three) others arrive for consultations.
3 (Sgt. Lee and Lt. Mayer photographed and documented seventy (70) dogs observed on The Property
4 during that 3 hour inspection, including two (2) guard dogs.) One guard dog was in the residence and one
5 was in the general population. (8)

6 Neither I nor the other Animal Services officers observed any signs warning about the
7 maintenance of guard dogs on The Property.

VIOLATIONS:

9 Based on our observations, 2 (two) Notices of Violation and 1 (one) Citation were issued to Diane
10 Lynn Vaughn who declared she was the kennel manager. Attached hereto and incorporated herein by
11 reference as Exhibit "A" are true and correct copies of the following Notices and Citation issued:

- 12 1) Official Notice of Violation # 08747- The Duets were ordered to immediately remove guard
13 dogs "Bossy" and "Sparko" from Riverside County per California Health and Safety Code §
14 21916.
- 15 2) Official Notice of Violation # 03265- The Duets were ordered to reduce the number of dogs on
16 The Property to 20 (twenty) as per Riverside County Ordinance (RCO) No. 630 and the land
17 use approval of Plot Plan 13992, as Amended.
- 18 3) Criminal Citation # A20226- was issued pursuant to RCO 630 in that the excessive number of
19 animals violated the terms of a kennel license.

20 I am informed and believe and based thereon allege that on August 10, 2010 a letter was received
21 by the County from David Saunders, counsel for the Duets which stated that the Duets do not plan to
22 comply with the Notice of Violation and Citations, as issued. (9)

23 I declare under penalty of perjury under the laws of the State of California that the foregoing is
24 true and correct. Executed this the 12th day of August, 2010 in Riverside, California.

Riverside County Department of Animal Services


Rita Gutierrez

Commander of Field Services

1 PAMELA J. WALLS, County Counsel (SBN 123446)
2 PATTI F. SMITH, Deputy County Counsel (SBN 158397)
3 3960 Orange Street, Fifth Floor
4 Riverside, CA 92501
5 Telephone: (951) 955-6300
6 Facsimile: (951) 955-6363

7 Attorneys for County of Riverside

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF RIVERSIDE

10
11 In the Matter of an Application for an Inspection
12 Warrant for the Premises located at 13703
13 Cajalco Road, Perris, Riverside County,
14 California; Levern and Geraldine Freeman,
15 Owners, George and Karen Duet, Occupants and
16 Operators of K9 Companions.

Warrant No. *MISC 2010 79*
(Code Enforcement Case No. CV 09-12640)
AFFIDAVIT IN SUPPORT OF INSPECTION
WARRANT
[CCP §18822.50 et. seq.; Riverside Co.
Ordinance Nos. 630, 348 and 725 (Riverside
County Code Chapters 6.08, 17.32, and 1.16)]

17 I, Robert P. Miller, declare as follows:

18 1. I am currently employed as the Director of the Riverside County Animal Services
19 Department and have been so employed for over five (5) years. Prior to this position I have been
20 employed in various aspects of animal care and welfare for over twenty (20) years. I have received
21 training pursuant to California *Penal Code* Section 832 and as such, am authorized to enforce local and
22 state laws pertaining to animal welfare. As part of the duties of my employment, I investigate violations
23 of Riverside County Ordinance No. 630 which regulates the maintenance and care of animals in the
24 unincorporated area of Riverside County. The following statements are based on my personal knowledge;
25 to which, if called as a witness in this matter I could and would competently testify:

26 2. The property for which this inspection warrant is sought is located in the unincorporated
27 area of Riverside County and is described as 13703 Cajalco Road, Perris, California (Assessor's Parcel
28 No. 286-050-022) hereinafter referred to as "The Property."

1
AFFIDAVIT IN SUPPORT OF INSPECTION WARRANT

Refta
Date *9-20-10* Exhibit *2*
Patrick Law, CSH 5024
Shaw

1 3. The Property is owned by Levern and Geraldine Freeman. (Attached hereto and
2 incorporated herein by reference as Exhibit "A" is a true and correct copy of the County's records
3 confirming current ownership information from the Government Information System (GIS).) The
4 Freeman's daughter, Karen Duet has operated a Class II Kennel with her husband, George Duet (dba K9
5 Companions) for boarding dogs on The Property pursuant to land use approval issued by the Riverside
6 County Planning Commission in April, 1995 via Plot Plan No. 13992, as amended (hereinafter referred to
7 as the "Plot Plan). (Attached hereto and incorporated herein by reference as Exhibit "A" is a true and
8 correct copy of the Plot Plan.)

9 3. The purpose of this request for an Inspection Warrant is to inspect The Property for
10 violations of state and local laws and regulations relating to animals kept or maintained at the kennel on
11 The Property, together with building, fire, safety, health and zoning issues. Specifically, this request is
12 being made to inspect for violations of Riverside County Ordinance ("RCO") No. 630 (as codified in
13 Riverside County Code ("RCC") Chapter 6.08), which specifically regulates Kennel Licenses and RCO
14 No. 348. (as codified in RCC Chapter 17.32), the Riverside County land use/zoning ordinance which
15 authorized land use approval for the kennel via a conditional Plot Plan.

16 4. The Plot Plan authorizes the use of The Property as a Class II Kennel but expressly limits
17 the number of dogs allowed on The Property to twenty (20) or less. The Plot Plan further conditioned the
18 land use approval on specific requirements such as fire department access, fire hydrant capacity, signage,
19 Building & Safety compliance, etc. In sum, very specific requirements were established by the Riverside
20 County Planning Commission as conditions for the use of The Property as a dog kennel in a residential
21 zone with neighbors in a close proximity to The Property.

22 5. In reliance on the conditional land use approval, Class II Kennel licenses were issued to
23 Karen and George Duet (dba K9 Companions) by the Riverside County Animal Services Department
24 from October, 1994 until May, 2010. (There is no current license, however an application has been filed
25 and is being processed.)

26 6. Historical documents on file with the Riverside County Animal Services Department
27 reflect that during inspections conducted over the past sixteen (16) years the number of dogs observed on
28 The Property routinely exceeded the maximum of twenty (20) dogs allowed by the Plot Plan. I am

1 informed and believe and based thereon allege that on or about May, 2010, Animal Services Lieutenant
2 Chris Mayer and Commander of Field Services Rita Gutierrez advised Karen or George Duet that no
3 more than 20 dogs may be maintained on The Property.

4 7. Additionally, I am aware that recently the County of Riverside has received citizen
5 complaints pertaining to various alleged violations on The Property including, but not limited to
6 complaints of excessive animals, excessive vehicular and employee traffic relating to dog training,
7 unpermitted sentry (attack) dogs kept and/or trained on site and other business activities (i.e., breeding
8 and security businesses) operating without land-use approval. The activities are alleged to occur both in
9 structures constructed without building permits or land use approval and via use of the on-site residence
10 occupied by George and Karin Duet and/or the kennel operator on duty.

11 8. I am further informed and believe and based thereon allege that on or about April 20, 2010
12 at 4:45 p.m., Code Officer Ron Welch inspected The Property with consent of an owner or occupant and
13 determined that several structures were constructed without permits, a shipping container was installed
14 and an undersized fire hydrant remained on The Property in violation of the Plot Plan. Officer Welch
15 observed fifty-three (53) kennels on The Property during the inspection.

16 9. Based on Animal Services records of prior inspections, information from code
17 enforcement officers and citizen complaints, an inspection of the entire property and all structures thereon
18 (including the residence) is necessary to accurately confirm the existence of violations of the Plot Plan
19 conditions.

20 10. Riverside County Ordinance No. 630 states in pertinent part: "As a condition of the
21 issuance of a kennel... license, each owner and operator of a kennel... shall agree to allow such entry and
22 inspection and such agreement shall be made a part of the license application. Such inspections shall be
23 made during reasonable hours at times when the owner or operator of the kennel... is present on the
24 kennel... and with such frequency as the director shall deem appropriate, and such inspections may, at the
25 discretion of the director, be made without prior notice or the owner or operator of the subject kennel...
26 Willful refusal on the part of a kennel... owner or operator to allow such inspection shall be grounds for
27 summary suspension or revocation of a kennel... license." (Omissions with an ellipse only reference
28 "catteries.") (RCC 6.08.050 (D))

1 11. An inspection warrant is necessary as there is no current license which may be summarily
2 suspended in the event an unannounced inspection is refused and because alleged land use and fire related
3 violations require the expertise of Riverside County Code Enforcement Officers and Fire Department
4 Personnel.

5 12. I am of the opinion that an inspection warrant is necessary and justified in order to
6 ascertain the extent of the above-referenced violations which, if evidenced, constitute a public nuisance.
7 It is necessary to thoroughly inspect The Property in order to ascertain whether there are any additional
8 violations and to determine the magnitude of those violations which cannot be observed without direct
9 access to The Property.

10 13. Based on my experience with inspections and oversight of kennel operations throughout
11 Riverside County, it is my opinion that an unannounced inspection of The Property is necessary to
12 accurately confirm the existence of any violations. Generally, results of inspections performed with
13 notice to property owners or kennel operators are not reliable, whether for routine licensing or complaint
14 investigations. The Riverside County Animal Services Department routinely receives complaints from
15 neighbors and occupants of adjoining properties who report observations that kennel operators move
16 animals to alternate locations prior to scheduled inspections so that the kennel count complies with
17 licensing requirements. It is my opinion that an unannounced inspection of The Property is required not
18 only to accurately ascertain the total number of dogs residing on The Property, but also the number of
19 dogs brought to the property for training, the existence of sentry dogs and any other dog related
20 businesses. Failure to seek or obtain consent to an inspection of The Property is appropriate and justified
21 in this case.

22 14. Authorization is requested to immediately execute the warrant and to use such force as
23 may be reasonably necessary to gain entry through fencing, gates or other obstacles blocking ingress to
24 the outdoor areas of the above described premises.

25 15. Authorization is also requested to execute the warrant in the absence of the owners/
26 occupants/kennel operators if they are not present on The Property at the time of the unannounced
27 inspection which will be conducted between the hours of 8 a.m. to 5 p.m. of any day. In order to
28

1 inspection which will be conducted between the hours of 8 a.m. to 5 p.m. of any day. In order to
2 expeditiously execute the warrant and carry out the purpose of the ordinances to protect public health and
3 safety; the inspection must be authorized in the absence of the owners/occupants.

4 17. Based upon the foregoing and Section 1822.50, et seq., of the *Code of Civil Procedure*, I
5 respectfully request that the Court issue an Inspection Warrant for the above-described premises, to be
6 executed by the staff of the Riverside County Animal Services Department, Code Enforcement
7 Department, Fire Department and/or its designees and the Sheriff's Department, that such inspection
8 Warrant specifically authorize immediate execution without notice or consent, forcible entry through
9 gates or other obstacles as may be reasonably necessary to effect the inspection, and that it may be
10 executed with or without the presence of the owners or occupants.

11 I declare under penalty of perjury under the laws of the State of California that the foregoing is
12 true and correct, except as to those matters which are based on information and belief, and as to those
13 matters I believe them to be true and correct.

14 Executed this the 22nd of July, 2010, at Riverside, California.

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16 
17 Robert P. Miller, Director
18 Animal Services Department
19 County of Riverside
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**COUNTY OF RIVERSIDE
DEPARTMENT OF ANIMAL SERVICES
KENNEL / CATTERY RENEWAL INSPECTION**

K92 UN2

Name of Applicant: Diet, Karen Inspection: K10-095213
 Mailing Address: 13703 Cajalco Rd. Lake Elsinor CA 92571
 Kennel Name: K-9 Companions
 Kennel Address: same as above CA
 Telephone: Home 951 780-5004 Work _____
 Max # of Dogs: 20 Cats: _____

Permit Issue Date: 5/8/10 Permit Expiration Date: 5/8/12
 \$ 50.00 Cash/Money Order # _____ or Check # 15661 Receipt # 54726
 For a 2 year(s) license + Late Fee \$ _____ = Total \$ _____ Received By: _____

Number of:	Kennel Dogs:	Board Dogs:	Personal Dogs:
		<u>10</u>	<u>10</u>
Puppies:	Cattery Cats:	Board Cats:	Personal Cats:
Condition of Animals:	Satisfactory: <u>X</u>	Unsatisfactory:	Other:

Comments: _____

Number of rabies vaccination certificates: Dogs 20 Cats _____ Other _____ Specify _____

Name / Exp.	Name / Exp.	Name / Exp.	Name / Exp.
<u>NIKITA ISAGHOLIAN - 8/11</u>	<u>MAX STEELMAN - 1/10</u>	<u>DEISEL DWET - 7/10</u>	
<u>KALI JENNETT - 5/11</u>	<u>BAGGALS TAYLOR - 12/10</u>	<u>BESSIE DWET - 4/12</u>	<u>HIPPO DWET - 3/11</u>
<u>ETA KLEINHELRANDT</u>	<u>SAOIE WARDEN - 2/11</u>	<u>HANNIBAL DWET - 4/12</u>	
<u>ANGEL RAMIREZ - 7/10</u>	<u>ZUFFA DWET - 5/10</u>	<u>CSA DWET - 4/11</u>	<u>SPARCO DWET - 3/11</u>
<u>JAKE SCHRAEDER - 10/11</u>	<u>NOVA DWET - 7/10</u>	<u>MALAWI DWET - 3/11</u>	
<u>DAVEY SPURLOCK - 1/11</u>	<u>LUNA DWET - 7/10</u>		<u>NIJME DWET - 5/13</u>

Condition of Kennels: Clean: X Vectors: X Exercise Areas: X Potable Water: X

Comments / Denials / Corrections to be made, etc.: _____

Remarks: kennels are clean - Dogs are healthy

Depo's Exhibit 3
 Date 9-20-10
 Depo of: Gibson
 Patricia Shaw, CSR 5024

Inspected By: C. MAYER ID#: 8 Date: 5-11-10

Signature of Kennel / Cattery Owner / Operator: x [Signature] Date: 5/11/10

KENNEL LICENSE

NON-TRANSFERABLE

LICENSE ISSUED
5/8/06
LICENSE EXPIRES
5/8/08

APPLICABLE TO:	
DOGS <input checked="" type="checkbox"/>	CATS <input type="checkbox"/>
OTHER <input type="checkbox"/>	
NUMBER	35

LICENSE NUMBER	K06-095213
FEE	\$650.00
PENALTY	\$0.00
TOTAL	\$650.00

Issued Pursuant to Riverside County Ordinance No. 630

This license is granted for the establishment of the below kennel on condition the person named on the license will comply with the laws, ordinances and regulations that are now or may hereafter be in force by the United States Government, the State of California and the County of Riverside pertaining to the below mentioned kennel. This license must be renewed on the expiration date as shown above. This license may be suspended or revoked by the Health Officer for cause.

Name of Owner	Dust, Karen
Name of Kennel	
Phone	
Location	13703 Cajalco Road A
Mailing Address	13703 Cajalco Road A
City and State	Lake Matthews, CA. 92570

Robert F. Payne
 Director of Animal Services

P. Cas
 Deputy Director of Animal Services

DOH-PM-034 (Rev 12/98)

Distribution: WHITE-License; GREEN-Accounting; CANARY-Health Dept.; PINK-Animal Services Operations Chief; GOLDENROLD-Receipt

Depts' Exhibit 4
 Date 9-20-10
 Depo of: *Guheres*
 Patricia Shaw, CSR 5024

Exhibit

Shaw, CSR 5024

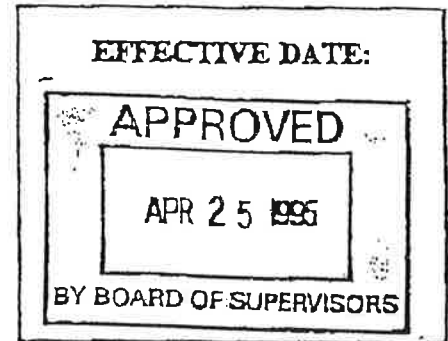
RIVERSIDE COUNTY PLANNING DEPARTMENT CONDITIONS OF APPROVAL

PLOT PLAN NO. 13992,

AMENDED NO. 1

ZONING DISTRICT: LAKE MATHEWS

APN: 286-050-022.



1. STANDARD CONDITIONS

- 1.1 The following conditions of approval are for PLOT PLAN NO. 13992, AMENDED NO. 1, and consist of Conditions of Approval 1.1 through 1.6, Conditions of Approval 2.1 through 2.5, Conditions of Approval 3.1 through 3.4, Conditions of Approval 4.1 through 4.3, Conditions of Approval 5.1 through 5.1, Conditions of Approval 6.1 through 6.3, Conditions of Approval 7.1 through 7.5, Conditions of Approval 8.1 through 8.1; and pages 1 through 6, inclusive.
- 1.2 The use hereby permitted is to remodel an existing single story metal building through the construction of 20 dog runs for 20 dogs, and construct an ancillary 704 square foot administrative building, to establish a Class II (11-25 dogs) dog kennel.
- 1.3 The applicant/permittee shall defend, indemnify, and hold harmless the County of Riverside, its agents, officers, and employees from any claims, action, or proceeding against the County of Riverside or its agents, officers, or employees to attack, set aside, void, or annul, an approval of the County of Riverside, its advisory agencies, appeal boards, or legislative body concerning PLOT PLAN NO. 13992, AMENDED NO. 1. The County of Riverside will promptly notify the applicant/permittee of any such claim, action, or proceeding against the County of Riverside and will cooperate fully in the defense. If the County fails to promptly notify the applicant/permittee of any such claim, action or proceeding or fails to cooperate fully in the defense, the applicant/permittee shall not, thereafter, be responsible to defend, indemnify, or hold harmless the County of Riverside.
- 1.4 This approval shall be used within two (2) years of approval date; otherwise, it shall become null and void and of no effect whatsoever. By use is meant the beginning of substantial construction contemplated by this approval within the two (2) year period which is thereafter diligently pursued to completion or to the actual occupancy of existing buildings or land under the terms of the authorized use. Prior to the expiration of the two year period, the permittee may request a one (1) year extension of time request in which to use this plot plan. A maximum of three one-year extension of time requests shall be permitted. Should the time period established by any of the extension of time request lapse, or should all three one-year extensions be obtained and no substantial construction or use of this permit be initiated within five (5) years of the effective date of the issuance of this plot plan, this plot plan shall become null and void.

Depts' Exhibit 5
Date 9-20-10
Depo of: Patricia Shaw
Patricia Shaw, CSF 5024

00162

PLOT PLAN NO. 13992, AMENDED NO. 1
CONDITIONS OF APPROVAL
PAGE 2 OF 6

- 1.5 The development of these premises shall comply with the standards of Ordinance No. 348 and all other applicable Riverside County ordinances and state and federal codes. The development of the premises shall conform substantially with that as shown on Exhibit No. "A", Amended No. 1, dated 9/8/94, unless otherwise amended by these conditions of approval.
- 1.6 Any subsequent submittals required by these conditions of approval, including but not limited to grading plan, building plan or mitigation monitoring review, shall be reviewed on an hourly basis (research fee), or other such review fee as may be in effect at the time of submittal, as required by Ordinance No. 671.

2. AGENCY CONDITIONS

- 2.1 The applicant/permittee shall comply with the requirements set forth in the Riverside County Transportation Department's letter dated 9/20/94, a copy of which is attached.
- 2.2 Water and sewerage disposal facilities shall be installed in accordance with the requirements set forth in the Riverside County Health Department's letter dated 9/19/94, a copy of which is attached.
- 2.3 Fire protection shall be provided in accordance with the appropriate section of Ordinance No. 546 and the requirements set forth in the Riverside County Fire Department's letter dated 2/16/95, a copy of which is attached.
(Amended at PC on 3/1/95)
- 2.4 The applicant/permittee shall comply with the requirements set forth in the Riverside County Department of Building and Safety - Grading Section's letter dated 9/20/94, a copy of which is attached.
- 2.5 The applicant/permittee shall comply with the requirements set forth in the Riverside County Department of Building and Safety - Code Enforcement section's letter dated 8/2/94, a copy of which is attached.

3. DEVELOPMENT STANDARD CONDITIONS

All the following conditions shall be satisfied prior to any use allowed by this permit:

- 3.1 Any outside lighting shall be hooded and directed so as not to shine directly upon adjoining property or public rights-of-way.
- 3.2 Five (5) parking spaces shall be provided as shown on the approved Exhibit No. "A", Amended No. 1, dated 9/8/94, unless otherwise approved by the Planning Department. The

PLOT PLAN NO. 13992, AMENDED NO. 1
CONDITIONS OF APPROVAL
PAGE 3 OF 6

parking area shall be surfaced with decomposed granite to current standards as approved by the Department of Building and Safety.

- 3.3 A minimum of one (1) handicapped parking space shall be provided as shown on approved Exhibit No. "A", Amended No. 1, dated 9/8/94. Each parking space reserved for the handicapped shall be identified by a permanently affixed reflectorized sign constructed of porcelain on steel, beaded text or equal, displaying the International Symbol of Accessibility. The sign shall not be smaller than 70 square inches in area and shall be centered at the interior end of the parking space at a minimum height of 80 inches from the bottom of the sign to the parking space finished grade, or centered at a minimum height of 36 inches from the parking space finished grade, ground, or sidewalk. A sign shall also be posted in a conspicuous place, at each entrance to the off-street parking facility, not less than 17 inches by 22 inches, clearly and conspicuously stating the following:

"Unauthorized vehicles not displaying distinguishing placards or license plates issued for physically handicapped persons may be towed away at owner's expense. Towed vehicles may be reclaimed at _____ or by telephoning _____."

In addition to the above requirements, the surface of each parking space shall have a surface identification sign duplicating the symbol of accessibility in blue paint of at least 3 square feet in size.

- 3.4 Floor plans and building elevations shall be in substantial conformance with that shown on Exhibit No. "B & C", dated 7/18/94.
- 3.5 (Relocated to Condition No. 9.1 by Staff on 12/8/94)
- 3.6 (Relocated to Condition No. 9.2 by Staff on 12/8/94)

4. LANDSCAPING & IRRIGATION CONDITIONS

All the following conditions shall be satisfied on the project's landscaping and irrigation plans:

- 4.1 Prior to the issuance of grading or building permits, seven (7) copies of a Shading, Parking, Landscaping, and Irrigation Plan shall be submitted to and approved by the Planning Department. The location, number, genus, species, and container size of the plants shall be shown. Plans shall meet all requirements of Ordinance No. 348, Sections 18.12, and 19.300 through 19.304 and as specified herein.
- 4.2 The applicant/owner shall connect to a reclaimed water supply for landscape watering purposes when secondary or reclaimed water is made available to the site.

PLOT PLAN NO. 13992, AMENDED NO. 1
CONDITIONS OF APPROVAL
PAGE 4 OF 6

- 4.3 The irrigation plan shall be in compliance with Section 18.12 of Ordinance No. 348, and include a rain shut-off device which is capable of shutting down the entire system. In addition, the plan will incorporate the use of in-line check valves, or sprinkler heads containing check valves to prohibit low head drainage.

5. GRADING CONDITIONS

- 5.1 If grading is proposed, the project must comply with the following:
- a. The developer shall submit one print of a comprehensive grading plan to the Department of Building and Safety which complies with the Uniform Building Code, Chapter 70, as amended by Ordinance No. 457 and as may be additionally provided for in these conditions.
 - b. A grading permit shall be obtained from the Department of Building and Safety prior to commencement of any grading outside of County maintained road right-of-way.
 - c. Graded but undeveloped land shall be planted with interim landscaping or provided with other erosion control measures as approved by the Director of Building and Safety.
 - d. Graded areas shall be revegetated or landscaped with native species which are fire resistant, drought tolerant, low water using and erosion controlling.

6. BUILDING PERMIT CONDITIONS

Prior to issuance of building permits, all the following conditions shall be satisfied:

- 6.1 The applicant shall obtain clearance and/or permits from the following agencies:

County Transportation Department
County Health Department

County Fire Department
County Planning Department

Written evidence of compliance shall be presented to the Land Use Division of the Department of Building and Safety.

- 6.2 Performance securities, in amounts to be determined by the Director of Building and Safety to guarantee the installation of plantings in accordance with the approved plan, and adequate maintenance of the planting for one year shall be filed with the Department of Building and Safety. A cash bond shall be required to guarantee the installation of plantings when the estimated cost is \$2,500 or less. The remaining performance surety shall be released one year after installation is approved provided the planting has been adequately maintained.

PLOT PLAN NO. 13992, AMENDED NO. 1
CONDITIONS OF APPROVAL
PAGE 5 OF 6

- 6.3 **PRIOR TO ISSUANCE OF GRADING OR BUILDING PERMITS** an application for a Certificate of Land Division Compliance shall be filed with and approved by the Planning Department. Proof of recordation shall be presented to the Department of Building and Safety.

7. FINAL BUILDING INSPECTION/OCCUPANCY CONDITIONS

Prior to final building inspection or issuance of occupancy permits, whichever occurs first, all the following conditions shall be satisfied:

- 7.1 All existing structures, including the existing metal barn, on the subject property shall conform to all the applicable requirements of Ordinance No. 348.
- 7.2 All required landscape planting and irrigation shall have been installed in accordance with approved Landscaping, Irrigation, and Shading Plans and be in a condition acceptable to the Director of Building and Safety. The plants shall be healthy and free of weeds, disease or pests. The irrigation system shall be properly constructed and in good working order.
- 7.3 The applicant's landscape architect or other State licensed party responsible for preparing landscaping and irrigation plans shall provide a Compliance Letter to the Planning Department and the Department of Building and Safety stating that the landscape and irrigation system have been installed in compliance with the approved landscaping and irrigation plans. The Compliance letter shall be submitted at least three (3) working days prior to final inspection of the structure or issuance of occupancy permits, whichever occurs first.
- 7.4 Wall and/or fence locations shall be in conformance with Exhibit "A", dated 7/18/94.
- 7.5 The Department of Building and Safety shall verify that the Development Standards of this approval and all other preceding conditions have been complied with prior to any use allowed by this permit.

8. STEPHENS' KANGAROO RAT HABITAT CONSERVATION PLAN COMPLIANCE CONDITIONS

- 8.1 Prior to the issuance of a grading permit, certificate of occupancy, or upon final inspection, whichever comes first, the applicant shall comply with the provisions of Ordinance No. 663, which generally requires the payment of the appropriate fee set forth in that ordinance. The amount of the fee required to be paid may vary depending upon a variety of factors including the type of development proposed and the applicability of any fee reduction or exemption provisions contained in the Ordinance. Said fee shall be calculated on the approved development permit acreage which is anticipated to be .96 acres in accordance with Exhibit "A", Amended No. 1, dated 9/8/94. If the development permit is subsequently revised, this

PLOT PLAN NO. 13992, AMENDED NO. 1
CONDITIONS OF APPROVAL
PAGE 6 OF 6

acreage amount will be modified in order to reflect the revised development permit acreage amount. Should Ordinance No. 663 be superseded by the provisions of a Long Term Habitat Conservation Plan for the Stephens' Kangaroo Rat prior to compliance with the provisions of Ordinance No. 663, the applicant shall comply with the provisions required by the Long Term Habitat Conservation Plan for the Stephens' Kangaroo Rat as may be implemented by County ordinance or resolution.

9. OPERATIONAL CONDITIONS

- 9.1 No signs are approved pursuant to this use. Prior to the installation of any on-site advertising or directional signs, a signing plan shall be submitted to and approved by the Planning Department pursuant to the requirements of Section 18.30 (Planning Department review only) of Ordinance No. 348.
(Relocated from Condition No. 3.5 by Staff on 12/8/94)
- 9.2 All dog kennel activities shall be restricted to the westerly 210 feet of the subject property. If additional area is necessary for kennel activities, Condition No. 8.1 will be affected, and additional Stephens Kangaroo Rat Habitat Conservation mitigation fees may be required.
(Relocated from Condition No. 3.6 by Staff on 12/8/94)
- 9.3 No group classes shall be permitted.
(Added by Staff on 12/8/94)
- 9.4 All dogs which are kennel-kept shall be confined indoors during the hours of 8:00 p.m. through 8:00 a.m.
(Added by Staff on 12/8/94)

Project Planner: _____

David Mares
David Mares, Senior Planner

Date: _____

4/27/95

G:\TIM1\PP13992\PP13992.COA

DM:dm

Created: 7/28/94

Revised: 4/27/95

00167

Page 1

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA
 2 FOR THE COUNTY OF RIVERSIDE, MAIN
 3 --000--
 4
 5 COUNTY OF RIVERSIDE, A
 6 POLITICAL SUBDIVISION OF THE)
 6 STATE OF CALIFORNIA,)
 7 PLAINTIFF,)
 8 -VS-) CASE NO. RIC 10016132
 9 LEVERN FREEMAN, GERALDINE)
 10 FREEMAN; GEORGE DUET; KAREN)
 10 DUET; KINGSDEN'S K-9)
 11 COMPANIONS & K-9 SECURITY)
 11 AND DETECTION INT'L LLC AND)
 12 DOES 1 THROUGH 50,)
 12 INCLUSIVE,)
 13 DEFENDANTS.)
 14
 15
 16 DEPOSITION OF JEFFREY HORN
 17
 18 DATE AND TIME: WEDNESDAY, SEPTEMBER 8, 2010
 18 1:00 P.M. - 5:45 P.M.
 19 PLACE: LAW OFFICES OF FULLERTON,
 20 LEMANN, SCHAEFER & DOMINICK
 21 215 NORTH "D" STREET
 21 FIRST FLOOR
 22 SAN BERNARDINO, CALIFORNIA 92401
 23
 24 REPORTED BY: PATRICIA A. SHAW, C.S.R. #5024
 25 JOB NO.: PS-0908

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1 APPEAL PROCEEDINGS
 2
 3
 4 FOR THE PLAINTIFF:
 5
 6 COUNTY OF RIVERSIDE
 7 BY: PATTIE SMITH, DEPUTY COUNTY COUNSEL
 7 3960 ORANGE STREET
 8 FIFTH FLOOR
 8 RIVERSIDE, CALIFORNIA 92501
 9 (951) 955-6300
 10
 11 FOR THE DEFENDANTS:
 12
 13 FULLERTON LEMANN, SCHAEFER & DOMINICK
 14 BY: MICHAEL R. SCHAEFER, ESQ.
 14 215 NORTH "D" STREET
 15 FIRST FLOOR
 15 SAN BERNARDINO, CALIFORNIA 92401
 16 (909) 889-3691
 17
 18 ALSO PRESENT:
 19 LE VERN FREEMAN
 20 KAREN DUET
 20 TRAVIS DUET
 21
 22
 23
 24
 25

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1 SAN BERNARDINO, CALIFORNIA
 2 WEDNESDAY, SEPTEMBER 8, 2010, 1:00 P.M.
 3 -000-
 4
 5 JEFFREY HORN,
 6 CALLED AS A WITNESS, HAVING BEEN FIRST DULY SWORN BY
 7 THE DEPOSITION OFFICER, TESTIFIED AS FOLLOWS:
 8
 9 EXAMINATION
 10 BY MR. SCHAEFER:
 11 PLEASE STATE YOUR NAME AND SPELL THE LAST
 12 NAME FOR THE REPORTER.
 13 A. JEFF HORN, H-O-R-N.
 14 Q. HAVE YOU EVER HAD YOUR DEPOSITION TAKEN
 15 BEFORE?
 16 A. I HAVE NOT.
 17 Q. GREAT. HERE'S THE WAY IT WORKS. I'M
 18 PERMITTED BY LAW TO ASK YOU CERTAIN QUESTIONS WITH
 19 REGARDS TO A LAWSUIT THAT THE COUNTY HAS FILED
 20 AGAINST MY CLIENTS, AND YOU'RE PERMITTED TO ANSWER
 21 THOSE QUESTIONS.
 22 EVERYTHING THAT IS SAID TODAY IS BEING
 23 TAKEN DOWN BY THE COURT REPORTER AND WILL ULTIMATELY
 24 BE TRANSCRIBED INTO A LITTLE BOOKLET. THE BOOKLET
 25 BECOMES PART OF THE RECORD IN THIS CASE AND CAN BE

1 USED IN COURT OR FOR ANY OFFICIAL PURPOSE
 2 THEREAFTER.
 3 EVERYTHING THAT YOU SAY TODAY IS UNDER
 4 PENALTY OF PERJURY. AS I'M SURE YOU'RE AWARE,
 5 PERJURY IS A FELONY IN THE STATE OF CALIFORNIA. SO
 6 YOU WANT TO DO YOUR VERY BEST TO TELL THE TRUTH AT
 7 EVERY STAGE OF THIS DEPOSITION.
 8 FROM TIME TO TIME, COUNSEL MAY MAKE
 9 OBJECTIONS. OBJECTIONS HAVE TO BE MADE FOR VERY
 10 TECHNICAL REASONS. HOWEVER, JUST BECAUSE AN
 11 OBJECTION IS MADE DOESN'T MEAN YOU DON'T ANSWER THE
 12 QUESTION. IF A LAWYER DOESN'T WANT YOU TO ANSWER
 13 THE QUESTION, THE LAWYER WILL SAY "DON'T ANSWER THAT
 14 QUESTION." IF A LAWYER JUST SAYS "OBJECTION," THEN
 15 WE'RE DOING TECHNICAL STUFF FOR THE BENEFIT OF A
 16 JUDGE LATER ON DOWN THE ROAD.
 17 NOW, ARE YOU ILL OR HAVE YOU TAKEN ANY
 18 MEDICATION THAT WILL INTERFERE WITH YOUR ABILITY TO
 19 UNDERSTAND MY QUESTIONS AND GIVE ACCURATE ANSWERS?
 20 A. NO, I'M NOT.
 21 Q. I UNDERSTAND TODAY IS YOUR LAST DAY WITH
 22 THE COUNTY OF RIVERSIDE.
 23 A. YES.
 24 Q. CONGRATULATIONS.
 25 MS. SMITH: IF I CAN INTERJECT. SHE HAS TO

1 TAKE DOWN EVERY WORD YOU SAY; SO A NOD, FOR EXAMPLE,
 2 WILL NOT SHOW UP. SO THEN WE DON'T MEAN TO HARASS
 3 YOU BUT WE WILL ASK YOU, "IS THAT A YES OR NO?"
 4 THE WITNESS: ALL RIGHT.
 5 Q. (BY MR. SCHAEFER:) ANOTHER THING.
 6 EVERYBODY DOES THIS, EXCEPT IN DEPOSITIONS. YOU
 7 HAVE TO WAIT UNTIL I STOP TALKING. OFTENTIMES YOU
 8 WILL ANTICIPATE WHAT I'M GOING TO SAY AND YOU JUMP
 9 RIGHT IN AND WE'RE BOTH TALKING AT THE SAME TIME,
 10 AND IT GIVES THE COURT REPORTER A HEADACHE.
 11 SO AS OF TODAY, WHAT IS YOUR OFFICIAL
 12 POSITION WITH THE COUNTY OF RIVERSIDE? WHAT IS YOUR
 13 CLASSIFICATION?
 14 A. URBAN AND REGIONAL PLANNER 3.
 15 Q. HOW LONG HAVE YOU BEEN BE AN URBAN AND
 16 REGIONAL PLANNER 3 FOR THE COUNTY OF RIVERSIDE?
 17 A. FOR PLANNER 3, APPROXIMATELY A YEAR AND A
 18 HALF. VARIOUS PROCEEDING STAGES OF PLANNER 1 AND 2,
 19 FOR A TOTAL OF 4 YEARS.
 20 Q. SO YOU WORKED FOR THE COUNTY A GRAND TOTAL
 21 OF FOUR YEARS?
 22 A. CORRECT.
 23 Q. IN THAT FOUR-YEAR PERIOD OF TIME, YOU'VE
 24 GONE FROM PLANNER 1 TO PLANNER 2 TO PLANNER 3.
 25 A. CORRECT.

1 Q. CAN YOU GIVE ME A BRIEF HISTORY OF YOUR
 2 EDUCATIONAL BACKGROUND, STARTING WITH WHEN YOU
 3 GRADUATED HIGH SCHOOL.
 4 A. GRADUATED HIGH SCHOOL IN 2000 AND RECEIVED
 5 A BACHELOR OF ARTS FROM THE UNIVERSITY OF CALIFORNIA
 6 AT SANTA BARBARA IN ENVIRONMENTAL STUDIES. MY FIRST
 7 PROFESSIONAL JOB WAS HERE AT THE COUNTY OF RIVERSIDE
 8 AS AN URBAN PLANNER.
 9 Q. WHEN DID YOU GRADUATE FROM U.C.,
 10 SANTA BARBARA?
 11 A. 2005.
 12 Q. GREAT. DO YOU HAVE A NEW JOB?
 13 A. NO.
 14 Q. WHEN WAS THE FIRST TIME YOU EVER BECAME
 15 AWARE OF THE DUETS AND THEIR KENNEL? WHEN YOU
 16 ANSWER THAT QUESTION, MAYBE IT'S BEST TELL ME UNDER
 17 WHAT CIRCUMSTANCES RATHER THAN TRY TO REMEMBER A
 18 SPECIFIC DATE.
 19 A. IT WAS REASSIGNED TO ME FROM A PLANNER WHO
 20 HAD LEFT THE COUNTY, SO I RECEIVED ALL OF HER WORK
 21 LOAD. SHE WAS THE PLANNER IN CHARGE OF THE GREATER
 22 LAKE MATHEWS-WOODCREST AREA.
 23 Q. WHAT WAS REASSIGNED TO YOU?
 24 A. THE CONDITIONAL USE PERMIT.
 25 Q. AN APPLICATION FOR CONDITIONAL USE PERMIT?

1 A. AN APPLICATION FOR CONDITIONAL USE PERMIT
 2 THAT HAD ALREADY BEEN IN PROCESS FOR APPROXIMATELY
 3 SEVEN OR EIGHT MONTHS.
 4 Q. WAS THERE ALSO AN APPLICATION FOR REZONING,
 5 PENDING WITH THE APPLICATION FOR THE CONDITIONAL USE
 6 PERMIT?
 7 A. YES. THERE WAS A CONCURRENT ZONE CHANGE
 8 APPLICATION.
 9 Q. WAS THE ZONE CHANGE APPLICATION ALSO
 10 REASSIGNED TO YOU?
 11 A. YES.
 12 Q. WHAT WAS THE NAME OF THE PLANNER WHO LEFT?
 13 A. NICOLE BERUMAN.
 14 MS. SMITH: CAN YOU SPELL THAT, PLEASE.
 15 THE DEPONENT: B-E-R-U-M-A-N.
 16 Q. (BY MR. SCHAEFER:) WHEN DID YOU TAKE OVER
 17 THE FILE?
 18 A. I BELIEVE IT WAS AUGUST OF '09.
 19 MR. SCHAEFER: HERE IS YOUR SET OF THE
 20 EXHIBITS. WE'RE NOT PREMARKED HERE, SO WE WILL HAVE
 21 TO MARK AS WE GO ALONG.
 22 (DISCUSSION OFF THE RECORD.)
 23 Q. (BY MR. SCHAEFER:) NOW, MR. HORN, I'M
 24 GOING TO SHOW YOU EXHIBITS HERE AND -- DON'T LOOK AT
 25 THAT. I HAVE A PROCEDURE HERE THAT'S GOING TO MOVE

1 US ALONG.
 2 WHAT I DO IS I, FOR RECORD PURPOSES, MARK
 3 THESE EXHIBITS AND GIVE THEM NUMBERS. WHEN I MARK
 4 AN EXHIBIT, I'M GOING TO HAND IT TO YOU AND ALLOW
 5 YOU TO JUST KIND OF LOOK IT OVER IN GENERAL, JUST TO
 6 KIND OF GET AN IDEA AS TO WHAT WE'RE LOOKING AT.
 7 THEN I'LL ASK YOU DETAILED QUESTIONS ABOUT IT.
 8 WE'RE GOING TO END UP GOING THROUGH THIS
 9 WHOLE STACK, SO WE'LL GO ONE AT A TIME. I'M GOING
 10 TO SHOW YOU AN EXHIBIT I'VE MARKED AS EXHIBIT
 11 NO. 1.
 12 MR. SCHAEFER: AND, PATTY, YOUR EXHIBITS
 13 ARE NOT PREMARKED. I LIKE TO PREMARK, BUT I JUST
 14 DIDN'T HAVE ENOUGH TIME. I SUGGEST THAT YOU PREMARK
 15 YOURS AS WE GO ALONG.
 16 Q. I PUT IN FRONT OF YOU EXHIBIT NO. 1. TAKE
 17 A LOOK AT IT. IS THIS THE INITIAL APPLICATION FOR
 18 CONDITIONAL USE PERMIT AND ZONE CHANGE THAT WAS
 19 SUBMITTED BY THE DUETS, TO THE BEST OF YOUR
 20 KNOWLEDGE?
 21 A. THIS WOULD BE THE APPLICATION FOR THE
 22 CONDITIONAL USE PERMIT.
 23 Q. THIS IS NOT THE APPLICATION FOR THE ZONE
 24 CHANGE?
 25 A. CORRECT, IT IS NOT.

1 Q. IN THE ORDINARY PROCEDURE, DOES AN
 2 APPLICANT FOR A ZONE CHANGE HAVE TO FILL OUT A
 3 DOCUMENT ENTITLED "APPLICATION FOR CHANGE OF ZONE"?
 4 A. YES, THERE'S A SEPARATE APPLICATION FOR
 5 ZONE CHANGE.
 6 Q. IF I LOOKED IN THE COUNTY FILE HARD ENOUGH,
 7 I SHOULD FIND AN APPLICATION FOR ZONE CHANGE?
 8 A. CORRECT.
 9 MS. SMITH: I WOULD LIKE THE RECORD TO
 10 REFLECT THAT THIS SAYS PAGE 2 OF 16, 3 OF 16, 4 OF
 11 16, SO APPARENTLY THERE SHOULD BE 16 PAGES.
 12 AND HE ASKED YOU IF THIS WAS THE DOCUMENT
 13 THEY SUBMITTED. IF YOU DON'T KNOW THAT FOR SURE,
 14 THAT THEY SUBMITTED THIS DOCUMENT, YOU NEED TO BE
 15 ABLE TO BE CLEAR AND ANSWER WHETHER YOU KNOW AND IF
 16 YOU DO KNOW. I'M WORRIED, FIRST OF ALL, THAT IT'S
 17 NOT A COMPLETE DOCUMENT, AND THEN HIS TESTIMONY AS
 18 TO THE ACCURACY OF THAT.
 19 MR. SCHAEFER: LET ME LOOK AT THE EXHIBIT.
 20 Q. BASED ON YOUR EXPERIENCE WORKING ON THIS
 21 FILE, DO YOU THINK THAT EXHIBIT NO. 1 IS ALL OR PART
 22 OF THE INITIAL APPLICATION FOR CONDITIONAL USE
 23 PERMIT?
 24 A. THE INITIAL APPLICATION THAT WAS SUBMITTED
 25 DID MORE PROBABLY CONTAIN 16 PAGES, PAGES 5 THROUGH

1 16 -- THEN THIS IS THE PRACTICE OF MOST PLANNERS ARE
 2 INFORMATIONAL. THEY HELP THE APPLICANT CREATE THE
 3 PLOT PLAN OR LET THEM KNOW WHAT DOCUMENTS NEED TO BE
 4 SUBMITTED, BE IT THE DEED, PHOTOS. TYPICALLY, MOST
 5 PLANNERS -- WE HAVE ENOUGH CASE FILES AS IT IS --
 6 TEND TO PURGE ANY PAGE THAT DOESN'T REQUIRE THE
 7 APPLICANT TO ADD THEIR PERSONAL MARKING OR FILL OUT
 8 INFORMATION ON IT.
 9 Q. SO WHAT YOU'RE SAYING IS, IF I GET THIS
 10 RIGHT, THE COUNTY OF RIVERSIDE HAS A FORM, AND THE
 11 FORM THAT IS USED TO APPLY FOR A CONDITIONAL USE
 12 PERMIT HAS 16 PAGES?
 13 A. RIGHT.
 14 Q. WE ONLY HAVE 4 PAGES OF THIS FORM HERE.
 15 A. CORRECT.
 16 Q. YOU'RE SAYING THAT PAGES 5 THROUGH 16 OF
 17 THE FORM CONTAIN INFORMATION FOR THE APPLICANT.
 18 PAGES 5 THROUGH 16 DO NOT CONTAIN ANY BLANKS OR
 19 REQUESTS FOR INFORMATION TO BE FILLED IN BY THE
 20 APPLICANT?
 21 A. CORRECT.
 22 Q. YOU'RE ALSO SAYING THAT SOMETIMES IN ORDER
 23 TO CUT DOWN THE THICKNESS OF THESE FILES, IT IS NOT
 24 AN UNCOMMON PRACTICE FOR PLANNERS TO DISCARD PAGES 5
 25 THROUGH 16 AND KEEP PAGES 1 THROUGH 4, BECAUSE FROM

1 THE STANDPOINT OF WORKING THE FILES, PAGES 1 THROUGH
 2 4 HAVE ALL THE INFORMATION THAT YOU NEED?
 3 A. CORRECT.
 4 Q. OKAY. NEXT I'LL SHOW YOU TWO DOCUMENTS
 5 THAT I HAVE MARKED EXHIBITS 2 AND 3. TAKE A LOOK AT
 6 THOSE TOGETHER.
 7 CAN YOU GIVE ME A GENERAL DESCRIPTION OF
 8 WHAT EXHIBIT NO. 2 IS?
 9 A. EXHIBIT NO. 2 IS A STAFF REPORT FOR THE
 10 PLANNING COMMISSION HEARING OF CHANGE OF ZONE,
 11 NO. 7700, CONDITIONAL USE PERMIT NO. 3618. THIS
 12 PROVIDES A PRODUCT DESCRIPTION, LOCATION, SOME
 13 ISSUES OF CONCERN, BACKGROUND INFORMATION, AND HAS A
 14 RECOMMENDATION TO CONTINUE WITH DISCUSSION AT THE
 15 PLANNING COMMISSION HEARING.
 16 ITEM NO. 2 IS FOR THE MARCH 3RD SO THIS
 17 WOULD BE THE 2ND OF HEARINGS.
 18 Q. IN GENERAL, WHAT IS THE PURPOSE OF A STAFF
 19 REPORT SUBMITTED TO THE PLANNING COMMISSION?
 20 A. A STAFF REPORT SERVES AS A SUMMARY OF THE,
 21 AGAIN, PRODUCT DESCRIPTION, ANY USEFUL INFORMATION
 22 OR ITEMS THAT NEED TO BE DISCUSSED AT THE
 23 COMMISSION.
 24 IT ALSO PROVIDES CONCLUSIONS TO HELP
 25 PLANNING MAKE THEIR DETERMINATION THAT THE PROJECT,

1 WOULD MEET THE SAFETY WELL-BEING OF THE PUBLIC AND
 2 ALL APPLICABLE COUNTY CODES AND ORDINANCES.
 3 WE ALSO INCLUDE FINDINGS TO PROVE THAT
 4 THOSE CONCLUSIONS ARE REAL AND NOT JUST CREATED OUT
 5 OF THIN AIR. THERE ARE SOME SUBSTANCES TO THOSE
 6 CONCLUSIONS.
 7 THAT'S THE MAIN INTENT.
 8 Q. IS THE STAFF REPORT SUBMITTED TO THE
 9 COMMISSION AT THE TIME OF ITS MEETING?
 10 A. THE STAFF REPORT IS SUBMITTED TO THE
 11 PLANNING COMMISSION. TYPICALLY I BELIEVE THEY
 12 RECEIVE THEM A WEEK AHEAD OF TIME.
 13 THE STAFF REPORTS ARE NOTICED -- PUBLICLY
 14 NOTICED AT DIFFERENT TIMES BASED ON THE S.E.Q.U.A.
 15 DETERMINATION. THIS PROJECT NOT MOVING FORWARD
 16 TOWARD APPROVAL WAS, I BELIEVE, ON A TEN-DAY
 17 NOTICING.
 18 Q. DID YOU PLAY ANY ROLE IN THE PREPARATION OF
 19 EXHIBIT NO. 2?
 20 A. I DRAFTED THIS DOCUMENT, OR AT LEAST SIGNED
 21 OFF FROM THE ASSISTANT PLANNER, AND IT WAS REVIEWED
 22 BY MY SUPERVISOR.
 23 Q. HELP ME WALK THROUGH THIS. YOU APPROVED
 24 IT?
 25 A. YES. MY NAME WAS ON THE DOCUMENT.

1 Q. DID YOU WRITE IT OR DID YOU HELP WRITE IT?
 2 A. I BELIEVE I WROTE THE MAJORITY OF THIS. I
 3 WOULD TAKE AUTHOR CREDIT FOR IT.
 4 Q. IS EXHIBIT NO. 2 A COMPLETE COPY OF THE
 5 ENTIRE STAFF REPORT FOR THAT PARTICULAR PLANNING
 6 COMMISSION MEETING?
 7 A. I WOULD SAY THIS WOULD BE THE ENTIRETY OF
 8 THE STAFF -- WHAT I WOULD CALL STAFF REPORTS. THE
 9 REST WOULD BE THE STAFF REPORT PACKAGE. THIS WOULD
 10 INCLUDE CONDITION OF APPROVAL LETTERS, EXHIBITS,
 11 THINGS OF THAT NATURE.
 12 Q. SO WHAT WENT IN TO THE PLANNING COMMISSION,
 13 OR AT LEAST WHAT IS SUPPOSED TO GO TO THE PLANNING
 14 COMMISSION, IS A WRITTEN STAFF REPORT THAT YOU OR
 15 SOME MEMBER OF THE PLANNING STAFF PREPARES AND SIGNS
 16 OFF ON, PLUS ADDITIONAL EXHIBITS AND DOCUMENTS THAT
 17 ARE NOT NECESSARILY PREPARED BY THE PLANNING
 18 DEPARTMENT. DO I HAVE THAT RIGHT?
 19 MS. SMITH: THAT'S A COMPOUND QUESTION.
 20 YOU CAN IDENTIFY WHAT PARTS ARE RIGHT IF YOU WANT
 21 TO.
 22 A. I BELIEVE ALL PARTS MORE OR LESS ARE
 23 CREATED BY THE PLANNING DEPARTMENT OR ITEMS THAT
 24 WERE SUBMITTED TO THE PLANNING DEPARTMENT, VIA A
 25 LETTER FROM A NEIGHBOR, IN OPPOSITION OR IN

1 SUPPORT.
 2 I THINK THE TERMINOLOGY MAY BE -- IT IS
 3 CONSIDERED A STAFF REPORT, BE IT THE WHOLE PACKAGE
 4 OR JUST THIS DOCUMENT THAT HAS THE WORDS "STAFF
 5 REPORT" ON IT.
 6 Q. ARE YOU ABLE TO TELL ME, BY LOOKING AT
 7 EXHIBIT 2 OR EXHIBIT 3 OR BOTH, HOW MANY TIMES THE
 8 DUETS' APPLICATION FOR A CONDITIONAL USE PERMIT
 9 APPEARED ON THE PLANNING COMMISSION AGENDA?
 10 A. THROUGH THE DATES WRITTEN ON EXHIBIT
 11 NO. 2, MARCH 3RD WOULD HAVE BEEN THE THIRD NOTICING
 12 -- OR SCHEDULING OF THE PROJECT ON A PLANNING
 13 COMMISSION AGENDA, THE PREVIOUS BEING JANUARY 13TH
 14 AND DECEMBER 2ND, '09.
 15 Q. WHAT DO YOU SEE ON EXHIBIT 2 AND EXHIBIT 3
 16 THAT LEADS YOU TO BELIEVE THAT THIS APPLICATION FOR
 17 CONDITIONAL USE PERMIT WAS CALENDARED BEFORE THE
 18 PLANNING COMMISSION ON MARCH 2, JANUARY 13 , AND
 19 DECEMBER 2?
 20 A. IT WOULD BE THE SIX OR SEVENTH LINE DOWN
 21 FROM THE TOP LEFT-HAND CORNER. TYPICAL OF ALL THE
 22 STAFF REPORTS THAT HAVE MULTIPLE HEARINGS, WE
 23 DISTINGUISH THE CURRENT DATE BY SAYING PLANNING
 24 COMMISSION, AND THEN THE DATE.
 25 THE SECOND LINE SAYS "CONTINUED FROM."

1 CONTINUE IMPLIES OR DIRECTS YOU TO THE PREVIOUS DATE
 2 THE PROJECT WAS SCHEDULED FOR A HEARING. THIS ONE'S
 3 SHOWING JANUARY 13TH AND DECEMBER 2, 2009.
 4 Q. THE PRACTICE WOULD BE ON A STAFF REPORT YOU
 5 LIST ALL THE DATES THAT THE MATTER WAS PREVIOUSLY
 6 BEFORE THE COMMISSION?
 7 A. RIGHT.
 8 Q. THAT'S OPERATING PROCEDURE?
 9 A. RIGHT.
 10 Q. LET'S LOOK AT EXHIBIT 3.
 11 WHAT IS EXHIBIT 3? CAN YOU GIVE ME A
 12 GENERAL DESCRIPTION OF EXHIBIT 3?
 13 A. EXHIBIT 3 IS AGAIN A STAFF REPORT. THIS
 14 ONE IS FOR THE 2ND NOTICE -- OR 2ND AGENDA DATE FOR
 15 CONDITIONAL USE PERMIT 3618 AND CHANGE OF ZONE
 16 7700.
 17 I BELIEVE IT CONTAINS LESS INFORMATION THAN
 18 THE PREVIOUS ONE BECAUSE IT WAS EARLIER ON IN THE
 19 PROCESS OF THE HEARINGS.
 20 Q. SO EXHIBIT 3 IS THE STAFF REPORT FOR THE
 21 JANUARY 13TH MEETING?
 22 A. YES.
 23 Q. DID YOU PLAY ANY ROLE IN THE PREPARATION OF
 24 EXHIBIT 3, THE STAFF REPORT FOR THE JANUARY 13TH
 25 MEETING?

1 A. YES. I WOULD SAY I AUTHORED THIS DOCUMENT.
 2 Q. IS EXHIBIT 3 A COMPLETE COPY OF THE PORTION
 3 OF THE STAFF REPORT THAT YOU AUTHORED, BEARING IN
 4 MIND YOUR TESTIMONY THAT OFTENTIMES THE PORTION THAT
 5 YOU AUTHORED GOES TO THE PLANNING COMMISSION WITH
 6 OTHER DOCUMENTS?
 7 A. OTHER DOCUMENTS THAT I AM THE AUTHOR AS
 8 WELL.
 9 MS. SMITH: AND YOU CALL THOSE A PACKAGE?
 10 THE DEPONENT: A STAFF REPORT PACKAGE. SO
 11 AGAIN, I WOULD SAY THIS IS A COMPLETE COPY OF THE
 12 STAFF REPORTS, NOT OF THE STAFF REPORT PACKAGE.
 13 Q. (BY MR. SCHAEFER:) WAS THERE A STAFF
 14 REPORT PREPARED FOR THE DECEMBER 2ND MEETING?
 15 A. YES.
 16 Q. I HAVE TO CONFESS, I WENT THROUGH THE BOX
 17 THAT GOT DELIVERED YESTERDAY. I COULDN'T FIND IT.
 18 DID YOU PLAY ANY ROLE IN THE PREPARATION OF
 19 THESE DOCUMENTS THAT CAME OVER TO ME YESTERDAY?
 20 A. I COPIED ALL THOSE DOCUMENTS.
 21 Q. DID YOU COPY THE STAFF REPORT FOR THE
 22 DECEMBER 2ND, 2009, MEETING? THE RULE HERE IS IF
 23 YOU NOT SURE, TELL ME YOU'RE NOT SURE. IF YOU DON'T
 24 KNOW, TELL ME YOU DON'T KNOW. IF YOU KNOW, TELL ME
 25 YOU WHAT YOU KNOW.

1 A. I AM NOT SURE.
 2 Q. LET ME ASK YOU THIS QUESTION: IF I GAVE
 3 YOU MY BOX, COULD YOU GO THROUGH AND SEE IF YOU
 4 COULD FIND IT?
 5 A. YES.
 6 MR. SCHAEFER: OFF THE RECORD.
 7 (A RECESS WAS TAKEN.)
 8 Q. (BY MR. SCHAEFER:) SHOWING YOU
 9 EXHIBIT
 10 NO. 4, CAN YOU DESCRIBE IN GENERAL WHAT EXHIBIT
 11 NO. 4 IS?
 12 A. EXHIBIT NO. 4 IS THE FIRST STAFF REPORT FOR
 13 THIS PROJECT, CREATED FOR INITIAL SCHEDULING FOR
 14 PUBLIC HEARING ON A PLANNING COMMISSION AGENDA.
 15 Q. DID YOU DRAFT EXHIBIT NO. 4?
 16 A. YES, I DID.
 17 Q. IF YOU COULD, HAND ME THE ONE THAT YOU'VE
 18 GOT AND LOOK AT THE ONE I GAVE YOU FOR YOUR COUNSEL.
 19 I WANT TO GO OVER THIS A LITTLE BIT.
 20 IS IT TRUE THAT THIS IS A STAFF REPORT FOR
 21 BOTH A CHANGE OF ZONE AND A CONDITIONAL USE PERMIT?
 22 A. CORRECT, YES, IT IS.
 23 Q. PARTWAY DOWN THE PAGE THERE IS A HEADING
 24 THAT SAYS "FURTHER PLANNING CONSIDERATION." IT SAYS
 25 NOVEMBER 24, 2009.

1 AND IT SAYS, "THE APPLICANT HAS PROVIDED
 2 TWO ITEMS FOR SUBMISSION TO THE PLANNING COMMISSION
 3 THAT HAVE BEEN ATTACHED WITHIN THIS STAFF REPORT.
 4 THE ITEMS INCLUDED ARE A DETAILED PROJECT AND
 5 OPERATIONS DESCRIPTION AND A RESPONSE TO COMMENTS
 6 SUBMITTED BY COMMISSIONER ROTH."
 7 DO YOU SEE THAT?
 8 A. YES.
 9 Q. IS THERE A PLANNING COMMISSIONER BY THE
 10 NAME OF ROTH?
 11 A. THERE IS A PLANNING COMMISSIONER,
 12 JOHN ROTH.
 13 Q. DO YOU KNOW WHAT THE COMMENTS WERE THAT WAS
 14 SUBMITTED BY COMMISSIONER ROTH?
 15 MS. SMITH: YOU CAN ANSWER IF YOU KNOW.
 16 THE DEPONENT: I'M NOT OFFHAND AWARE WHAT
 17 THE SPECIFICS OF IT ARE.
 18 MS. SMITH: WOULD THERE BE A DOCUMENT?
 19 THE DEPONENT: THERE IS A DOCUMENT.
 20 Q. (BY MR. SCHAEFER:) DO YOU KNOW HOW IT WAS
 21 THAT COMMISSIONER ROTH CAME TO BE SUBMITTING
 22 COMMENTS IN ADVANCE OF A HEARING BY THE PLANNING
 23 COMMISSION?
 24 A. COMMISSIONER ROTH, ALONG WITH MULTIPLE
 25 DEPARTMENTS AND AGENCIES, WERE MADE AWARE OF THIS

1 PROJECT UPON THE TRANSMITTAL FOR THE INITIAL LAND
 2 DEVELOPMENT COMMITTEE MEETING.
 3 THERE IS OUR INTERNAL REVIEW MEETING. THE
 4 MEETING CONSISTS OF TEN COUNTY AGENCIES THAT HAVE
 5 THE ABILITY TO ACTUALLY ASK FOR CHANGES FOR THE
 6 PROJECT OR CONDITIONS OF APPROVAL.
 7 WE ALSO SEND THE PROJECT OUT TO PERIPHERY
 8 AGENCIES FOR THEIR INPUT, BECAUSE THE PROJECT MAY
 9 AFFECT OTHER ENTITIES, BE IT GAS OR EDISON, THE
 10 SHERIFF, REGIONAL TRANSPORTATION AUTHORITY.
 11 WE ALSO SEND IT AS A COURTESY TO THE
 12 DISTRICT SUPERVISOR'S OFFICE AND ALSO THE PLANNING
 13 COMMISSIONER ASSIGNED TO THAT DISTRICT AS WELL.
 14 Q. SO TO SUMMARIZE, THERE IS A LAND --
 15 A. LAND DEVELOPMENT COMMITTEE.
 16 Q. AND THE LAND DEVELOPMENT COMMITTEE REVIEWS
 17 THE APPLICATION FOR THE CONDITIONAL USE PERMIT AND
 18 THE REZONING IN ADVANCE OF IT GOING TO THE PLANNING
 19 COMMISSION?
 20 A. CORRECT. WE DO NOT SCHEDULE THE -- WE
 21 WOULDN'T -- THE PLANNING DEPARTMENT CANNOT SUPPORT A
 22 PROJECT FOR APPROVAL UNTIL WE RECEIVE APPROVALS FROM
 23 ALL MEMBERS OF THAT LAND DEVELOPMENT COMMITTEE.
 24 THESE ARE JUST THE COUNTY'S INTERNAL AGENCIES.
 25 Q. THE FIRE DEPARTMENT?

Page 21

1 A. YES. NOT THOSE PERIPHERAL UTILITIES -- WE
 2 DON'T -- WE ENJOY THEIR -- RESPECT THEIR COMMENTS,
 3 BUT THEY DO NOT DICTATE TO US SAYING APPROVAL OR NOT
 4 APPROVAL BASED ON AN ISSUE THEY MAY HAVE.
 5 Q. SO WAS IT YOUR RECOLLECTION THAT THE
 6 APPLICATIONS WOULD HAVE GONE TO COMMISSIONER ROTH,
 7 AS A MATTER OF COURSE, IN THE PROCESSING OF THIS
 8 APPLICATION AND THAT HE SUBMITTED COMMENTS IN
 9 RESPONSE TO THE SUBMITTAL?
 10 A. YES, THAT'S CORRECT.
 11 Q. NEXT THERE IS A SECTION CALLED "SUMMARY OF
 12 FINDINGS." WHAT IS OUTLINED IN THE SUMMARY OF
 13 FINDINGS?
 14 A. THERE IS . . .
 15 MS. SMITH: WHAT IS "GENERALLY"? OR WHAT
 16 IS "SPECIFICALLY" IN THIS CASE?
 17 MR. SCHAEFER: GENERALLY.
 18 THE DEPONENT: GENERALLY, THE SUMMARY OF
 19 FINDINGS IS A QUICK WRITTEN DESCRIPTION OF THE
 20 ZONING'S LAND USE AND GENERAL PLAN USES FOR THE
 21 PROJECT AND ITS SURROUNDING -- THE PARCELS IN THE
 22 VICINITY OF IT. AGAIN, IT STARTS WITH THE COUNTY
 23 GENERAL PLAN LAND USE. THIS IS THE DESIGNATED LAND
 24 USE AND THE SURROUNDING -- THE ZONING. IT SHOWS --
 25 THE PRODUCT ZONING, THE SURROUNDING ZONING, IN THIS

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1 CASE A RECOMMENDED ZONING WHICH WAS CONSISTENT WITH
 2 WHAT THE APPLICANT WAS PROPOSING AND THEN GOES ON TO
 3 LAND USE, WHICH IS HOW THE LAND IS ACTUALLY BEING
 4 USED.
 5 Q. LET'S LOOK AT SECTION 6 IN THE SUMMARY OF
 6 FINDINGS WHICH IS AT THE TOP OF PAGE 2, EXISTING
 7 LAND USE, EXHIBIT NO. 1.
 8 A. YES.
 9 Q. IT SAYS, "CLASS 2 DOG KENNEL FOR 25 DOGS
 10 AND SINGLE FAMILY RESIDENCE." WHAT WAS YOUR SOURCE
 11 OF INFORMATION FOR THAT?
 12 A. THAT WAS . . .
 13 MS. SMITH: IF YOU RECALL.
 14 A. IF I RECALL, THAT CAME FROM THE -- OUR
 15 PROJECT CAME FROM THE ENTRY OF THE PLOT PLAN INTO
 16 OUR LAND MANAGEMENT SYSTEMS, WHICH IS OUR COMPUTER
 17 DATABASE.
 18 Q. SINCE YOU WROTE THIS, HAVE YOU BECOME AWARE
 19 THAT THE PLOT PLAN SAYS THERE ARE TO BE 20 DOGS OR
 20 20 KENNELS?
 21 A. I AM AWARE OF THAT.
 22 Q. DID YOU OVERLOOK THAT?
 23 A. YES. THE 25 DOGS IS THE TYPICAL MAXIMUM OF
 24 CLASS 2.
 25 Q. HOW DID YOU COME TO OVERLOOK IT?

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1 MS. SMITH: OBJECTION. VAGUE.
 2 DO YOU KNOW THE ANSWER TO THAT QUESTION?
 3 MR. SCHAEFER: I'LL ASK IT ANOTHER WAY.
 4 Q. WHY DIDN'T YOU GET IT RIGHT THE FIRST TIME?
 5 MS. SMITH: SO WHY DID YOU MAKE A MISTAKE?
 6 A. I THINK IT WAS A RELYING MORE ON THE TYPE
 7 OF APPLICATION THAT THE PREVIOUS PROJECTS HAD,
 8 TYPICAL CLASS 2. WE WERE RELYING MORE ON WHAT THE
 9 ASSUMED AMOUNT OF DOGS WOULD BE, NOT KNOWING THE
 10 HISTORY OF HOW A HARD NUMBER WAS ACTUALLY IN THE
 11 APPROVAL DESCRIPTION OF THE PLOT PLAN APPLICATION.
 12 Q. WAS IT THE LAND DEVELOPMENT COMMITTEE?
 13 A. UH-HUH.
 14 Q. IS ANIMAL CONTROL ONE OF THE COUNTY
 15 AGENCIES THAT WAS INCLUDED IN THE LAND DEVELOPMENT
 16 COMMITTEE LEVEL IN THIS PROJECT?
 17 A. I DO NOT BELIEVE SO.
 18 Q. WHY WOULD THAT BE, GIVEN THE FACT THIS IS A
 19 CONDITIONAL USE PERMIT FOR A KENNEL? AND IF YOU
 20 NEED TO LOOK SOMETHING UP, HELP YOURSELF.
 21 A. EVERYONE WHO WAS NOTIFIED IS IN THE INITIAL
 22 TRANSMITTAL.
 23 MR. SCHAEFER: OFF THE RECORD.
 24 (DISCUSSION OFF THE RECORD.)
 25 MR. SCHAEFER: BACK ON THE RECORD.

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1 Q. DID YOU -- WHAT ARE YOU LOOKING AT?
 2 A. I'VE LOCATED --
 3 Q. IF YOU CAN, TELL US THE PAGE.
 4 A. EXHIBIT 781. THIS IS THE INITIAL
 5 TRANSMITTAL OF THE -- FOR THAT FIRST L.D.C.
 6 MEETING. ANIMAL SERVICE WAS NOT INCLUDED. THEY
 7 WERE NOT NOTIFIED. THE PLANNING DEPARTMENT DID NOT
 8 NOTIFY THEM OF THIS C.U.P. APPLICATION BEING UNDER
 9 REVIEW.
 10 Q. YOU HAD TESTIFIED THAT YOU HAD TAKEN THIS
 11 FILE OVER FROM ANOTHER PLANNER.
 12 A. CORRECT.
 13 Q. AT THE TIME OF THIS INITIAL NOTIFICATION,
 14 WAS THIS YOUR FILE OR THE OTHER PLANNER'S FILE?
 15 A. THIS WAS THE PREVIOUS PLANNER'S FILE.
 16 Q. DO YOU KNOW IF ANIMAL CONTROL WAS EVER
 17 NOTIFIED OF THE EXISTANCE OF THIS APPLICATION FOR
 18 CONDITIONAL USE PERMIT AND ZONE CHANGE?
 19 A. THE PLANNING DEPARTMENT, I AM NOT AWARE OF
 20 IT OCCURRING PRIOR TO THAT DECEMBER 2ND DATE.
 21 MS. SMITH: YOU NEED TO UNDERSTAND THE
 22 QUESTION. HE SAID DO YOU KNOW IF THEY WERE
 23 NOTIFIED. YOU ANSWERED YOU'RE NOT AWARE OF
 24 SOMETHING. SO YOUR ANSWER SHOULD BE YES OR NO.
 25 MR. SCHAEFER: AT SOME POINT THEY WERE

1 NOTIFIED.
 2 MS. SMITH: IF YOU KNOW, BUT DON'T GUESS.
 3 Q. (BY MR. SCHAEFER:) DO YOU KNOW WHEN THEY
 4 WERE NOTIFIED? AND YOU CAN ANSWER EITHER BY
 5 REFERENCE TO A DATE OR BY REFERENCE TO SOME EVENT IN
 6 THE SEQUENCE.
 7 A. I BELIEVE THEY WERE NOTIFIED IN RESPONSE TO
 8 THE NOTICING OF THIS DECEMBER 2ND, 2009, HEARING.
 9 NOT BY THE PLANNING DEPARTMENT, I BELIEVE, BUT BY A
 10 NEIGHBOR OF THE APPLICANT.
 11 Q. SO YOU THINK SOME CITIZEN WENT TO ANIMAL
 12 CONTROL AND SAID, "HEY, THIS IS WHAT THE DUETS ARE
 13 UP TO," PARAPHRASING?
 14 MS. SMITH: YOU NEED TO ANSWER THAT WITH
 15 AUDIBLE YES OR NO.
 16 A. YES.
 17 Q. SPEAKING FOR YOUR CONDUCT ON YOUR WATCH,
 18 WHY IS IT THAT YOU NEVER NOTIFIED ANIMAL CONTROL OF
 19 THIS APPLICATION FOR CONDITIONAL USE PERMIT, WHICH
 20 SOUGHT TO INCREASE THE NUMBER OF DOGS ON THIS
 21 PROPERTY?
 22 A. BECAUSE TO THE -- PERMITTING THE DOGS OR --
 23 ACTUALLY COMES FROM ANIMAL SERVICES. THE APPLICANT
 24 NEEDS -- OR ANIMAL SERVICES NEEDS TO SEE APPROVAL
 25 FROM THE PLANNING DEPARTMENT TO RELEASE THE

1 LICENSES, SO THE PLANNING DEPARTMENT, IN TERMS OF
 2 LAND USE, IS THE ONE WHO SETS THE APPROVALS. SO WE
 3 KIND OF HAVE MORE OF AN ABILITY TO LIMIT THE AMOUNT
 4 OF DOGS, AND I THINK MORE OF THE --
 5 MS. SMITH: CAN I TAKE A BREAK WITH MY
 6 CLIENT FOR A SECOND?
 7 MR. SCHAEFER: SURE.
 8 (DISCUSSION OFF THE RECORD.)
 9 MR. SCHAEFER: LET'S READ BACK THE QUESTION
 10 AND ANSWER.
 11 (THE RECORD WAS READ BY THE REPORTER.)
 12 MR. SCHAEFER: DO YOU WANT TO SUPPLEMENT
 13 YOUR ANSWER OR SAY MORE IN RESPONSE TO THAT
 14 QUESTION?
 15 MS. SMITH: OR CLARIFY? IT SEEMED A
 16 LITTLE BIT CONFUSING TO ME.
 17 Q. (BY MR. SCHAEFER:) WHAT I HEARD YOU SAY IS
 18 PLANNING DETERMINES THE NUMBER OF ANIMALS THAT COULD
 19 BE ON A PIECE OF PROPERTY, NOT ANIMAL CONTROL?
 20 A. PLANNING PROVIDES A RECOMMENDATION WITHIN
 21 THE STAFF REPORT TO THE BODY THAT WILL -- THE
 22 APPROVAL BODY, PLANNING COMMISSION OR BOARD OF
 23 SUPERVISORS. THEY HAVE THE ULTIMATE ABILITY TO
 24 MODIFY THAT NUMBER.
 25 Q. WOULD YOU AGREE WITH ME THAT THE DEPARTMENT

1 OF ANIMAL CONTROL HAS EXPERTISE REGARDING THE
 2 OPERATION OF KENNELS?
 3 A. YES.
 4 Q. WHY DIDN'T YOU SEEK OUT THE BENEFIT OF THAT
 5 EXPERTISE JUST AS YOU SOUGHT OUT THE BENEFIT OF THE
 6 EXPERTISE OF THE FIRE DEPARTMENT, THE BUILDING
 7 DEPARTMENT AND OTHER DEPARTMENTS THAT THE ORIGINAL
 8 APPLICATION WAS ROUTED TO?
 9 A. IT WAS NOT A REQUIREMENT FOR BEING ABLE TO
 10 RECOMMEND APPROVAL OF THE PROJECT.
 11 Q. NOW, GOING DOWN TO RECOMMENDATIONS, I SEE
 12 THAT YOU RECOMMENDED DENIAL OF CHANGE OF ZONE NO. 77
 13 AMENDING THE ZONING CLASSIFICATION OF THE PROPERTY
 14 FROM RESIDENTIAL AGRICULTURAL TO A HALF ACRE MINIMUM
 15 TO RESIDENTIAL AGRICULTURAL, ONE ACRE MINIMUM BUT
 16 THAT YOU TENTATIVELY RECOMMENDED APPROVAL OF CHANGING
 17 THE ZONING CLASSIFICATION OF THE PROPERTY FROM
 18 RESIDENTIAL AGRICULTURAL TO LIGHT AGRICULTURAL.
 19 DO YOU SEE THAT?
 20 A. YES.
 21 Q. AT THE TIME OF THIS PLANNING COMMISSION
 22 HEARING, WHAT WAS THE APPLICANT'S REQUEST ABOUT WHAT
 23 ZONE THEY WANTED THE PROPERTY CHANGED TO?
 24 A. THE APPLICANT'S REQUEST, ALONG WITH THEIR
 25 APPLICATION AND EXHIBITS, WERE TO CHANGE THE ZONE TO

1 RESIDENTIAL AGRICULTURAL WITH A ONE-ACRE MINIMUM.
 2 Q. HOW THEN DID YOU COME TO RECOMMEND DENIAL
 3 OF THAT BUT APPROVAL OF A ZONE CHANGE TO LIGHT
 4 AGRICULTURAL?
 5 A. THE APPLICANT REQUEST TO INCREASE THE DOGS
 6 BEYOND THE -- TO ABOUT 70 CAN ONLY BE APPROVED
 7 WITHIN A CLASS 4 KENNEL. AND THE CLASS 4 IS ONLY
 8 ALLOWED FOR ONE OF THE ALLOWED ZONINGS. MOST
 9 CONSISTENT WITH THEIR LAND USE WAS THE LIGHT
 10 AGRICULTURAL ZONING, WHAT WE REQUESTED.
 11 Q. IF I CAN SUMMARIZE WHAT YOU'RE SAYING IS
 12 THE APPLICATION WANTED TO INCREASE THE NUMBER OF
 13 DOGS, AND IN ORDER TO HAVE THE NUMBER OF DOGS THAT
 14 IT WANTED TO INCREASE TO, IT NEEDED A CLASS 4 KENNEL
 15 LICENSE?
 16 A. CORRECT.
 17 Q. CLASS 4 KENNEL LICENSES ARE NOT ALLOWED IN
 18 RESIDENTIAL AGRICULTURAL ONE-ACRE MINIMUM.
 19 A. CORRECT.
 20 Q. CLASS 4 KENNEL LICENSES ARE ALLOWED IN
 21 LIGHT AGRICULTURAL, TWO-ACRE MINIMUM.
 22 A. CORRECT.
 23 Q. ALSO YOU RECOMMENDED APPROVAL OF THE
 24 CONDITIONAL USE PERMIT 3618, SUBJECT TO THE ATTACHED
 25 CONDITIONS OF APPROVAL.

1 A. THAT'S CORRECT.
 2 Q. WHY WERE YOU RECOMMENDING APPROVAL OF THE
 3 ZONE CHANGE?
 4 A. AT THE TIME OF THIS RECOMMENDATION, THE
 5 PRODUCT HAD RECEIVED APPROVAL FROM ALL MEMBERS OF
 6 THE L.D.C., LAND DEVELOPMENT COMMITTEE, AS WELL AS
 7 MEETING THE DESIGN STANDARDS OF THE CONDITIONAL USE
 8 PERMIT APPLICATION.
 9 Q. WHY DID YOU RECOMMEND APPROVAL OF THE
 10 CONDITIONAL USE PERMIT?
 11 A. THE FOLLOWING OR PREVIOUS REASONS HAD MET
 12 APPROVAL FROM ALL DEVELOPMENT AGENCIES OR ALL
 13 APPLICABLE POLICIES AND GUIDELINES OF THE ZONING AND
 14 LAND USE PERMIT.
 15 Q. IF THE CONDITIONAL USE PERMIT HAD BEEN
 16 APPROVED PURSUANT TO YOUR RECOMMENDATION, HOW MANY
 17 DOGS WOULD LAND USE HAVE APPROVED FOR THE PROPERTY?
 18 MS. SMITH: YOUR QUESTION IS ONLY AS TO THE
 19 FIRST HEARING?
 20 MR. SCHAEFER: WE'RE HERE ON DECEMBER 2ND.
 21 A. ACTUALLY THE CURRENT PRODUCT DESCRIPTION
 22 DOES NOT SET A MAXIMUM NUMBER OF DOGS, AND I BELIEVE
 23 THE CLASS 4 KENNEL SETS NO MAXIMUM EITHER.
 24 Q. SO IF THIS HAD BEEN APPROVED PURSUANT TO
 25 RECOMMENDATIONS, THERE WOULD HAVE BEEN NO LIMIT ON

1 THE NUMBER OF DOGS?
 2 MS. SMITH: AND I NEED TO PUT SOMETHING ON
 3 THE RECORD HERE. AS FAR AS HIS KNOWLEDGE, IS ONLY
 4 TO THE ZONING. HE DOESN'T OPINE REGARDING RIVERSIDE
 5 COUNTY ORDINANCE 630, WHICH YOUR ANIMAL SERVICES
 6 OFFICERS WILL. THERE IS A ZONING DEFINITION FOR A
 7 CLASS 4 KENNEL, AND THEN THERE'S A 630 DEFINITION
 8 FOR IT. I DIDN'T WRITE THE ORDINANCE. SO DON'T
 9 TAKE THAT PERSONALLY. HE CAN ONLY ANSWER AS TO
 10 ZONING. I'LL BET YOU HE'S NEVER EVEN READ 650.
 11 Q. (BY MR. SCHAEFER:) OKAY. AS TO KNOWING IF
 12 THIS CONDITIONAL USE PERMIT AND ZONE CHANGE HAD BEEN
 13 APPROVED AS RECOMMENDED, WHAT IS THE CAP ON THE
 14 NUMBER OF DOGS THAT WOULD HAVE BEEN MAINTAINED ON
 15 THIS PROPERTY UNDER THE LAND USE APPROVAL?
 16 A. THE PROPOSAL FOR A TOTAL OF 73 DOG KENNELS.
 17 Q. OKAY.
 18 A. WOULD BE INTERPRETED THAT 73 WOULD BE THE
 19 MAXIMUM, BUT NO HARD LINE MAXIMUM IS ACTUALLY BEING
 20 REQUIRED WITHIN THIS APPROVAL.
 21 Q. WHAT HAPPENED TO THE PLANNING COMMISSION
 22 MEETING WHEN THIS WAS PRESENTED, IF YOU COULD
 23 SUMMARIZE IT FOR ME.
 24 FIRST OF ALL, LET ME ASK A FOUNDATIONAL
 25 QUESTION: WERE YOU AT THE PLANNING COMMISSION

1 MEETING WHEN THIS WAS PRESENTED?
 2 A. YES.
 3 Q. WHAT HAPPENED, IF YOU COULD SUMMARIZED FOR
 4 ME IN A CAPSULE.
 5 A. WE CONTINUED THE ITEM BEFORE THE PUBLIC
 6 HEARING COULD EVEN OCCUR, BASED ON THE S.E.Q.U.A.
 7 DETERMINATION, BUT A DISCUSSION DID OCCUR BETWEEN
 8 MEMBERS OF THE COMMUNITY WHO DID ATTEND THE MEETING
 9 BASED ON THE NOTIFICATIONS THEY RECEIVED.
 10 Q. I TAKE IT THERE WAS SOME KIND OF A PROBLEM
 11 WITH S.E.Q.U.A.?
 12 A. YES.
 13 Q. CAN YOU DESCRIBE FOR ME WHAT THE PROBLEM
 14 WITH S.E.Q.U.A. WAS, FROM YOUR PROSPECTIVE, AS YOU
 15 UNDERSTOOD IT?
 16 A. PLANNING SCHEDULED THIS AS EXEMPT UNDER
 17 EXISTING FACILITIES. THE JUSTIFICATION IS SHOWN AS
 18 FINDING NO. 14 ON PAGE 3 OF 4.
 19 BETWEEN THE NOTICING OF THE HEARING AND THE
 20 ACTUAL HEARING DATE, PLANNING WAS ADVISED BY OUR
 21 PLANNING COMMISSION COUNSEL THAT THIS JUSTIFICATION
 22 MAY NOT BE STRONG ENOUGH TO PROTECT THE COUNTY OR
 23 THE APPLICANT FROM ANY POTENTIAL ACTIONS AFTER ANY
 24 HEARING OR APPROVAL. SO IT WAS RECOMMENDED TO
 25 CONTINUE THE ITEM TO THE NEXT COMMISSION AND FOR

1 PLANNING MYSELF TO CREATE AN INITIAL STUDY AND
 2 SCHEDULE THE PROJECT RENOTICE AND SCHEDULE THE
 3 PROJECT UNDER THAT COMPLETE MITIGATED NEGATIVE
 4 DECLARATION.
 5 Q. IF I'M UNDERSTANDING THIS, WHEN WE GOT TO
 6 THE PLANNING COMMISSION -- WHEN THE PLANNING
 7 COMMISSION MEETING ACTUALLY CONVENED, EVEN THOUGH
 8 THE STAFF REPORT, AS WRITTEN, RECOMMENDED APPROVAL,
 9 A REPRESENTATIVE OF THE PLANNING DEPARTMENT STOOD UP
 10 AND SAID, "PLANNING COMMISSION, WE'RE ASKING THAT
 11 THIS BE PUT OVER SO AN INITIAL STUDY CAN BE
 12 COMPLETED"?
 13 A. CORRECT.
 14 Q. YOU ALSO MENTIONED THAT A NUMBER OF MEMBERS
 15 OF THE PUBLIC WHO WERE PRESENT AT --
 16 A. CORRECT.
 17 Q. WAS THE PUBLIC HEARING OPEN FOR COMMENTS?
 18 A. YES, IT WAS.
 19 Q. AND A NUMBER OF PEOPLE TESTIFIED DURING THE
 20 PUBLIC HEARING?
 21 A. I DON'T KNOW IF I CAN SAY "NUMBER."
 22 Q. SOME PEOPLE TESTIFIED?
 23 A. YES, SOME.
 24 Q. CAN YOU GIVE ME AN ESTIMATE? ARE WE
 25 TALKING ABOUT TWO PEOPLE OR TEN PEOPLE, OR DID YOU

1 HAVE A ROOM FULL --
 2 A. THREE OR FOUR, I BELIEVE. YES.
 3 Q. DID THEY TESTIFY IN FAVOR OF THE PROJECT?
 4 AGAINST THE PROJECT? OR SOME IN FAVOR, SOME
 5 AGAINST? OR DO YOU REMEMBER?
 6 A. I BELIEVE IT WOULD FALL INTO TWO AGAINST.
 7 Q. WAS THE PUBLIC HEARING CLOSED, OR WAS THE
 8 PLANNING HEARING CONTINUED TO THE NEXT HEARING?
 9 A. CONTINUED TO THE NEXT HEARING.
 10 Q. WAS THERE ANY COMMENT, THAT YOU RECALL, BY
 11 THE PLANNING COMMISSIONERS ON THAT AGENDA ITEM?
 12 A. NOT THAT I RECOLLECT.
 13 MS. SMITH: I'D LIKE TO GO OFF THE RECORD
 14 FOR JUST A MINUTE.
 15 (DISCUSSION OFF THE RECORD.)
 16 MR. SCHAEFER: OKAY.
 17 Q. NOW, THE NEXT TIME THE HEARING WAS ON WAS
 18 JANUARY 13TH?
 19 A. CORRECT.
 20 Q. LET ME LOOK AT THE STAFF REPORT FOR THE
 21 13TH, WHICH I THINK IS NO. 2. I'M LOOKING AT
 22 EXHIBIT 3, IF YOU CAN LOOK AT YOUR COUNSEL'S COPY.
 23 MS. SMITH: I THINK IT'S 3.
 24 Q. (BY MR. SCHAEFER:) I'M LOOKING AT
 25 EXHIBIT 3.

1 YOU TESTIFIED THAT IT WAS CONTINUED IN PART
 2 TO ALLOW YOU TO DO AN INITIAL STUDY.
 3 A. CORRECT.
 4 Q. BY JANUARY 13TH HAD YOU COMPLETED AN
 5 INITIAL STUDY?
 6 A. YES, BY JANUARY 13TH THE INITIAL STUDY HAD
 7 ALREADY BEEN OUT ON PUBLIC NOTICE FOR 20 DAYS.
 8 Q. I SEE HERE -- AND I'M LOOKING ON PAGE 2 --
 9 OUR STAFF REPORT ON JANUARY 13TH SAYS THAT THE
 10 RECOMMENDATION IS TO CONTINUE WITH DISCUSSION TO THE
 11 FEBRUARY 2ND, 2010, PLANNING COMMISSION HEARING.
 12 A. CORRECT.
 13 Q. WHY WAS THE PLANNING DEPARTMENT
 14 RECOMMENDING THIS AGENDA ITEM BE CONTINUED TO THE
 15 FEBRUARY 2ND MEETING?
 16 A. BASED ON THE PUBLIC CONCERN AND REACTION
 17 FROM THE INITIAL NOTICING BEYOND THAT DECEMBER 2ND
 18 HEARING DATE, THERE WAS CONTINUED CORRESPONDENCE
 19 WITH MEMBERS OF THE COMMUNITY. WE FELT THAT MAKING
 20 THE RECOMMENDATION FOR A THOROUGH INVESTIGATION OF
 21 ISSUES WOULD MOST LIKELY BE NEEDED.
 22 Q. CAN YOU SUMMARIZE FOR ME WHAT HAPPENED
 23 BETWEEN THE DECEMBER 2ND MEETING AND THE
 24 JANUARY 13TH MEETING VIS-A-VIS ADDITIONAL COMMENTS
 25 RECEIVED FROM MEMBERS OF THE PUBLIC BY THE PLANNING

1 DEPARTMENT?
 2 A. THERE WAS A CONSTANT QUESTIONING AND
 3 ATTENDANCE AT THE PLANNING DEPARTMENT BY ONE MEMBER,
 4 TOM BARTELS, WHO MORE OR LESS DAILY TRIED TO TALK TO
 5 ME.
 6 MS. SMITH: YOU'RE LOOKING AT THE BOX. IS
 7 THERE A DOCUMENT THAT WOULD ASSIST YOU IN --
 8 THE DEPONENT: I BELIEVE A MEETING OCCURRED
 9 BETWEEN MYSELF AND A MEMBER OF THE TRANSPORTATION
 10 DEPARTMENT. I THINK IT'S PRIOR TO THE JANUARY 13TH
 11 HEARING.
 12 MS. SMITH: YOU CAN TELL HIM WHAT THE
 13 DOCUMENT YOU THINK WOULD BE AND HE CAN DECIDE
 14 WHETHER HE WANTS TO GIVE YOU --
 15 THE DEPONENT: IT WAS NOTES SUBMITTED BY
 16 MR. BARTELS, AS TAKEN BY THE TRANSPORTATION
 17 ENGINEER.
 18 Q. (BY MR. SCHAEFER:) OKAY. IF YOU WOULD
 19 FIND THOSE. BEFORE YOU LOOK AT THOSE, TAKE A LOOK
 20 AT THESE DOCUMENTS WHICH I PULLED OUT.
 21 A. THESE TWO WERE FROM A MEETING -- ONE OF
 22 THEM IS NUMBERED 634. THESE ARE FROM THE
 23 TRANSPORTATION ENGINEER, DATED DECEMBER 17, 2009.
 24 MS. SMITH: DESCRIBE WHAT YOU THINK IT IS.
 25 SOMEBODY'S PERSONAL NOTES?

1 THE DEPONENT: AN UNSTAMPED DOCUMENT IS
 2 TOM BARTELS' PERSONAL NOTES. THEN THE STAMPED ARE
 3 FROM A COUNTY EMPLOYEE.
 4 Q. (BY MR. SCHAEFER:) DO THESE REFRESH YOUR
 5 RECOLLECTION AS TO WHAT MR. BARTELS WAS TALKING
 6 ABOUT WHEN HE CAME TO SEE THE PLANNING DEPARTMENT
 7 ALMOST DAILY?
 8 A. THIS IS JUST ONE OF MANY ISSUES, THIS BEING
 9 HIS TRANSPORTATION CONCERN AND THE ACCESS ISSUES.
 10 Q. DO YOU REMEMBER ANY OTHER OF HIS OTHER
 11 CONCERNS OR ISSUES?
 12 A. YES. AT THIS POINT OTHER ISSUES WERE
 13 MAINLY FLOOD DRAINAGE THROUGH THE PROPERTY, AND
 14 NOISE HAS ALWAYS BEEN A CONCERN OF HIS.
 15 MS. SMITH: WHEN YOU SAY "AT THIS POINT,"
 16 DO YOU MEAN AT THIS POINT IN TIME?
 17 THE DEPONENT: AT THIS POINT IN TIME, YES,
 18 DECEMBER 2009.
 19 Q. (BY MR. SCHAEFER:) NOW, GOING BACK TO THE
 20 LAND DEVELOPMENT COMMITTEE WITH TRANSPORTATION -- IS
 21 THERE A DEPARTMENT OF TRANSPORTATION WITH THE
 22 COUNTY?
 23 A. THERE IS.
 24 Q. ARE THEY ON THE LIST OF PEOPLE THAT COMMENT
 25 DURING THE ROUTINE LAND DEVELOPMENT COMMITTEE

1 PROCESS?
 2 A. THEY'RE ONE OF THE INTERNAL LAND
 3 DEVELOPMENT COMMITTEES. THEY ASK FOR CORRECTIONS
 4 BEFORE THEY WILL PUT THEIR CONDITIONS AND APPROVAL
 5 ON A PROJECT.
 6 Q. OBVIOUSLY THEY RECOMMENDED APPROVAL WITH
 7 CONDITIONS?
 8 A. CORRECT.
 9 Q. FROM YOUR PERSPECTIVE WAS MR. BARTELS
 10 BRINGING UP ISSUES THAT TRANSPORTATION HAD NOT
 11 PREVIOUSLY CONSIDERED?
 12 A. I BELIEVE THERE WAS THE POTENTIAL THAT HE
 13 WAS BRINGING UP ISSUES THAT WERE NOT PREVIOUSLY
 14 CONSIDERED.
 15 Q. IS THERE A COUNTY DEPARTMENT THAT DEALS
 16 WITH DRAINAGE?
 17 A. FLOOD CONTROL IS THE MAIN DEPARTMENT. THE
 18 BUILDING AND SAFETY DEPARTMENT WILL LOOK AT GRADING
 19 PLANS AS WELL TO ENSURE BUILDINGS ARE NOT BEING
 20 BUILT IN THE WAY OF FLOOD PLAINS OR ALTERING ANY
 21 FLOOD COURSES OR DRAINAGE COURSES.
 22 Q. IS FLOOD CONTROL AND BUILDING AND SAFETY ON
 23 THE LIST OF AGENCIES THAT ROUTINELY PARTICIPATE IN
 24 THE L.D.C. PROCESS?
 25 A. THEY HAD RECOMMENDED APPROVAL PRIOR TO THAT

1 DECEMBER 2ND HEARING.
 2 Q. FROM YOUR PERSPECTIVE, WAS MR. BARTELS
 3 BRINGING UP THINGS THAT FLOOD CONTROL AND BUILDING
 4 AND SAFETY HAD NOT PREVIOUSLY CONSIDERED?
 5 A. HE DID.
 6 Q. WERE THERE ANY ISSUES BROUGHT UP BETWEEN
 7 THESE TWO PLANNING COMMISSION MEETINGS BY
 8 MR. BARTELS ABOUT ALLEGED CODE VIOLATIONS, TO YOUR
 9 KNOWLEDGE?
 10 A. TO MY KNOWLEDGE, NO, NOT AT THIS POINT.
 11 Q. WAS THERE ANYBODY ELSE COMING DOWN TO
 12 PLANNING TO TALK ABOUT THIS PROJECT BETWEEN THE TWO
 13 PLANNING COMMISSION MEETINGS OTHER THAN
 14 MR. BARTELS?
 15 A. THERE MAY HAVE BEEN ANOTHER, BUT NOT
 16 SOMEBODY WHO STICKS OUT TO THE BEST OF MY
 17 RECOLLECTION.
 18 Q. HAVE YOU EVER BEEN OUT TO THIS PROPERTY?
 19 A. I HAVE NOT.
 20 Q. SO WHEN WE GOT TO THE JANUARY 13TH MEETING,
 21 WHAT DID YOU THINK WAS GOING TO BE DONE BETWEEN THAT
 22 MEETING AND THE NEXT MEETING THAT IT WAS TO BE
 23 CONTINUED TO?
 24 A. ASIDE FROM JANUARY 13TH?
 25 Q. RIGHT. JANUARY 13TH YOU RECOMMENDED

1 CONTINUANCE; AND AS I UNDERSTAND IT, THE REASON THAT
 2 YOU ARE RECOMMENDING CONTINUANCE IS THAT
 3 MR. BARTELS IS BRINGING UP ISSUES THAT NEED TO BE
 4 LOOKED INTO. DO I HAVE IT RIGHT?
 5 A. YES.
 6 Q. WHAT EXACTLY WAS GOING TO BE DONE TO LOOK
 7 INTO THESE ISSUES AFTER JANUARY 13TH AND BEFORE THE
 8 NEXT MEETING?
 9 A. WE ASSUMED THAT THERE WOULD BE SOME
 10 FOLLOW-UP AND SOME DIRECTIVE FROM THE PLANNING
 11 COMMISSIONER, AND THAT WOULD TAKE TIME TO OCCUR.
 12 Q. WAS THERE A DISCUSSION ABOUT THIS PROJECT
 13 BY PLANNING COMMISSIONERS AT THE JANUARY 13TH
 14 MEETING?
 15 A. YES.
 16 Q. TO YOUR MEMORY, WHAT WAS SAID BY THE
 17 PLANNING COMMISSIONERS AT THE JANUARY 13TH MEETING?
 18 A. THERE WAS CONCERN WITH THE OPPOSITION, TO
 19 THE NEIGHBORS. THERE WAS SOME FOLLOW-UP DOCUMENTS
 20 OR PROOF TO SHOW NOISE CONTINUATION ON THE SITE.
 21 THERE WAS A REQUEST TO DO A NOISE STUDY,
 22 AND THERE WAS A REQUEST TO DO AN AERIAL EXHIBIT,
 23 SHOWING THE OPINION OF PER THE LETTERS RECEIVED. A
 24 LARGE AMOUNT OF LETTERS IN OPPOSITION AND SUPPORT
 25 WERE RECEIVED AND SUBMITTED TO THE PUBLIC RECORD AT

1 THIS JANUARY 13TH MEETING.
 2 ONE OF THE COMMISSIONERS REQUESTED AN
 3 EXHIBIT THAT SHOWED THE OPINION OF EACH PARCEL
 4 WITHIN THE VICINITY OF THE KENNEL SITE.
 5 Q. IN OTHER WORDS, HE WANTED TO KNOW WHERE ALL
 6 THE PROS AND CON LETTERS CAME FROM?
 7 A. YES.
 8 Q. DID THAT EVER GET DONE?
 9 A. NO.
 10 Q. WHY WAS THAT?
 11 A. WORK STOPPED BECAUSE OF NEGATIVE -- AT THIS
 12 POINT THE PROJECT WENT INTO A NEGATIVE BALANCE.
 13 COUNTY WORKS ON A DEPOSIT BASED FEE SIMILAR TO HOW A
 14 LAWYER WORKS. WE GET A RETAINER DEPOSIT UP FRONT,
 15 AND WE WORK ON IT UNTIL THAT MONEY IS DEPLETED PER
 16 ORDINANCE. WE'RE NOT SUPPOSED TO CONTINUE WORKING
 17 ON PROJECTS WHEN THEY'RE PASSED THAT NEGATIVE FEE
 18 STATUS.
 19 Q. SO TO SUMMARIZE HERE, THE PLANNING
 20 COMMISSIONER, AS YOU PUT IT, EXPRESSED SOME CONCERNS
 21 ABOUT THE OBJECTIONS OF THE NEIGHBORS.
 22 A. YES.
 23 Q. WHEN YOU LEFT THAT MEETING, IT SOUNDS LIKE
 24 THE PLANNING DEPARTMENT UNDERSTOOD THAT THE PLANNING
 25 COMMISSIONER WANTED THEM TO DO SOME WORK TO PLOT THE

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1 LOCATIONS OF ALL THESE SUPPORTERS AND OPPONENTS.
 2 IS IT FAIR TO CHARACTERIZE THAT AS AN
 3 ASSIGN FROM THE PLANNING COMMISSIONER?
 4 A. CORRECT.
 5 Q. DID THE PLANNING COMMISSION ASSIGN THE
 6 PLANNING DEPARTMENT ANY OTHER JOBS, IF I CAN USE
 7 THAT NOMENCLATURE.
 8 A. PLANNING -- THE MAJORITY OF WHAT I JUST
 9 MENTIONED IS SUMMARIZED IN THE MARCH 3RD STAFF
 10 REPORT.
 11 MS. SMITH: EXHIBIT 2.
 12 THE DEPONENT: EXHIBIT 2, FURTHER PLANNING
 13 CONSIDERATION.
 14 Q. (BY MR. SCHAEFER:) IF I CAN LOOK AT YOUR
 15 EXHIBIT 2 AND IF YOU COULD LOOK ON YOUR COUNSEL'S
 16 EXHIBIT 2.
 17 A. ITEM 1 WAS "PROVIDE A G.I.S. EXHIBIT
 18 SHOWING NEIGHBORS IN SUPPORT OR OPPOSITIONS OF THE
 19 PROJECT."
 20 ITEM 2 WAS "PROVIDE ELEVATIONS AND
 21 CONDITIONS OF APPROVAL TO ILLUSTRATE EXCEPTIONAL
 22 NOISE INSULATION AND MITIGATION."
 23 THE CONDITIONS I ATTEMPTED AND WAS AGAIN
 24 PROGRESSING IN THE PROCESS OF WORKING WITH THE
 25 APPLICATION ENGINEER JASON KELLER ON CREATING SOME

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1 CONDITIONS THAT MAY BE ABLE TO BE USED WITH ANY FORM
 2 OF RECOMMENDED STATUS.
 3 Q. OKAY.
 4 A. AGAIN, "PROVIDE A PROPOSAL AND CONDITIONS
 5 OF APPROVAL FOR TRAFFIC, SIGNAGE, NOISE, AND DUST
 6 CONCERNS . . ." AGAIN, THE ENGINEER AND I HAD
 7 WORKED ON SOME DRAFT RESPONSES OR CONDITIONS, BUT
 8 AGAIN, DUE TO THE BALANCE, THEY WERE NEVER INCLUDED
 9 IN ANY STAFF REPORT PACKAGE OR EVER ATTACHED TO THE
 10 PROJECT.
 11 Q. AT WHAT POINT IN TIME DID THE PLANNING
 12 DEPARTMENT DECIDE IT COULDN'T DO ANY MORE WORK ON
 13 THIS BECAUSE THERE WASN'T ENOUGH MONEY IN THE TIL?
 14 A. I BELIEVE --
 15 MS. SMITH: IF YOU KNOW. DON'T GUESS.
 16 THE DEPONENT: SPECIFICALLY, NO.
 17 Q. (BY MR. SCHAEFER:) WHEN DID YOU STOP
 18 WORKING ON THE PROJECT BECAUSE THERE WASN'T ENOUGH
 19 MONEY IN THE TIL?
 20 A. SOMETIME BETWEEN THE JANUARY 3RD COMMISSION
 21 AND THE MARCH 3RD PLANNING COMMISSION.
 22 Q. BY THE TIME WE GET TO THE MARCH 3RD
 23 PLANNING COMMISSION, THERE IS NO G.I.S. EXHIBIT?
 24 A. CORRECT.
 25 Q. THERE ARE NO ELEVATIONS AND CONDITIONS OF

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1 APPROVAL TO ILLUSTRATE NOISE INSULATION AND
 2 MITIGATION?
 3 A. CORRECT.
 4 Q. THERE ARE NO PROPOSAL AND CONDITIONS OF
 5 APPROVAL FOR TRAFFIC, SIGNAGE, NOISE, AND DUST?
 6 A. RIGHT.
 7 Q. SO WHEN WE GOT TO THE JANUARY 13TH MEETING
 8 I'M LOOKING ON THE NEXT PAGE, IT SAYS,
 9 "RECOMMENDATIONS: CONTINUE WITHOUT DISCUSSION OFF
 10 CALENDAR."
 11 A. CORRECT.
 12 Q. WHAT DOES THAT MEAN?
 13 A. THAT PRETTY MUCH MEANS PROJECT WOULD NOT
 14 EVEN BE INITIALLY -- NOT EVEN DISCUSSED AT THE
 15 PLANNING COMMISSION HEARING BECAUSE THERE IS NO DATE
 16 LISTED WITHIN THE STAFF REPORTS IF THE PROJECT WOULD
 17 EVER BE READY TO GO BACK TO HEARING. IT WOULD HAVE
 18 TO BE READVERTISED. THE S.E.Q.U.A. DOCUMENT WOULD
 19 HAVE TO BE ADVERTISED.
 20 Q. WERE YOU AT THE JANUARY 13TH, 2010,
 21 PLANNING COMMISSION MEETING --
 22 A. YES.
 23 Q. WERE YOU PRESENT AT THE MARCH 2ND PLANNING
 24 COMMISSION MEETING FOR DISCUSSION OF THIS ITEM?
 25 A. YES.

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1 Q. WAS THE PLANNING COMMISSION ESSENTIALLY
 2 TOLD THAT WORK HAD STOPPED ON THIS ITEM BECAUSE
 3 THERE WAS A NEGATIVE FUND BALANCE IN THEIR FUNDING
 4 ACCOUNT?
 5 MS. SMITH: DID YOU HEAR THE QUESTION? WAS
 6 THE PLAINTIFF PROBABLY TOLD --
 7 Q. (BY MR. SCHAEFER:) WAS THE PLANNING
 8 COMMISSION EVER TOLD?
 9 A. I BELIEVE THEY WERE ADVISED OF THAT.
 10 Q. AFTER THE MARCH 2ND MEETING, DID YOU DEVOTE
 11 ANY MORE TIME TO THIS APPLICATION FOR CONDITIONAL
 12 USE PERMIT AND APPLICATION FOR ZONE CHANGE?
 13 A. YES, I DID.
 14 Q. AFTER THE MARCH 2ND MEETING, CAN YOU
 15 SUMMARIZE FOR ME WHAT YOU DID?
 16 A. MANY, MANY MEETINGS WITH MR. TOM BARTELS,
 17 SOME MEETINGS WITH INTERNAL DEPARTMENTS. BASED ON
 18 SOME OF THE CONCERNS OF MR. BARTELS, A FLOOD COURSE
 19 WAS RECOGNIZED BY THE FLOOD CONTROL -- FLOOD
 20 DISTRICT, BASED ON A SECONDARY REVIEW AT THE REQUEST
 21 OF MR. BARTELS.
 22 MS. SMITH: CAN YOU REITERATE THAT, A FLOOD
 23 WAS RECOMMENDED WHAT?
 24 THE DEPONENT: FLOOD CONTROL RETRACTED
 25 THEIR APPROVAL, MORE OR LESS, BASED ON A FLOOD

1 DRAINAGE COURSE/FLOOD CHANNEL THAT THEY OVERLOOKED
 2 ON THEIR INITIAL REVIEW.
 3 Q. (BY MR. SCHAEFER:) WHY WERE YOU HAVING
 4 MEETINGS WITH MR. BARTELS AND FLOOD CONTROL IF THERE
 5 WAS A NEGATIVE FUND BALANCE AND YOU ESSENTIALLY WERE
 6 NOT WORKING ON THIS PROJECT?
 7 A. I WAS DIRECTED BY A SUPERVISOR.
 8 Q. WHAT IS THE NAME OF THE SUPERVISOR THAT
 9 TOLD YOU TO WORK ON THIS?
 10 A. MR. GOLDMAN, PLANNING DIRECTOR.
 11 Q. DID YOU HAVE ANY MEETINGS WITH ANYBODY ON
 12 THE APPLICANT'S SIDE AFTER THE MARCH 2ND MEETING?
 13 A. FROM CORRESPONDENCE WITH THE ENGINEER
 14 JASON KELLER.
 15 Q. WAS THAT ALSO DONE AT THE DIRECTION OF
 16 MR. GOLDMAN?
 17 A. I BELIEVE SO, YES.
 18 Q. NOW, AFTER THE MARCH 2ND PLANNING
 19 COMMISSION MEETING WAS THERE A MEETING OF THE
 20 APPLICANT AND COUNTY COUNSEL AND A NUMBER OF
 21 DEPARTMENT HEADS ABOUT THIS PROJECT?
 22 A. THERE WAS -- I BELIEVE SO, YES.
 23 Q. WERE YOU AT THAT MEETING?
 24 A. I WAS AT A --
 25 MS. SMITH: WHICH MEETING? VAGUE AS TO

1 TIME. THERE WAS A MEETING WITH GEORGE JOHNSON.
 2 WOULD YOU LIKE TO TALK ABOUT THAT MEETING?
 3 Q. (BY MR. SCHAEFER:) WHO IS GEORGE JOHNSON?
 4 A. DIRECTOR OF THE T.L.M.A., TRANSPORTATION
 5 LAND MANAGEMENT AGENCY. THAT IS THE UMBRELLA THAT
 6 PLANNING AND TRANSPORTATION ARE BOTH UNDER.
 7 Q. SO GEORGE JOHNSON WOULD BE RON GOLDMAN'S
 8 BOSS?
 9 A. CORRECT.
 10 Q. AND THERE WAS A MEETING ABOUT THIS PROJECT
 11 WITH GEORGE JOHNSON?
 12 MS. SMITH: I WONDER IF YOU WERE AT THAT
 13 MEETING.
 14 THE DEPONENT: I DON'T THINK I WAS AT THAT
 15 MEETING. THIS IS IN MAY-ISH.
 16 MS. SMITH: APRIL 26TH, I BELIEVE. WE'LL
 17 CALL IT THE APRIL 26TH MEETING.
 18 Q. (BY MR. SCHAEFER:) I'VE GOT A MEETING ON
 19 OR ABOUT APRIL 26TH. YOU'RE THERE?
 20 A. YES.
 21 Q. GEORGE JOHNSON IS THERE?
 22 A. CORRECT.
 23 Q. KAREN DUET IS THERE?
 24 A. YES. AND I THINK MR. GOLDMAN WAS THERE.
 25 MS. SMITH: ANIMAL SERVICES.

1 Q. (BY MR. SCHAEFER:) WHO'S THERE FROM ANIMAL
 2 SERVICES?
 3 MS. SMITH: IF YOU RECALL.
 4 I CAN STIPULATE THAT THERE WERE THREE
 5 PEOPLE THERE. TWO OR THREE PEOPLE FROM ANIMAL
 6 SERVICES WERE THERE. FRANK WAS THERE.
 7 MR. SCHAEFER: WHO'S FRANK?
 8 MS. SMITH: WE'RE TALKING ABOUT ANIMAL
 9 SERVICES.
 10 KAREN DUET: SHIRLEY BLACK WAS THERE.
 11 MR. MILLER. I DON'T KNOW WHAT THE BLONDE LADY'S
 12 NAME IS. CHRIS MEYER.
 13 MS. SMITH: CYNTHIA LEE.
 14 KAREN DUET: YES. I DON'T KNOW THE NAME.
 15 MS. SMITH: AND COUNTY COUNSEL WAS THERE.
 16 Q. (BY MR. SCHAEFER:) IS THAT TRUE?
 17 A. YES.
 18 Q. HOW ABOUT ANYBODY FROM FLOOD?
 19 A. I DON'T BELIEVE SO, NO.
 20 Q. ANYBODY FROM TRANSPORTATION?
 21 A. NO.
 22 MS. SMITH: CODE ENFORCEMENT.
 23 Q. (BY MR. SCHAEFER:) ANYBODY FROM
 24 CODE ENFORCEMENT?
 25 A. RON WELCH.

1 MS. SMITH: AND GREG FLANNERY. IS THAT
 2 TRUE?
 3 THE DEPONENT: YES.
 4 Q. (BY MR. SCHAEFER:) HOW ABOUT MR. BARTELS?
 5 DID HE GET INVITED?
 6 A. NO.
 7 Q. SO I'VE GOT GEORGE JOHNSON, COUNTY COUNSEL,
 8 KEN GOLDMAN OR RON GOLDMAN, THREE PEOPLE FROM ANIMAL
 9 SERVICES AND COUNTY COUNSEL AND CODE ENFORCEMENT.
 10 A. CORRECT.
 11 Q. AND YOU?
 12 A. YES.
 13 Q. ALL RIGHT. FROM YOUR PERSPECTIVE, WHY DID
 14 YOU THINK THIS MEETING WAS CALLED?
 15 A. IT WAS AT A TIME WHERE THE LIKELIHOOD OF
 16 THE CONDITIONAL USE PERMIT BEING APPROVED WAS
 17 SEEMINGLY DIMINISHING. THERE WAS THE POTENTIAL THAT
 18 IT WOULD NOT GET TO GO THROUGH. THIS WAS TO FIND A
 19 WAY TO ADDRESS SOME OF THE EXISTING NONCONFORMING
 20 NONAPPROVED USES OR BUILDINGS GOING ON THAT PROJECT
 21 SITE, TO RECTIFY ANY CODE ISSUES. IF THE C.U.P.
 22 APPLICATION DOES NOT GO THROUGH, THERE WOULD STILL
 23 BE OUTSTANDING ISSUES. THE C.U.P. THAT HAD BEEN
 24 APPROVED AS PROPOSED WOULD HAVE RECTIFIED MOST
 25 CONCERNS THAT THIS PARCEL HAD.

1 Q. LET ME TAKE WHAT YOU SAID KIND OF STEP BY
 2 STEP. YOU SAID THE LIKELIHOOD THAT THIS CONDITIONAL
 3 USE PERMIT WOULD BE APPROVED SEEMED TO BE
 4 DIMINISHING. WHAT IS THE BASIS OF THAT STATEMENT,
 5 FROM YOUR PERSPECTIVE?
 6 A. THE PUBLIC OPPOSITION, FROM MY EXPERIENCE,
 7 THE PROJECTS THAT HAVE A LEGITIMATE OR CONTINUED AND
 8 POTENTIALLY LEGITIMATE CONCERN FROM NEIGHBORS DON'T
 9 -- EVEN IF THEY MAKE ALL APPLICABLE CODES AND LAND
 10 USE AND ALL POLICIES, IT DOES NOT GUARANTEE THEM
 11 THAT THEY WILL BE APPROVED AT THE PLANNING
 12 COMMISSION OR THE BOARD. THAT IS THE INTENT OF THE
 13 PUBLIC HEARING, IS TO BRING OUT OTHER ISSUES BEYOND
 14 JUST PLANNING ORDINANCE.
 15 Q. FROM YOUR PERSPECTIVE, WHAT DID YOU SEE AS
 16 THE LEGITIMATE OBJECTIVES THAT WERE STANDING IN THE
 17 WAY OF THE APPROVAL OF THIS PROJECT, AS RAISED
 18 DURING THE PUBLIC HEARING PROCESS AND AFTERWARDS?
 19 A. THE TRAFFIC ISSUES, THE PARKING, THE
 20 COMMERCIAL INTENSITY OF THIS PROJECT WITHIN A
 21 RESIDENTIAL NEIGHBORHOOD, THE LACK OF PUBLIC ACCESS
 22 INTO THE PROJECT SITE, DEDICATED PUBLIC ACCESS. THE
 23 FLOOD ZONE WAS -- SEEMED TO BE -- AND WATER QUALITY
 24 ISSUES WOULD BE A MAJOR CONCERN.
 25 AT THIS POINT THE APPLICANT, I BELIEVE, HAD

1 BEGAN PROPOSING TO NOT DEVELOPING THAT PORTION OF
 2 THE LAND, MORE ON -- OUT OF THE WATER COURSE, WHICH
 3 WOULD BE WAS A GOOD ALTERNATIVE PROPOSAL.
 4 Q. SO ONE OF THE THINGS THAT YOU SAW HAPPENING
 5 IS THAT THESE OBJECTIONS RAISED BY MR. BARTELS WERE
 6 BEING VIEWED AS LEGITIMATE BY THE PLANNING
 7 DEPARTMENT, AND THAT WAS DIMINISHING THE LIKELIHOOD
 8 THAT THIS PROJECT WOULD BE APPROVED; IS THAT A TRUE
 9 STATEMENT?
 10 A. YES.
 11 Q. YOU ALSO MADE REFERENCE TO CODE
 12 VIOLATIONS.
 13 A. YES.
 14 Q. WAS THERE ANY ISSUE ABOUT CODE VIOLATIONS
 15 KNOWN TO YOU AT THE TIME OF THE LAST PLANNING
 16 COMMISSION MEETING ON THIS AS OF -- WHEN WAS IT? --
 17 MARCH 2ND.
 18 MS. SMITH: 3RD.
 19 Q. (BY MR. SCHAEFER:) 3RD?
 20 A. NO. I, UNFORTUNATELY, HAD NOT VISITED THE
 21 SITE AS OF YET.
 22 Q. WHEN DID CODE VIOLATIONS FIRST BECOME KNOWN
 23 TO YOU?
 24 A. PREVIOUS TO THE MEETING WE HAD IN APRIL, SO
 25 I BELIEVE EARLY APRIL.

1 Q. WHAT WERE THE CODE VIOLATIONS, AT LEAST AS
 2 FAR AS YOU KNEW, AT THE TIME OF THIS MEETING?
 3 A. AT THAT POINT IT WAS MOSTLY STRUCTURES
 4 WITHOUT BUILDING PERMITS OR LAND USE APPROVAL.
 5 Q. AT THIS MEETING, I'M HEARING YOU SAY THAT
 6 THERE WAS A BELIEF BY THE PLANNING DEPARTMENT THAT
 7 THERE WAS A LIKELIHOOD THAT THE PROJECT WOULD NOT BE
 8 APPROVED, BECAUSE OF THE LEGITIMATE OBJECTIONS OF
 9 THE NEIGHBOR, AND THAT IT WAS KNOWN TO THE COUNTY
 10 THERE THAT WERE UNPERMITTED AND UNAPPROVED
 11 STRUCTURES ON THE PROPERTY; CORRECT?
 12 A. CORRECT.
 13 Q. TO YOUR KNOWLEDGE, WERE THE UNAPPROVED AND
 14 UNPERMITTED STRUCTURES SOME TUFF SHEDS AND SHADE
 15 STRUCTURES?
 16 A. YES.
 17 MS. SMITH: LET ME CLARIFY THAT QUESTION.
 18 LIMITED TO JUST THOSE? OR INCLUDING THOSE?
 19 Q. (BY MR. SCHAEFER:) YOU TELL ME WHAT YOU
 20 KNEW AT THE TIME.
 21 MS. SMITH: WHAT STRUCTURES, THAT'S A
 22 BETTER QUESTION.
 23 THE DEPONENT: SHADE STRUCTURES, SHIPPING,
 24 "C" CONTAINER, GAZEBO, THE ATTACHED STAND-ALONE
 25 TUFF SHEDS, AND THEN DOG RUNS, EXTERNAL DOG RUNS, ON

1 THE NORTH SIDE OF THE BUILDING WITH A SHADE
 2 STRUCTURE ON TOP.
 3 Q. WITH THIS BACKGROUND, WHAT WAS TALKED -- I
 4 MEAN, YOU GOT ALL THESE PROBLEMS, I GUESS, SO WHY
 5 WAS THE -- I WANT TO GET BACK TO WHY THE MEETING WAS
 6 CONVENED RELATIVE TO ALL THESE ISSUES?
 7 MS. SMITH: IF THAT HELPS (INDICATING).
 8 Q. (BY MR. SCHAEFER:) AND AGAIN, I'M JUST
 9 ASKING FROM YOUR PERSPECTIVE.
 10 A. THE MEETING WAS THERE TO GET THE BOSS TO
 11 KNOW AND HAVE A CHANCE TO BECOME MORE FAMILIAR WITH
 12 THE PROJECT.
 13 Q. WHO?
 14 A. ME AND GEORGE JOHNSON, THE BOSS'S BOSS.
 15 Q. OKAY. WE'RE GOING TO EDUCATE
 16 GEORGE JOHNSON ABOUT THE WHOLE PROJECT?
 17 A. YES, AND THEN TO ALLOW KIND OF A DISCUSSION
 18 ON THE ISSUES AND WHAT DEPARTMENT SEES THINGS AS
 19 THEIR INTERPRETATION OF HOW TO HANDLE THESE ISSUES.
 20 CODE ENFORCEMENT SEES THINGS SLIGHTLY DIFFERENT THAN
 21 PLANNING, POTENTIALLY ON HOW YOU CAN RECTIFY THEM OR
 22 AT LEAST FIND A COURSE OF ACTION SO THE APPLICANT OR
 23 THE PROPERTY OWNER CAN WORK TOGETHER.
 24 Q. DID I HEAR YOU SAY IF THE CONDITIONAL USE
 25 PERMIT HAD BEEN APPROVED, AT LEAST FROM YOUR

1 PROSPECTIVE, THAT WOULD HAVE SOLVED SOME OR ALL OF
 2 THE CODE VIOLATIONS?
 3 A. THEY WOULD HAVE STILL HAD TO GET THE FILE
 4 AND GET THE BUILDING PERMITS APPROVED, BUT HAVING
 5 THE C.U.P. APPROVED WOULD HAVE ALLOWED APPROVAL OF
 6 ALL THE STRUCTURES TO BE THERE ON THE SITE.
 7 Q. DO YOU HAVE ANY EXPERIENCE WITH BUILDING
 8 PERMITS BEING ISSUED BY THE COUNTY AFTER BUILDINGS
 9 ARE BUILT WITHOUT PERMITS IN ORDER TO LEGALIZE THEM?
 10 A. A SMALL AMOUNT, I'M FAMILIAR WITH HOW THEY
 11 HANDLE THEM, BUT I DON'T BELIEVE I'VE REVIEWED ANY.
 12 Q. ARE YOU ABLE TO EXPRESS AN OPINION AS TO
 13 WHETHER OR NOT THE LEGALIZATION, IF YOU WILL, OF
 14 BUILDINGS BUILT WITHOUT BUILDING PERMITS AS ROUTINE
 15 PROCEDURE?
 16 A. I THINK FOR MINOR STRUCTURES IT'S A FAIRLY
 17 ROUTINE PROCEDURE.
 18 Q. THESE TUFF SHEDS, ARE THEY MINOR
 19 STRUCTURES, AS YOU USE THAT TERM?
 20 A. YES.
 21 Q. THE SHADE STRUCTURES, ARE THEY MINOR
 22 STRUCTURES, AS YOU USE THAT TERM?
 23 MS. SMITH: OBJECTION. LACK OF FOUNDATION
 24 TO TESTIFY FOR BUILDING AND SAFETY REQUIREMENTS.
 25 YOU CAN STILL ANSWER.

1 THE DEPONENT: IN REVIEW, IN PLANNING, IN
 2 TERMS OF WOULD A STRUCTURE HAVE AN EFFECT ON THE
 3 PUBLIC SAFETY WELL-BEING OR GET ENVIRONMENTAL
 4 CONCERNS, ALL OF THESE POTENTIALLY WOULD NOT BE
 5 MAJOR STRUCTURES, BUT I WOULD SAY THE USE OF THEM
 6 HAS A MAJOR INFLUENCE. THEY ALLOWED MORE DOGS TO BE
 7 HELD ON SITE, AND PARTICULARLY THE NORTHERLY DOG
 8 RUNS WERE ESPECIALLY NOT SUPPOSED TO BE THERE, PER
 9 THE SUBSTANTIAL CONFORMANCE APPLICATION.
 10 Q. IN THE PLANNING DEPARTMENT, IS THERE ANY
 11 SORT OF A RULE OR REGULATION OR POLICY OR PROCEDURE
 12 THAT YOU WILL NOT WORK ON CONDITIONAL USE PERMITS OR
 13 REZONINGS OF PROPERTY ON WHICH CODE ENFORCEMENT HAS
 14 IDENTIFIED VIOLATIONS? THE PLANNING WILL STOP IF
 15 CODE FINDS A VIOLATION ON A PROPERTY?
 16 A. NO. PLANNING TYPICALLY WORKS TO MOVE
 17 PROJECTS FORWARD TO RECTIFY CODE VIOLATIONS.
 18 RECENTLY A MAJORITY OF PLANNING PROJECTS ARE BASED
 19 ON AN APPLICANT SEEKING TO RECTIFY CODE VIOLATIONS.
 20 MS. SMITH: I WILL TELL YOU, IN JOHN'S DAY
 21 THAT WAS A PROBLEM. WE'VE RECTIFIED, IF THAT'S
 22 WHERE YOU'RE COMING FROM WITH THAT QUESTION.
 23 Q. (BY MR. SCHAEFER:) NOW, WHAT WAS THE --
 24 CAN YOU RECALL ANYTHING THAT WAS SAID AT THE MEETING
 25 ON THE SUBJECT OF DOING SOMETHING TO MEET THE

1 CONCERNS OF THE NEIGHBOR TO ALLOW THIS PERMITTING
 2 PROCESS TO GO FORWARD? DID THAT SUBJECT COME UP?
 3 IN OTHER WORDS, WAS THERE ANY DISCUSSION
 4 ABOUT WHAT CHANGES COULD BE MADE TO THE APPLICATION
 5 IN ORDER TO MAKE THE PROJECT ACCEPTABLE TO THE
 6 NEIGHBOR AND THE PLANNING DEPARTMENT, GIVE THEM THE
 7 OBJECTIONS THAT HAVE BEEN MADE?
 8 A. AT THIS PARTICULAR MEETING?
 9 Q. YES, AT THAT PARTICULAR MEETING.
 10 EVERYBODY'S THERE.
 11 MS. SMITH: AND WE'RE TALKING ABOUT APRIL?
 12 MR. SCHAEFER: RIGHT.
 13 MS. SMITH: IF YOU DON'T RECALL, YOU CAN
 14 SAY IT.
 15 THE DEPONENT: I DON'T RECALL. THIS
 16 MEETING, I THINK, WAS MORE FOCUSSED ON THE CODE
 17 VIOLATIONS AND GETTING THOSE STRUCTURES OR EITHER
 18 FINDING A SOLUTION AS TO HOW TO DEAL WITH THE CODE
 19 VIOLATIONS ON THE PROPERTY.
 20 MS. SMITH: I WANT TO MAKE A STATEMENT ON
 21 THE RECORD. THERE WAS A MEETING PUBLICLY HAD WITH
 22 THE DUETS PRESENT, AND THEN THERE WAS A MEETING WITH
 23 COUNSEL THAT YOU WERE ALSO PRESENT AFTERWARDS. SO
 24 BE VERY CLEAR WHEN YOU ANSWER HIS QUESTIONS. HE IS
 25 NOT SEEKING ANY ANSWERS THAT WOULD BE

1 ATTORNEY-CLIENT PRIVILEGED. CAREFULLY LISTEN TO THE
 2 QUESTIONS AND FEEL FREE TO ANSWER.
 3 Q. (BY MR. SCHAEFER:) WAS THERE ANY
 4 DISCUSSION AT THIS APRIL 26TH MEETING ABOUT THE
 5 NUMBER OF DOGS THAT MIGHT BE PERMITTED?
 6 A. I DON'T RECALL.
 7 Q. WAS THERE ANY DISCUSSION AT THIS MEETING
 8 ABOUT PARTICULAR MECHANISMS THAT MIGHT BE USED TO
 9 LEGALIZE THESE TUFF SHEDS AND SHADE STRUCTURES?
 10 A. YES, THERE WAS.
 11 Q. WHAT WAS THE DISCUSSION ON WHAT MIGHT BE
 12 DONE TO LEGALIZE THE TUFF SHEDS AND THE SHADE
 13 STRUCTURES?
 14 A. APPROVAL OF A SUBSTANTIAL CONFORMANCE SITE
 15 PLAN. THE SUBSTANTIAL CONFORMANCE APPLICATION WOULD
 16 INCLUDE A SITE PLAN SHOWING THESE EXISTING
 17 STRUCTURES ON THERE.
 18 Q. DID SOMEBODY EMPLOYED BY THE COUNTY SUGGEST
 19 TO THE DUETS THAT THEY APPLY FOR A SUBSTANTIAL
 20 CONFORMANCE TO LEGALIZE THE TUFF SHEDS AND PAVE THE
 21 WAY FOR THE LEGALIZATION OF THE TUFF SHEDS AND THE
 22 SHADE STRUCTURES?
 23 A. I BELIEVE THE PLANNING DIRECTOR.
 24 Q. RON GOLDMAN SUGGESTED IT?
 25 A. CORRECT.

1 Q. DID GEORGE JOHNSON HAVE ANY COMMENT ON
 2 MR. GOLDMAN'S SUGGESTION?
 3 A. I BELIEVE HE LED IT BE THE DETERMINATION OF
 4 THE PLANNING DIRECTOR.
 5 Q. HE WASN'T OBJECTING TO IT; HE WASN'T
 6 SUPPORTING IT?
 7 A. I DON'T REMEMBER THAT.
 8 Q. WHAT DID COUNTY COUNSEL SAY AT THE MEETING?
 9 MS. SMITH: OBJECTION. ATTORNEY-CLIENT --
 10 MR. SCHAEFER: NO. I'M TALKING ABOUT THE
 11 MEETING. THERE WAS A MEETING AND EVERYBODY WAS
 12 SITTING AROUND.
 13 MS. SMITH: OKAY. RIGHT.
 14 Q. (BY MR. SCHAEFER:) WHAT DID COUNTY COUNSEL
 15 SAY ABOUT THE IDEA OF APPLYING FOR A SUBSTANTIAL
 16 CONFORMANCE TO LEGALIZE THE TUFF SHED AND THE SHADE
 17 STRUCTURES?
 18 A. I BELIEVE THERE WAS POTENTIAL THAT IT COULD
 19 BE ACCEPTABLE.
 20 Q. THAT'S WHAT COUNTY COUNSEL SAID?
 21 MS. SMITH: YOU BELIEVE OR YOU KNOW.
 22 ANSWER WHAT YOU KNOW.
 23 A. I DO NOT RECALL WHAT COUNSEL SAID.
 24 Q. (BY MR. SCHAEFER:) WHAT ABOUT ANIMAL
 25 CONTROL? WHAT DID THEIR REPRESENTATIVES HAVE TO

1 SAY?
 2 A. THESE CONCERNS OF BUILDINGS WEREN'T AN
 3 ISSUE OF THEIR PERMITTING SO THEY'RE NOT REALLY
 4 CONCERNED. THEIR CODE VIOLATION, I THINK, MAY HAVE
 5 ONE -- IN FACT, I DON'T KNOW IF THERE WAS AN ACTUAL
 6 CODE VIOLATION INVOLVING ANIMAL SERVICES DIRECTLY.
 7 Q. WHAT ABOUT CODE ENFORCEMENT? WHAT DID THEY
 8 HAVE TO SAY ABOUT THE IDEA OF APPLYING FOR A
 9 SUBSTANTIAL CONFORMANCE TO PAVE THE WAY FOR THE
 10 LEGALIZATION OF THE SHADE STRUCTURES AND THE TUFF
 11 SHEDS?
 12 A. CODE ISN'T CONCERNED WITH HOW THINGS ARE
 13 ACCOMPLISHED. IF THEY HAVE EVIDENCE THAT THAT
 14 BUILDING IS SHOWN ON ANY APPROVED SITE PLAN OR ANY
 15 APPROVED SITE PLAN AND/OR ON A PREAPPROVED SITE PLAN
 16 AND THERE IS A PROPER BUILDING PERMIT, THEY CAN
 17 REMOVE THEIR NOTICE OF VIOLATION.
 18 Q. DID THE SUBJECT OF THE NUMBER OF DOGS ON
 19 THE PROPERTY COME UP AT THAT APRIL 26TH MEETING?
 20 A. I DON'T RECALL ANY SPECIFIC DISCUSSIONS OF
 21 IT. I ASSUME IT MAY HAVE. IT WAS AN ISSUE AT THAT
 22 TIME.
 23 Q. YOU ASSUME IT WAS AN ISSUE, BUT YOU DON'T
 24 HAVE A RECOLLECTION OF WHAT, IF ANYTHING, WAS SAID
 25 ABOUT THE NUMBER OF DOGS THAT WAS SAID AT THE

1 MEETING. DO I HAVE THAT RIGHT?
 2 A. YES.
 3 Q. I'M LOOKING AT GEORGE JOHNSON, WHO IS THE
 4 DIRECTOR OF THE TRANSPORTATION LAND MANAGEMENT
 5 AGENCY, AS YOU CHARACTERIZED IT, THE BOSS'S BOSS.
 6 DO YOU HAVE ANY INFORMATION AS TO WHY THE
 7 BOSS'S BOSS WAS IN A MEETING OVER TUFF SHEDS AND
 8 SHADE STRUCTURES?
 9 A. HE WAS MADE AWARE OF THIS ISSUE BY
 10 TOM BARTELS, WHO CONTACTED HIM DIRECTLY. ON OTHER
 11 OCCASIONS, I KNOW MR. JOHNSON IS VERY HANDS-ON AND
 12 HE LIKES TO BE AWARE OF ANY PROJECTS THAT MAY HAVE
 13 POTENTIAL ISSUES THAT GO BEYOND JUST TWO COUNTY
 14 DEPARTMENTS HAVING A PROBLEM.
 15 Q. OKAY. YOU MENTIONED IN YOUR TESTIMONY THAT
 16 THERE WERE DOG RUNS ON THE NORTH SIDE OF THE HOUSE
 17 THAT WERE NOT ON THE PLOT PLAN.
 18 A. CORRECT.
 19 Q. DID THAT COME UP AT THE APRIL 26TH MEETING?
 20 A. YES.
 21 Q. WHAT WAS SAID ABOUT THE DOGS RUNS ON THE
 22 NORTH SIDE OF THE HOUSE?
 23 MS. SMITH: IS THIS -- CLARIFY? DOG RUNS
 24 ON THE NORTH SIDE OF THE HOUSE?
 25 THE DEPONENT: THE CONVERTED BARN

1 STRUCTURE.
 2 MS. SMITH: THERE IS A SITE PLAN, IF IT
 3 HELPS, IN YOUR BOX. I DON'T HAVE IT, BUT YOU HAVE
 4 IT.
 5 (DISCUSSION OFF THE RECORD.)
 6 MR. SCHAEFER: OKAY. BACK ON THE RECORD.
 7 Q. MARK AS EXHIBIT 5 A LARGE DOCUMENT ENTITLED
 8 -- UP AT THE TOP IT SAYS "PLOT PLAN 13992,
 9 SUBSTANTIAL CONFORMANCE NO. 13992."
 10 CAN YOU TELL ME, GENERALLY, WHAT THIS IS?
 11 A. THIS IS A SITE PLAN SUBMITTED BY THE
 12 ENGINEER -- THE PROJECTS THAT SHOW THE PROPERTY, HOW
 13 IT EXISTS TODAY, BUILDINGWISE.
 14 MS. SMITH: FOR THE RECORD, I'D LIKE TO
 15 IDENTIFY BATE STAMP 514.
 16 Q. (BY MR. SCHAEFER:) THIS PARTICULAR DRAWING
 17 WAS SUBMITTED, WAS IT NOT, IN SUPPORT OF AN
 18 APPLICATION FOR SUBSTANTIAL CONFORMANCE THAT WAS
 19 PREPARED AFTER THE APRIL 26TH MEETING?
 20 A. IT WAS SUBMITTED AS PART OF THE
 21 APPLICATION, YES.
 22 Q. NOW, IT IDENTIFIES OR IT SHOWS ALL THE TUFF
 23 SHEDS THAT WE'RE TALKING ABOUT?
 24 A. YES.
 25 Q. SHOWS ALL THE SHADE STRUCTURES?

1 A. YES.
 2 Q. DOES IT SHOW THE DOG RUNS THAT WE HAVE BEEN
 3 TALKING ABOUT?
 4 A. NOT EXPLICITLY. IT STATES LOCATIONS OF DOG
 5 RUNS.
 6 Q. NOW, YOU SAID THAT AT THE MEETING -- AT THE
 7 APRIL 26TH MEETING, THERE WAS DISCUSSION ABOUT DOG
 8 RUNS. DO I HAVE THAT RIGHT?
 9 A. CORRECT.
 10 Q. CAN YOU SHOW US ON THE CHART HERE WHERE THE
 11 DOG RUNS ARE THAT WERE DISCUSSED AT THIS APRIL 26TH
 12 MEETING?
 13 A. IT WAS LOCATED UP HERE. AND AGAIN NORTH TO
 14 WHAT WE LABEL -- IS LABELED AS THE EXISTING METAL
 15 KENNEL STRUCTURE.
 16 Q. OKAY.
 17 A. I BELIEVE . . .
 18 Q. HOW ABOUT THESE DOG RUNS OVER HERE NEXT TO
 19 THE HOUSE?
 20 MS. SMITH: NEXT TO THE HOUSE?
 21 MR. SCHAEFER: NEXT TO THE HOUSE, YES.
 22 THE DEPONENT: I DO BELIEVE THESE WERE
 23 DISCUSSED AS PART OF THE -- AS EXISTING DOG RUNS,
 24 BUT NOT AS PART OF THE COMMERCIAL PROJECTS FOR
 25 PERSONAL USE.

1 Q. (BY MR. SCHAEFER:) WHAT DOES THAT MEAN?
 2 MS. SMITH: TAKE YOUR TIME ON THIS, JEFF.
 3 YOU WANT TO BE ACCURATE.
 4 Q. (BY MR. SCHAEFER:) WE'RE GOING BACK TO
 5 WHAT WAS TALKED ABOUT AT THE MEETING?
 6 A. YEAH. THAT THESE WERE DOG RUNS THAT
 7 WEREN'T GOING TO BE USED FOR DOGS THAT WERE
 8 ATTENDING THIS KENNEL.
 9 Q. IN OTHER WORDS, THE RUNS UP BY THE HOUSE
 10 WERE TALKED AS FOR THE PETS OR THE PERSONAL DOGS OF
 11 THE OWNER?
 12 A. CORRECT.
 13 Q. NOT PART OF THE BUSINESS OPERATION?
 14 A. RIGHT.
 15 Q. IF THE APRIL 26TH MEETING WAS CODE OR
 16 ANYBODY SAYING THAT SOME OF THESE DOG RUNS NEEDED TO
 17 GO AND NEEDED TO BE REMOVED IN ORDER TO COMPLY WITH
 18 CODE?
 19 A. PER THE APPROVED SITE PLAN, YEAH, TO COMPLY
 20 WITH THAT EXHIBIT, ALL ITEMS SHOWN ON HERE WOULD
 21 HAVE HAD TO BE REMOVED. NEW PROPOSED STRUCTURES.
 22 Q. WHAT ABOUT THE DOG RUNS? WAS ANYBODY
 23 SAYING THAT THE DOG RUNS TO THE NORTH SIDE OF THE
 24 EXISTING BUILDING NEEDED TO BE REMOVED?
 25 A. YES.

1 Q. WAS ANYBODY SAYING THAT THE DOG RUNS NEXT
 2 TO THE HOUSE NEEDED TO BE REMOVED?
 3 A. YES, I BELIEVE SO.
 4 Q. I'VE GOT DOG RUNS THAT NEEDED TO BE
 5 REMOVED. NOW, DOWN HERE IN THIS CORNER IS AN
 6 EXISTING BARN FOR DOG RUNS. WAS THERE ANY
 7 DISCUSSION ABOUT THE EXISTING BARN AND THE FOUR DOG
 8 RUNS IN THE EXISTING BARN?
 9 A. I THINK THAT LANGUAGE IS TO CLARIFY THAT
 10 THERE ARE DOG RUNS IN THERE. I THINK THE BARN WAS
 11 ALREADY EXISTING. WITH THAT KIND OF SCENARIO THERE,
 12 WHERE CODE WILL ISSUE A NOTICE BASED ON IMPROPER
 13 LAND USE, NOT IMPROPER BUILDING STRUCTURE.
 14 Q. SO, IN OTHER WORDS, CODE DIDN'T LIKE THE
 15 DOG RUNS DOWN THERE, BUT AS FAR AS CODE WAS
 16 CONCERNED, THE STRUCTURE COULD REMAIN?
 17 A. IF IT WAS PERMITTED, CORRECT.
 18 Q. DID THE CODE HAVE ANY OPINION AS TO WHETHER
 19 OR NOT THE BARN HAD BEEN PERMITTED?
 20 A. I BELIEVE IT HAD NOT BEEN, BUT I DO NOT
 21 RECOLLECT.
 22 Q. WAS THERE ANY DISCUSSION ABOUT HOW OLD THE
 23 BARN WAS ON THE PROPERTY AT THE TIME THAT THE DUETS
 24 BOUGHT IT?
 25 A. NO.

1 MS. SMITH: WE STIPULATE THAT THAT IS NOT
 2 AN ISSUE.
 3 MR. SCHAEFER: GREAT.
 4 Q. NOW, AT THE END OF THIS MEETING, ISN'T IT
 5 CORRECT TO SAY THAT THE DUETS SAID, "OKAY. WE WILL
 6 SUBMIT AN APPLICATION FOR SUBSTANTIAL CONFORMANCE"?
 7 A. YES.
 8 Q. DID THEY SUBMIT AN APPLICATION FOR
 9 SUBSTANTIAL CONFORMANCE?
 10 A. YES.
 11 Q. WERE YOU IN CHARGE OF PROCESSING THE
 12 APPLICATION FOR SUBSTANTIAL CONFORMANCE?
 13 A. YES. IT WAS ASSIGNED TO ME.
 14 Q. DID IT GET PROCESSED?
 15 A. WELL --
 16 MS. SMITH: DEFINE "PROCESS."
 17 Q. (BY MR. SCHAEFER:) DID YOU WORK ON IT?
 18 A. SUBSTANTIAL CONFORMANCE IS ADMINISTRATIVE
 19 APPROVAL SO TECHNICALLY IT'S APPROVED BY THE
 20 PLANNING DIRECTOR.
 21 Q. DID YOU DO ANY WORK ON IT? YOU
 22 PERSONALLY.
 23 A. I LOOKED AT THE EXHIBIT -- REVIEWED THE
 24 LABELING, REVIEWED THE PARKING. WHEN WE GET THESE
 25 EXHIBITS FOR SUBSTANTIAL CONFORMANCE, THEY STILL

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1 HAVE TO BE REVIEWED, BECAUSE WHATEVER WE APPROVE
 2 BECOMES A NEW SITE PLAN. EVEN IF IT'S NOT A TOPIC
 3 FOR THE INTENT OF WHAT WAS SUBMITTED, IF SOMETHING
 4 HERE IS SHOWN THAT IS DIFFERENT, YOU'RE TECHNICALLY
 5 CHANGING. SO A THOROUGH REVIEW OF THE SITE PLAN IS
 6 NEEDED.
 7 Q. AND YOU DID THE REVIEW?
 8 A. YES.
 9 Q. WHAT DID YOU DO IN THE COURSE OF DOING THE
 10 REVIEW?
 11 A. REVIEWED THE FOOTPRINTS OF THE EXISTING
 12 STRUCTURES. LOOKING FOR CONFORMANCE WITH THE
 13 APPROVED EXHIBITS, AND AN EXHIBIT SHOWN BY CODE
 14 ENFORCEMENT GIVE A DIRECT -- GAVE -- OR, YOU KNOW,
 15 LOCATIONS OF WHERE THE STRUCTURE SHOULD BE, AND MET
 16 WITH MR. GOLDMAN TO SHOW HIM THE PROPOSED EXHIBIT.
 17 MR. SCHAEFER: I'M MARKING THIS AS
 18 EXHIBIT 6. THE WHOLE PACKAGE.
 19 MS. SMITH: HOW MANY PAGES?
 20 MR. SCHAEFER: 11 PAGES.
 21 MS. SMITH: THANK YOU. YOU SAID IT'S
 22 EXHIBIT 5?
 23 MR. SCHAEFER: EXHIBIT 6.
 24 Q. THE FIRST PAGE OF EXHIBIT 6 WE WANT TO LOOK
 25 AT IS A TRANSMITTAL BEARING THE DATE OF APRIL 27,

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1 2010, FROM KELLER CONSULTING. DO YOU SEE THAT?
 2 A. YES.
 3 Q. WHAT IS THIS FIRST PAGE FROM KELLER
 4 CONSULTING, FROM YOUR PERSPECTIVE?
 5 A. A COVER LETTER OF THE ENGINEER'S. IT
 6 INDICATES WHAT WAS SUBMITTED TO ME FROM HIS RECORDS
 7 AND TO HELP ME, I ASSUME, UNDERSTAND WHAT WAS
 8 RECEIVED.
 9 Q. IS IT YOUR RECOLLECTION THAT THE
 10 APPLICATION FOR SUBSTANTIAL CONFORMANCE WAS RECEIVED
 11 ON OR ABOUT APRIL 27TH, 2010?
 12 A. YES.
 13 Q. IT SAYS THAT "TRANSMITTED HEREWITH TEN
 14 COPIES OF SUBSTANTIAL CONFORMANCE TO P.P. 13992 SITE
 15 PLAN." IS THAT THE SAME THING AS EXHIBIT 5?
 16 A. NO.
 17 Q. WHAT IS IT?
 18 A. THAT IS THE ORIGINAL VERSION OF EXHIBIT 5,
 19 BUT IT HAD -- IT WAS SHOWING AN INCREASE IN PARKING,
 20 MORE CONSISTENT WITH WHAT THEY HAD PROPOSED ON THE
 21 C.U.P., NOT WHAT IS APPROVED ON THE PLOT PLAN. THAT
 22 WAS REQUESTED TO BE REMOVED AND ALSO HAD NO LABELS
 23 ON WHAT WAS BEING USED IN THESE STRUCTURES. SO THAT
 24 LANGUAGE HAS BEEN ADDED BY FOUR DOG RUNS, ET CETERA,
 25 ADDED TO THIS EXHIBIT ON MAY 26, 2010.

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1 MR. SCHAEFER: I'M GOING TO NUMBER MY PAGES
 2 HERE.
 3 I'M GOING TO GIVE THIS TO PATTY SO THAT
 4 YOUR NUMBERING CAN MATCH MY NUMBERING.
 5 MS. SMITH: I THINK IF YOU GAVE IT TO ME IN
 6 SOME ORDER -- OH, YOU DIDN'T.
 7 OFF THE RECORD.
 8 (DISCUSSION OFF THE RECORD.)
 9 MR. SCHAEFER: GIVE ME MY PAGES BACK,
 10 PLEASE.
 11 Q. TO SUMMARIZE HERE, THE LETTER OF
 12 TRANSMITTAL OF APRIL 27TH SAYS THAT TEN COPIES OF
 13 SUBSTANTIAL CONFORMANCE TO P.P. 13992 SITE PLAN ARE
 14 BEING DELIVERED ON APRIL 27TH, AND EXHIBIT 5 IS NOT
 15 A COPY OF ONE OF THOSE TEN COPIES?
 16 A. CORRECT.
 17 Q. LET'S LOOK AT PAGE 8. THE QUESTION IS
 18 GOING TO BE: IS PAGE 8 A COPY OF WHAT WAS SUBMITTED
 19 WITH THE INITIAL SUBMITTAL IN APRIL?
 20 A. PAGE 8 IS A REDUCED COPY OF THAT EXHIBIT.
 21 Q. WHAT IS THE DIFFERENCE BETWEEN PAGE 8 AND
 22 EXHIBIT 5?
 23 A. ALL THOSE PARALLEL PARKING SPACES ON THE
 24 NORTHWESTERLY CORNER PROPERTY LINES WITHIN THE
 25 EASEMENTS, YES; AND THEN YOU CAN SEE WHAT ARE THE

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1 TUFF SHEDS. THE LABELING JUST SAYS 8 X 8 SHED. WE
 2 ASKED FOR A CLARIFICATION OF WHAT WERE THE USES OF
 3 THESE SHEDS AND STRUCTURES.
 4 Q. SO TO SUMMARIZE, PAGE 8 SHOWS PARKING
 5 PLACES ON ONE CORNER OF THE PROPERTY THAT ARE NOT
 6 SHOWN ON EXHIBIT 5?
 7 A. CORRECT.
 8 Q. EXHIBIT 5 ALSO CONTAINS INFORMATION
 9 REGARDING THE USES OF SOME OF THE TUFF SHEDS THAT
 10 ARE NOT ON PAGE 8?
 11 A. YES.
 12 Q. WHAT INFORMATION REGARDING THE USES OF THE
 13 TUFF SHEDS IS CONTAINED ON EXHIBIT 5, IF YOU CAN
 14 POINT THAT OUT FOR US?
 15 A. CHANGES INCLUDE SHADE STRUCTURES, CONVERTED
 16 SHADE STRUCTURES, CRATE ROOMS, SHED CONVERTED OR
 17 ADDITIONAL FOOD STORAGE TO SHED, ADDITION OF CRATE
 18 ROOM FOR OVERNIGHT HOURS ADDED TO SHED, ADDITIONAL
 19 OVERNIGHT HOURS ADDED CRATE ROOMS, SO TYPICAL
 20 LANGUAGE LIKE THAT.
 21 Q. ALL RIGHT. LET'S LOOK AT PAGE 2 OF
 22 EXHIBIT 6, THIS IS ALSO A TRANSMITTAL FROM KELLER
 23 CONSULTING THAT SHOWS, AT LEAST PURPORTS TO SHOW,
 24 THAT ON MAY 26TH, 2010, FIVE COPIES OF A REVISED
 25 SITE EXHIBIT WERE SUBMITTED?

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1 MR. SCHAEFER: I'M GOING TO NUMBER MY PAGES
 2 HERE.
 3 I'M GOING TO GIVE THIS TO PATTY SO THAT
 4 YOUR NUMBERING CAN MATCH MY NUMBERING.
 5 MS. SMITH: I THINK IF YOU GAVE IT TO ME IN
 6 SOME ORDER -- OH, YOU DIDN'T.
 7 OFF THE RECORD.
 8 (DISCUSSION OFF THE RECORD.)
 9 MR. SCHAEFER: GIVE ME MY PAGES BACK,
 10 PLEASE.
 11 Q. TO SUMMARIZE HERE, THE LETTER OF
 12 TRANSMITTAL OF APRIL 27TH SAYS THAT TEN COPIES OF
 13 SUBSTANTIAL CONFORMANCE TO P.P. 13992 SITE PLAN ARE
 14 BEING DELIVERED ON APRIL 27TH, AND EXHIBIT 5 IS NOT
 15 A COPY OF ONE OF THOSE TEN COPIES?
 16 A. CORRECT.
 17 Q. LET'S LOOK AT PAGE 8. THE QUESTION IS
 18 GOING TO BE: IS PAGE 8 A COPY OF WHAT WAS SUBMITTED
 19 WITH THE INITIAL SUBMITTAL IN APRIL?
 20 A. PAGE 8 IS A REDUCED COPY OF THAT EXHIBIT.
 21 Q. WHAT IS THE DIFFERENCE BETWEEN PAGE 8 AND
 22 EXHIBIT 5?
 23 A. ALL THOSE PARALLEL PARKING SPACES ON THE
 24 NORTHWESTERLY CORNER PROPERTY LINES WITHIN THE
 25 EASEMENTS, YES; AND THEN YOU CAN SEE WHAT ARE THE

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1 TUFF SHEDS. THE LABELING JUST SAYS 8 X 8 SHED. WE
 2 ASKED FOR A CLARIFICATION OF WHAT WERE THE USES OF
 3 THESE SHEDS AND STRUCTURES.
 4 Q. SO TO SUMMARIZE, PAGE 8 SHOWS PARKING
 5 PLACES ON ONE CORNER OF THE PROPERTY THAT ARE NOT
 6 SHOWN ON EXHIBIT 5?
 7 A. CORRECT.
 8 Q. EXHIBIT 5 ALSO CONTAINS INFORMATION
 9 REGARDING THE USES OF SOME OF THE TUFF SHEDS THAT
 10 ARE NOT ON PAGE 8?
 11 A. YES.
 12 Q. WHAT INFORMATION REGARDING THE USES OF THE
 13 TUFF SHEDS IS CONTAINED ON EXHIBIT 5, IF YOU CAN
 14 POINT THAT OUT FOR US?
 15 A. CHANGES INCLUDE SHADE STRUCTURES, CONVERTED
 16 SHADE STRUCTURES, CRATE ROOMS, SHED CONVERTED OR
 17 ADDITIONAL FOOD STORAGE TO SHED, ADDITION OF CRATE
 18 ROOM FOR OVERNIGHT HOURS ADDED TO SHED, ADDITIONAL
 19 OVERNIGHT HOURS ADDED CRATE ROOMS, SO TYPICAL
 20 LANGUAGE LIKE THAT.
 21 Q. ALL RIGHT. LET'S LOOK AT PAGE 2 OF
 22 EXHIBIT 6, THIS IS ALSO A TRANSMITTAL FROM KELLER
 23 CONSULTING THAT SHOWS, AT LEAST PURPORTS TO SHOW,
 24 THAT ON MAY 26TH, 2010, FIVE COPIES OF A REVISED
 25 SITE EXHIBIT WERE SUBMITTED?

1 A. CORRECT.
 2 Q. IS PAGE 2 OF EXHIBIT 6 THE LETTER OF
 3 TRANSPORTATION THAT ACCOMPANIED THE COPIES OF THE
 4 DIAGRAM THAT WE'VE MARKED AS NO. 5.
 5 MS. SMITH: PAGE 2 IS DATED APRIL 27TH?
 6 THE DEPONENT: YES. THIS IS THE OLDER ONE.
 7 MS. SMITH: YOU SAID THIS CAME IN ON
 8 APRIL 27TH?
 9 MR. SCHAEFER: I SAID IT CAME IN ON MAY THE
 10 10TH -- MAY 26TH, A MONTH LATER.
 11 MS. SMITH: I MUST HAVE MISSED THAT.
 12 Q. (BY MR. SCHAEFER:) NOW, LET'S LOOK
 13 PAGES 3, 4, 5, 6, AND 7 OF EXHIBIT 6.
 14 A. OKAY.
 15 Q. IS PAGES 3 TO 7 THE ACTUAL APPLICATION FOR
 16 SUBSTANTIAL CONFORMANCE THAT YOU REVIEWED?
 17 A. YES, IT IS.
 18 Q. IS THIS APPLICATION FOR SUBSTANTIAL
 19 CONFORMANCE WHERE THE APPLICANT PUTS DOWN WHAT THEY
 20 WANT APPROVED?
 21 A. YES.
 22 Q. WHERE ON THE APPLICATION DO THEY PUT DOWN
 23 WHAT THEY WANT APPROVED?
 24 A. THE SECOND PAGE. THE APPLICATION REQUESTED
 25 A DESCRIPTION OF THE EXISTING -- SORRY. YEAH. SO

1 WE ASK FOR -- THE APPLICATION ASKS FOR A DESCRIPTION
 2 OF THE EXISTING USES: STRUCTURES, BUILDINGS,
 3 ENTITLEMENTS, AS WELL AS THE NATURE AND EXTENT OF
 4 CURRENT SUBSTANTIAL CONFORMANCE REQUESTS AND THE
 5 REASON NECESSITATING THE CHANGES.
 6 Q. IT LOOKS LIKE SOMEBODY HAS WRITTEN IN, IN
 7 HANDWRITING, "ADDITION OF TUFF SHED TYPE STRUCTURES,
 8 WOOD FRAME CANOPY SHADE STRUCTURES, SIGNAGE, AND
 9 SHEDS."
 10 A. CORRECT.
 11 Q. TO YOUR UNDERSTANDING, WHAT WAS THE SIGNAGE
 12 THAT WAS BEING SOUGHT?
 13 A. I BELIEVE THERE IS SIGNAGE LOCATED ON THE
 14 EASTERLY FENCE OF THE PROPERTY, WHICH WAS NOT
 15 PERMITTED WITHIN THE PLOT PLAN APPLICATION. THIS
 16 WAS TO ALLOW THAT TO REMAIN.
 17 Q. THIS IS A SIGN THAT GIVES THE NAME OF
 18 THOSE --
 19 A. CORRECT.
 20 Q. NOW, WHEN YOU WERE REVIEWING THIS
 21 APPLICATION FOR SUBSTANTIAL CONFORMANCE, DID YOU
 22 UNDERSTAND IT TO ASK FOR APPROVAL OF ANY DOG RUNS
 23 THAT HAD NOT BEEN PREVIOUSLY APPROVED?
 24 A. YES, THROUGH THE DESCRIPTION AND LABELING
 25 OF THE STRUCTURES ON THE SITE PLAN.

1 Q. WHERE ON THE SITE PLAN ARE WE ASKING FOR
 2 DOG RUNS TO BE APPROVED?
 3 A. NORTH OF THE EXISTING METAL STRUCTURE,
 4 10 X 60 FOOT SHADE STRUCTURE, 10 DOG RUNS. AND
 5 AGAIN CLARIFYING, I THINK IT WAS TO ADD TO THE SITE
 6 PLAN THAT THESE DOG RUNS HAVE NEVER BEEN SHOWN
 7 BEFORE. SHADE STRUCTURES ON THE EASTERN PORTION OF
 8 THE SITE.
 9 Q. DID YOU HAVE ANY CONVERSATION WITH THE
 10 APPLICANT OR THE APPLICANT'S ENGINEER ABOUT THIS
 11 APPLICATION FOR SUBSTANTIAL CONFORMANCE?
 12 A. I DO NOT BELIEVE ON THE SECOND ONE. IT WAS
 13 JUST ON THAT INITIAL SUBMITTAL WHERE THE CHANGES
 14 WERE REQUESTED.
 15 Q. I'M NOTICING THAT THE APPLICANT DOESN'T SAY
 16 ANYTHING ABOUT DOG RUNS, BUT YOU DO POINT OUT THAT
 17 WE'VE GOT SHADED STRUCTURES HERE ON THE SHADED
 18 DRAWINGS ON THE APPLICATION ABOUT DOG RUNS.
 19 DID THAT STRIKE YOU AS BEING STRANGE AT THE
 20 TIME, THAT THEY DIDN'T ASK FOR DOG RUNS IN THE
 21 WRITTEN APPLICATION?
 22 A. I WOULD NOT -- THAT DID NOT SURPRISE ME.
 23 THAT IS NOT TYPICAL -- NOT ATYPICAL -- FOR THE
 24 ENTIRE PROPERTY DESCRIPTION NOT TO MAKE IT INTO THE
 25 APPLICATION, GIVEN THE LIMITED SPACE THAT WE

1 PROVIDE.
 2 MR. SCHAEFER: NEXT, GIVE ME -- JUST TO
 3 SHORTEN THINGS UP HERE. GIVE ME THESE STACKS OF
 4 E-MAILS. THESE WE'LL GET BACK TO. OKAY.
 5 Q. I'M GIVING YOU A STACK OF E-MAILS. I KNOW
 6 THERE'S DUPLICATES. IF YOU CAN JUST LOOK THROUGH
 7 THEM GENERALLY, AND WE'LL WORK ON THEM ONE AT A
 8 TIME.
 9 A. (READING.)
 10 Q. NOW, WHEN YOU WERE PROCESSING THIS, YOU
 11 TESTIFIED FOR ME THAT YOU THOUGHT THAT THE DUETS
 12 WERE ASKING FOR A SUBSTANTIAL CONFORMANCE TO
 13 LEGALIZE DOG RUNS ON THE PROPERTY THAT WERE NOT
 14 PREVIOUSLY LEGALIZED; DO I HAVE THAT RIGHT?
 15 A. CORRECT.
 16 Q. DID YOU UNDERSTAND THE REQUEST FOR
 17 SUBSTANTIAL CONFORMANCE TO ASK FOR AN INCREASE IN
 18 THE NUMBER OF DOGS THAT PLANNING WOULD ALLOW ON THE
 19 PROPERTY?
 20 A. NO, I DID NOT.
 21 Q. NOT PART OF THE DEAL?
 22 A. NO.
 23 MR. SCHAEFER: ALL RIGHT.
 24 Q. LET'S START AT THE BACK. WE'RE GOING TO
 25 START AT PAGE 20.

1 IS THIS AN E-MAIL FROM JASON KELLER, THE
 2 ENGINEER FOR THE DUETS, TO YOU?
 3 A. THIS IS AN E-MAIL TO PLANNING DIRECTOR
 4 RON GOLDMAN, AND I WAS C.C.'D ON IT, CORRECT.
 5 Q. DO YOU REMEMBER GETTING THIS?
 6 A. YES.
 7 Q. THE FIRST PARAGRAPH SAYS THAT "ATTACHED IS
 8 THE SITE PLAN" AND THAT THE ENGINEER WOULD BRING YOU
 9 TEN COPIES TO THE PLANNING DEPARTMENT.
 10 A. CORRECT.
 11 Q. THE THIRD PARAGRAPH SAYS, "MOVING FORWARD
 12 WITH THE C.U.P. WE ARE PREPARED TO MODIFY THE
 13 APPLICATION/SITE PLAN, AS WE DISCUSSED."
 14 WERE YOU A PARTY TO ANY DISCUSSIONS ABOUT
 15 MODIFYING THE APPLICATION FOR THE SITE PLAN FOR THE
 16 CONDITIONAL USE PERMIT?
 17 IF YOU WANT TO READ THAT PARAGRAPH THERE TO
 18 REFRESH YOUR RECOLLECTION.
 19 A. I WAS NOT INVOLVED IN ANY OF THE
 20 DISCUSSIONS. I WAS KEPT UP-TO-DATE ON THE CHANGES
 21 IN THE PROPOSAL, THIS BEING LIMITING THE SIZE OF --
 22 NOT USING THE FLOOD -- THIS IS WHEN THE FLOOD PLAN
 23 ISSUE BECAME APPARENT THAT IT MAY BE LIMITING TO THE
 24 INTENSITY OF THE PROJECT SITE USAGE.
 25 Q. SO YOU WERE AWARE AS OF LATE APRIL THAT THE

1 DUETS WERE THINKING ABOUT CHANGING THEIR APPLICATION
 2 TO DEAL WITH THESE FLOOD CONTROL ISSUES?
 3 A. CORRECT.
 4 Q. OKAY.
 5 LET'S LOOK AT PAGE 19. UP AT THE TOP IS AN
 6 E-MAIL FROM JASON TO KAREN DUET, DATED MAY 20TH, AND
 7 JASON SAYS, THIRD PARAGRAPH:
 8 "I WAS ABLE TO SPEAK TO JEFF HORN
 9 YESTERDAY TO DISCUSS ALL THE
 10 OUTSTANDING ISSUES WE ARE TRYING
 11 TO NAIL DOWN, ONE OF THEM BEING
 12 THE SUBSTANTIAL CONFORMANCE APPROVAL.
 13 JEFF INDICATED IT HAD NOT YET BEEN
 14 APPROVED. HE WAS GOING TO MEET UP
 15 WITH RON WELCH TO VERIFY EVERYTHING
 16 HAS BEEN SHOWN ON THE EXHIBIT THAT IS
 17 NEEDED, SO I NEED TO HEAR BACK FROM
 18 JEFF IN PLANNING BEFORE I CAN GET
 19 THEM A FINAL VERSION OF THE EXHIBIT.
 20 RON WELCH RESPONDED TO MY E-MAIL
 21 WHICH I SENT TO YOU PRIOR TO THIS E-MAIL.
 22 HE PROVIDED SOME DIRECTION ON WHAT IS
 23 NEEDED TO PROCESS THE BUILDING PERMITS
 24 AND WHICH STRUCTURES NEED THEM.
 25 WE WILL NEED THE SUBSTANTIAL CONFORMANCE

1 EXHIBIT APPROVED BEFORE WE CAN PULL THE
 2 PERMITS FOR THE STRUCTURES."
 3 DO YOU SEE THAT?
 4 A. YES.
 5 Q. THIS IS DATED MAY 20TH, AND I SEE THIS IS
 6 ALMOST THREE WEEKS AFTER THE INITIAL APPLICATION FOR
 7 SUBSTANTIAL CONFORMANCE HAD BEEN TURNED IN.
 8 A. CORRECT.
 9 Q. WHAT HAPPENED IN THE THREE WEEKS BETWEEN
 10 APRIL 26TH, WHEN THE SUBSTANTIAL CONFORMANCE
 11 APPLICATION WAS TURNED IN, AND MAY 20TH, THREE WEEKS
 12 LATER?
 13 A. I BELIEVE I WAS ATTEMPTING TO SET UP A
 14 MEETING WITH RON WELCH. HE WORKS IN A DIFFERENT
 15 LOCATION THAN I DO.
 16 Q. WHY WAS RON WELCH'S CONTRIBUTION IMPORTANT
 17 TO THE PROCESSING OF THIS APPLICATION FOR
 18 SUBSTANTIAL CONFORMANCE?
 19 A. A SITE PLAN WOULD SERVE TO POTENTIALLY
 20 REMEDY ALL THE CODE VIOLATIONS. MR. WELCH HAD THE
 21 MOST UP-TO-DATE RECORD OF WHAT BUILDINGS WERE OUT OF
 22 CONFORMANCE AND WHERE THEY WERE LOCATED.
 23 Q. DID YOU HAVE ANY PROBLEMS SETTING UP A
 24 MEETING WITH RON WELCH?
 25 A. I BELIEVE WE HAD CONFLICTING SCHEDULES. HE

1 IS BASED OUT THE PERRIS AND MY OFFICE IS IN DOWNTOWN
 2 RIVERSIDE.
 3 Q. DID YOU EVER HAVE A MEETING WITH MR. WELCH?
 4 A. I DID MEET WITH HIM IN HIS PERRIS OFFICE.
 5 Q. DO YOU HOW LONG IT WAS TO SET THIS MEETING
 6 UP?
 7 A. I BELIEVE IT WOULD HAVE BEEN POTENTIALLY A
 8 FEW DAYS LATER IN MAY.
 9 Q. WERE YOU DOING ANYTHING ELSE TO PROCESS THE
 10 APPLICATION AWAITING A MEETING WITH MR. RON WELCH?
 11 A. THE REQUIREMENTS OF THE SUBSTANTIAL
 12 CONFORMANCE APPLICATION REALLY REQUIRED NO OTHER
 13 PROCESSING EXCEPT FOR RELEASING OF DETERMINATION.
 14 Q. THE APPLICATION FOR SUBSTANTIAL CONFORMANCE
 15 REQUIRES NO PROCESS OTHER THAN WHAT?
 16 A. THE FINAL DETERMINATION.
 17 Q. YOU HAD NOTHING TO DO?
 18 A. LOOK AT THE SITE PLAN.
 19 Q. LET'S LOOK AT PAGE 18. UP AT THE TOP THERE
 20 IS WHAT PURPORTS TO BE AN E-MAIL FROM YOU. THIS
 21 E-MAIL, WHICH PURPORTS TO BE WRITTEN BY YOU, SAYS,
 22 "HI, JASON. RON WELCH REVIEWED THE
 23 EXHIBITS AND IS SATISFIED WITH WHAT IS
 24 SHOWN. HE DID MENTION THAT THERE IS A
 25 SHADE STRUCTURE ALONG THE SOUTH OF THE

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1 OFFICE, THAT HE SPOKE TO YOU ABOUT, BUT
 2 THAT HE IS NOT CONSIDERING THAT AS AN
 3 OUTSTANDING ISSUE.
 4 WITH MY REVIEW WITH RON GOLDMAN,
 5 PLANNING WOULD LIKE TO SEE THE PARKING
 6 SHOWN IN CONFORMANCE WITH THE ORIGINAL
 7 PLOT PLAN EXHIBIT, AS PREVIOUSLY
 8 DISCUSSED. PLANNING WOULD ALSO LIKE
 9 YOUR USE MORE SPECIFIC LABELS FOR THE
 10 DIFFERING SHED AND SHADE STRUCTURES
 11 FOR TRANSPARENCY PURPOSES, I.E., OVERNIGHT
 12 KENNEL, DOG RUNS, OR FOOD STORAGE.
 13 PLEASE LET ME KNOW IF YOU HAVE ANY
 14 FURTHER QUESTIONS."
 15 SO YOU ARE WRITING THIS E-MAIL TO
 16 JASON KELLER, SAYING MAKE THE CHANGES, WHICH
 17 ULTIMATELY ENDED UP GETTING SHOWN ON EXHIBIT 5?
 18 A. CORRECT.
 19 Q. THAT E-MAIL IS DATED MAY 20TH. SIX DAYS
 20 LATER HE BROUGHT IN THIS DOCUMENT WITH THE CHANGES
 21 THAT YOU RECOMMENDED?
 22 A. YES.
 23 Q. ONCE THIS PLOT PLAN CAME IN ON MAY 22ND,
 24 WITH CHANGES THAT YOU HAD ASKED FOR -- RON WELCH IS
 25 OKAY WITH IT -- WHAT ELSE NEEDED TO BE DONE?

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1 A. BE A FINAL DECISION ON THE EXHIBIT.
 2 Q. WHO IS SUPPOSED TO MAKE THAT FINAL
 3 DECISION?
 4 A. MR. GOLDMAN.
 5 Q. DID THE FILE, SO TO SPEAK, GO TO
 6 MR. GOLDMAN WITH THE INFORMATION THAT YOUR REQUESTS
 7 HAD BEEN COMPLIED WITH AND THAT RON WELCH WAS OKAY
 8 WITH IT?
 9 A. NO, IT DID NOT.
 10 Q. WHY NOT?
 11 A. I WAS INFORMED IT WENT INTO A NEGATIVE FEE
 12 BALANCE.
 13 Q. WHAT WENT INTO A NEGATIVE FEE BALANCE?
 14 A. THE SUBSTANTIAL CONFORMANCE APPLICATION.
 15 Q. DO YOU HAVE AN E-MAIL HERE WHERE YOU TELL
 16 HIM THAT THE SUBSTANTIAL CONFORMANCE APPLICATION
 17 WENT TO A NEGATIVE BALANCE, IF WE COULD LOOK THROUGH
 18 THIS.
 19 A. NOTHING IN HERE IS STATING TO MR. GOLDMAN
 20 THAT IT MAY HAVE BEEN DONE IN PERSON.
 21 Q. HOW MUCH WAS THE NEGATIVE FEE BALANCE?
 22 A. IN THE LOW HUNDREDS. BUT BECAUSE OF THE
 23 EXISTING LARGE BALANCE ON THE CONDITIONAL USE
 24 PERMIT, NO SORT OF WAIVING FROM OUR RULE OF WORKING
 25 ON NEGATIVE PROJECTS WAS GOING TO BE ALLOWED.

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1 Q. I REMEMBER IN THE LETTER OF TRANSMITTAL
 2 HERE -- NOT THE LETTER OF TRANSMITTAL, PAGE 20 OF
 3 EXHIBIT 7.
 4 A. PAGE 20.
 5 Q. HE SAYS, "JASON KELLER SAYS THAT YOU
 6 CONFIRMED WITH JEFF HORN THAT THE FILING FEE FOR THE
 7 APPLICATION OF SUBSTANTIAL CONFORMANCE WAS \$396.78."
 8 A. THAT'S AN ERROR IN JASON'S LANGUAGE.
 9 THAT'S AN INITIAL DEPOSIT, NOT A FILING FEE.
 10 Q. BUT YOU TOLD JASON THAT THE INITIAL DEPOSIT
 11 FOR THE SUBSTANTIAL CONFORMANCE APPLICATION WAS
 12 \$396.78?
 13 A. CORRECT.
 14 Q. DID YOU TELL HIM THAT THE PLANNING
 15 DEPARTMENT WAS NOT GOING TO PROCESS THIS APPLICATION
 16 FOR SUBSTANTIAL CONFORMANCE UNTIL THE DUETS PAID THE
 17 OTHER BALANCE OF TEN OR ELEVEN THOUSAND DOLLARS ON
 18 THEIR CONDITIONAL USE PERMIT APPLICATION AND ZONE
 19 CHANGE APPLICATION?
 20 A. THAT WAS NEVER TOLD TO JASON.
 21 Q. WHEN WERE THE DUETS TOLD THAT THEIR
 22 APPLICATION FOR SUBSTANTIAL CONFORMANCE WAS NOT
 23 GOING TO THE PLANNING DIRECTOR BECAUSE THEY OWED THE
 24 COUNTY MONEY?
 25 A. I BELIEVE AROUND JUNE 2ND OR 3RD.

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1 MS. SMITH: ARE THERE ANYMORE DOCUMENTS IN
 2 YOUR BOX?
 3 MR. SCHAEFER: THAT'S MY NEXT QUESTION.
 4 Q. I DO SEE THAT YOU GAVE ME A THIN SET OF
 5 DOCUMENTS ON THE APPLICATION FOR SUBSTANTIAL
 6 CONFORMANCE.
 7 (DISCUSSION OFF THE RECORD.)
 8 I THINK WHEN WE LEFT OFF I WAS ASKING YOU,
 9 IS THERE ANY DOCUMENTATION SHOWING THAT THE DUETS
 10 WERE TOLD THAT THE APPLICATION FOR SUBSTANTIAL
 11 CONFORMANCE WAS NOT GOING TO THE DIRECTOR'S OFFICE
 12 FOR APPROVAL BECAUSE THEY WERE OWED MONEY.
 13 DO YOU HAVE ANY DOCUMENTATION OF THAT?
 14 BACK TO THE BOX. WHAT WRITTEN NOTIFICATIONS WERE
 15 GIVEN TO THE DUETS THAT THE PROCESSING OF THEIR
 16 APPLICATION FOR SUBSTANTIAL CONFORMANCE HAD STOPPED
 17 BECAUSE THEY OWED THE COUNTY MONEY.
 18 A. I DON'T HAVE ANYTHING ON RECORD STATING
 19 THAT.
 20 Q. LET'S LOOK AT PAGE 16.
 21 ALL RIGHT. DOWN AT THE BOTTOM OF PAGE 16
 22 IS AN E-MAIL FROM JASON KELLER TO YOU AND
 23 RON GOLDMAN. DO YOU SEE THAT?
 24 A. YES.
 25 Q. IT SAYS: "RON AND JEFF, WHAT IS

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1 THE STATUS OF THE APPROVAL/CONDITIONS
 2 OF APPROVAL FOR P.P. 13992S-2?
 3 WE ARE IN DESPERATE NEED TO APPLY
 4 FOR THE BUILDING PERMITS."
 5 IS P.P. 13992S-2 THIS APPLICATION FOR
 6 SUBSTANTIAL CONFORMANCE?
 7 A. YES, IT IS.
 8 Q. WERE YOU TALKING TO ANYBODY AROUND JUNE 1
 9 ABOUT THE STATUS OF APPROVAL OF THIS APPLICATION FOR
 10 SUBSTANTIAL CONFORMANCE? I SEE THE REPLY UP THERE,
 11 BUT I'M ASKING IF YOU HAD ANY VERBAL CONVERSATIONS
 12 WITH, SAY, JASON KELLER.
 13 A. I CAN'T RECALL ANY SPECIFIC CONVERSATIONS.
 14 Q. THERE IS A REPLY THAT YOU WRITE, IT SAYS:
 15 "HI, JASON. ON P.P. 13992S-2, I
 16 AM WAITING TO RECEIVE SIGN-OFFS
 17 ON THE C.O.A.'S FROM MY SUPERVISOR,
 18 LARRY ROSS. UPON APPROVAL, I WILL
 19 HAVE THE PINKS RELEASED."
 20 DID YOU WRITE THAT?
 21 A. YES.
 22 Q. WHAT ARE C.O.A.'S, AS USED IN THAT MESSAGE?
 23 A. CONDITION OF APPROVAL.
 24 Q. YOUR SUPERVISOR IS LARRY ROSS?
 25 A. CORRECT, MY DIRECT SUPERVISOR.

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1 Q. AND YOU SAY, "UPON APPROVAL I WILL HAVE THE
 2 PINKS RELEASED." WHAT ARE PINKS?
 3 A. PINKS ARE OUR TERM FOR THE APPROVED COPY OF
 4 THE CONDITIONS OF APPROVAL. THEY ARE PRINTED ON
 5 PINK PAPER.
 6 Q. SO AS OF JULY 1ST YOU'RE STILL PROCESSING?
 7 A. CORRECT.
 8 MS. SMITH: YOU SAID JULY 1. DO YOU MEAN
 9 JUNE 1?
 10 Q. (BY MR. SCHAEFER:) AS OF JUNE 1, 2010,
 11 THIS APPLICATION FOR SUBSTANTIAL CONFORMANCE IS
 12 STILL BEING PROCESSED BY YOU?
 13 A. CORRECT.
 14 Q. THEN WE GO DOWN, AND I'M LOOKING AT THE
 15 SECOND PARAGRAPH OF THE E-MAIL TO YOU.
 16 HE SAYS, "I'M SENDING YOU THE REVISED
 17 SITE PLAN FOR C.U.P. 3618.
 18 PER OUR PREVIOUS DISCUSSIONS, WE ARE
 19 MOVING FORWARD WITH THE REVISED C.U.P.
 20 WHICH COVERS THE 2.2 ACRE PROPERTY
 21 ONLY WITH NO IMPROVEMENTS. WE HAVE
 22 MISSED THE JUNE P.C. HEARING, AND
 23 THE JULY 14 HEARING IS COMING UP
 24 QUICK. SO IN THE SPIRIT OF SAVING
 25 TIME, I'M SENDING YOU THE ATTACHED

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1 P.D.F. FILE OF THE SITE PLAN FOR YOUR
 2 REVIEW. THE REVISIONS TO THE SITE PLAN IS
 3 QUITE SIMPLE, SINCE IT REFLECTS THE
 4 SUBSTANTIAL CONFORMANCE EXHIBIT AND
 5 THE REMOVAL OF THE TWO PARCELS TO THE
 6 EAST. WE WOULD APPRECIATE A QUICK LOOK
 7 BEFORE WE PROVIDE HARD COPIES.
 8 MOVING FORWARD TO THE JULY 14TH
 9 HEARING DATE, PLEASE CONFIRM THE
 10 FOLLOWING:
 11 ONE, DOES THIS SITE PLAN NEED
 12 TO BE ROUTED TO EACH OF THE
 13 DEPARTMENTS?
 14 TWO, DOES THE INITIAL STUDY NEED
 15 TO BE REVISED? IF SO, WHAT IS
 16 THE TIMING OF THAT BEING COMPLETED?
 17 NUMBER THREE, WHAT IS THE DECISION ON THE
 18 REQUIREMENT FOR PUBLIC ACCESS?
 19 NUMBER FOUR, WHAT ELSE IS NEEDED FROM
 20 THE APPLICANT ENGINEER TO GET THIS
 21 AND YOU SAY, "ON THE C.U.P., I WILL
 22 DISCUSS THE APPROPRIATE ACTIONS
 23 NEEDED FOR MOVING FORWARD WITH
 24 LARRY AND RON. HOWEVER, REVIEW
 25 OR TRANSMITTING OF AN AMENDED

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1 EXHIBIT, WILL NOT OCCUR UNTIL
 2 THE PROJECT IS IN A POSITIVE
 3 FEE STANDING."
 4 NOW, WHEN YOU MAKE THAT STATEMENT, WHAT DO
 5 YOU MEAN WHEN YOU SAY,
 6 "THE REVIEW OR THE TRANSMITTING
 7 OF AN AMENDED EXHIBIT WILL NOT
 8 OCCUR UNTIL THE PROJECT IS IN
 9 A POSITIVE FEE STANDING."
 10 NOW, WHEN YOU MAKE THAT STATEMENT, WHAT DO
 11 YOU MEAN WHEN YOU SAY "THE REVIEW OR TRANSMITTING OF
 12 AN AMENDED EXHIBIT WILL NOT OCCUR"?
 13 A. WELL, IT ASSUMES A KNOWLEDGE OF THE COUNTY
 14 PROCESSING, KNOWING THAT YOU'RE NOT GOING TO GO TO
 15 HEARING BEFORE YOU GET YOUR EXHIBIT APPROVED -- OR
 16 TRANSMITTED AND APPROVED. THIS IS STATING THAT I
 17 CAN'T EVEN DO THE BEGINNING PROCESSING OF THE NEW
 18 EXHIBIT UNTIL A FEE -- UNTIL THE FEE SAYS IT'S
 19 POSITIVE.
 20 AND THAT ALSO IS KIND OF A -- IT DOESN'T
 21 DIRECTLY ANSWER THE FIRST QUESTION.
 22 MS. SMITH: OKAY.
 23 Q. (BY MR. SCHAEFER:) SO WHAT YOU'RE SAYING
 24 IN THIS E-MAIL IS, I'M WAITING FOR MY BOSS, LARRY
 25 ROSS, TO TELL ME WHAT TO DO WITH THE AMENDMENT FOR

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1 -- OR THE APPLICATION FOR SUBSTANTIAL CONFORMANCE
 2 NO. 2, BUT I'M NOT GOING TO DO ANYTHING ON THIS
 3 CONDITIONAL USE PERMIT UNTIL YOU GET INTO A POSITIVE
 4 FEE STATUS"; RIGHT?
 5 A. CORRECT.
 6 Q. LET'S LOOK AT PAGE 13. THIS ACTUALLY
 7 PREDATES THAT JUNE 1 E-MAIL. YOU WRITE TO JASON,
 8 SAYING,
 9 "I HAVE RECEIVED THE EXHIBITS AND
 10 HAVE THE C.O.A.'S FINISHED AND
 11 PROVIDED TO MY SUPERVISOR,
 12 LARRY ROSS, FOR SIGN-OFF.
 13 I SHOULD BE ABLE TO GET THE FINAL
 14 APPROVAL PACKAGE COMPLETED FIRST
 15 THING NEXT WEEK."
 16 THAT WAS AFTER THE MEMORIAL DAY HOLIDAY.
 17 SO AS FAR AS YOU THOUGHT, AS OF MAY 27, EVERYTHING
 18 IS A GO ON THE SUBSTANTIAL CONFORMANCE APPLICATION;
 19 IS THAT RIGHT?
 20 A. IN TERMS OF MY PROCESSING OF CONDITIONS,
 21 YES.
 22 Q. LET'S LOOK AT PAGE 9.
 23 A. OKAY.
 24 Q. THE OLDEST E-MAIL MESSAGE ON PAGE 9 IS
 25 JUNE 10, 2010, TO YOU FROM JASON KELLER. THIS IS

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1 TEN DAYS AFTER YOU'VE WRITTEN TO JASON SAYING THAT
 2 THE PACKAGE IS ON LARRY ROSS'S DESK. JASON IS
 3 SAYING TO YOU, "DID YOU GET CONDITIONS REVISED FOR
 4 THE AGRICULTURAL PERMITS ON THE S.C. CASE. ANY WORD
 5 FROM RON ON THE NUMBER OF DOGS IN THE PUBLIC ACCESS
 6 ISSUE?"
 7 LET'S TAKE THE FIRST SENTENCE. WHAT IS HE
 8 TALKING ABOUT IN TERMS OF AGRICULTURAL PERMITS FOR
 9 THE S.C. CASE?
 10 A. JASON REQUESTED THAT I CHANGE THE PRODUCT
 11 DESCRIPTION THAT I HAD WRITTEN. HE IS UNDER THE
 12 HOPES THAT IF I USE LANGUAGE TO DESCRIBE THE
 13 STRUCTURES TO BE APPROVED IN A CERTAIN WAY THAT HE
 14 COULD POTENTIALLY GET THEM PERMITTED THROUGH AN
 15 AG PERMIT, NOT THROUGH A BUILDING PERMIT, THE
 16 INTENTION BEING THE AGRICULTURAL USE PERMITS ARE
 17 MUCH EASIER TO PROCESS AND LESS EXPENSIVE THAN
 18 HAVING TO APPLY FOR BUILDING PERMITS.
 19 Q. SO AS OF JUNE 10, JASON IS ASKING YOU TO
 20 MAKE THESE CHANGES.
 21 A. CORRECT.
 22 Q. AND WHAT IS THE STATUS OF THE APPROVAL OF
 23 THE APPLICATION FOR SUBSTANTIAL CONFORMANCE, AT THIS
 24 POINT IN TIME?
 25 A. AT A STANDSTILL, BECAUSE JASON HAD

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1 EXPRESSED THAT HE DIDN'T WANT US TO USE THE LANGUAGE
 2 THAT WAS IN THE ORIGINAL PRODUCT DESCRIPTION I HAD
 3 DRAFTED. HE WANTED TO MOVE FORWARD WITH TRYING TO
 4 REVISE IT TO USE THIS AGRICULTURAL LANGUAGE, WHICH
 5 PLANNING DID NOT THINK WOULD BE THE APPROPRIATE
 6 LANGUAGE.
 7 Q. WHEN DID THAT FIRST COME ON?
 8 A. THIS AGRICULTURAL CONCERN?
 9 Q. YES.
 10 A. WHEN JASON WAS INVESTIGATING HOW TO PROCESS
 11 BUILDING PERMITS ON OUR SECOND FLOOR AND SOMEONE
 12 MENTIONED TO HIM AT THE FRONT COUNTER THAT THESE
 13 AGRICULTURAL PERMITS WERE A POTENTIAL OPTION TO MORE
 14 COST-EFFECTIVELY PROCESS THE LEGALIZATION OF THE
 15 STRUCTURES.
 16 Q. LET'S LOOK AT THE SECOND SENTENCE,
 17 "ANY WORD FROM RON ON THE NUMBER OF
 18 DOGS AND THE PUBLIC ACCESS ISSUE?"
 19 WHAT IS THAT ALL ABOUT?
 20 A. THESE TWO SENTENCES AREN'T REALLY RELATED.
 21 THE SECOND SENTENCE IS IN REGARDS TO THE FUTURE
 22 PROCESSING OF THE CONDITIONAL USE APPLICATION. AT
 23 THIS POINT THE DUETS, I BELIEVE, WERE PURSUING
 24 HAVING THE C.U.P. EXIST, ONLY USING THE EXISTING
 25 FACILITIES, THE EXISTING TWO ACRES THAT THEY OWN, NO

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1 LONGER PURSUING EXPANSION ONTO THE EASTERLY ACRES.
 2 ALSO THEY WERE NUMBER-CRUNCHING, IS IT
 3 VIABLE? ARE THERE ANY COSTS IN HAVING THE LIMITED
 4 NUMBER OF DOGS?
 5 BUT TWO ISSUES, IF WHETHER THERE WILL BE A
 6 CHANGE OF DOGS AND WILL PUBLIC ACCESS BE REQUIRED,
 7 AT THIS POINT WE HAVE NO PROOF OF PUBLIC DEDICATED
 8 ACCESS. THERE ARE JUST EASEMENTS TO THE PROPERTY
 9 FOR THE OWNERS.
 10 Q. ISN'T WHAT WAS GOING ON, THOUGH, WAS THAT
 11 THE DUETS WERE PURSUING THEIR APPLICATION FOR THE
 12 CONDITIONAL USE PERMIT?
 13 A. CORRECT.
 14 Q. AND THE DUETS WERE AWARE THAT THERE WAS
 15 PUBLIC OPPOSITION TO THEIR PROPOSAL BASED ON
 16 INTENSITY OF USE, THAT IS, NUMBER OF DOGS.
 17 A. CORRECT.
 18 Q. THE DUETS WERE ASKING THE PLANNING
 19 DEPARTMENT HOW MANY DOGS THE PLANNING DEPARTMENT
 20 WERE PREPARED TO RECOMMEND AS A CEILING FOR THEIR
 21 PROPERTY.
 22 A. CORRECT.
 23 Q. IT WAS IMPORTANT FOR THE DUETS TO KNOW HOW
 24 MANY DOGS THE PLANNING DEPARTMENT WAS WILLING TO
 25 RECOMMEND AS A CEILING ON THE PROPERTY.

1 A. YES.
 2 Q. THAT'S BECAUSE THE DUETS DIDN'T WANT TO
 3 SPEND ADDITIONAL PROCESSING MONEY IF THEY WERE GOING
 4 TO END UP WITH A CONDITIONAL USE PERMIT THAT WAS NOT
 5 GOING TO WORK FOR THEM; TRUE STATEMENT?
 6 MS. SMITH: IF YOU KNOW.
 7 THE DEPONENT: THAT'S AN ASSUMPTION I MADE,
 8 KNOWING HOW -- TALKING TO APPLICANTS AND KNOWING
 9 WHAT YOU LOOK AT WHEN YOU'RE PURSUING THE COST OF AN
 10 APPLICATION.
 11 Q. (BY MR. SCHAEFER:) SO JASON IS ASKING YOU,
 12 HAVE YOU ESSENTIALLY HEARD ANYTHING FROM RON GOLDMAN
 13 ABOUT THE MAXIMUM NUMBER OF DOGS HE IS PERMITTED TO
 14 RECOMMEND AS A LAND USE LIMITATION ON THIS PROPERTY?
 15 A. CORRECT.
 16 Q. AND THE ANSWER WAS 50 DOGS?
 17 A. YES.
 18 Q. SO THE DUETS ARE ALSO CONCERNED ABOUT THIS
 19 PUBLIC ACCESS ISSUE. THE PUBLIC ACCESS ISSUE
 20 MEANING THAT THERE IS A NOT A PUBLICLY DEDICATED
 21 ROAD TO THEIR PROPERTY?
 22 A. CORRECT.
 23 Q. AND THERE HAD BEEN SOME TALK ABOUT THE IDEA
 24 THAT PLANNING WAS NOT SATISFIED WITH ACCESS OVER A
 25 PRIVATE EASEMENT?

1 A. WE WERE DEFERRING TO TRANSPORTATION, AND
 2 THEY WERE NOT HAPPY WITH THAT.
 3 Q. JASON IS ASKING: IS THERE ANY NEWS ON
 4 WHETHER OR NOT TRANSPORTATION WILL ALLOW
 5 TRANSPORTATION OVER THE PRIVATE EASEMENT?
 6 A. CORRECT.
 7 Q. WHAT WAS THE ANSWER TO JASON'S QUESTION AT
 8 THIS TIME ON JUNE 10TH?
 9 A. TRANSPORTATION SAYS COME BACK WHEN THEY'VE
 10 PAID.
 11 Q. I SEE THERE'S A REPLY E-MAIL ABOUT WHETHER
 12 OR NOT YOU ARE WILLING TO REVISE SUBSTANTIAL
 13 CONFORMANCE TO ALLOW THESE BUILDINGS TO BE
 14 DESIGNATED AGRICULTURAL BUILDINGS FOR BUILDING
 15 PERMIT PURPOSES?
 16 A. CORRECT.
 17 Q. AND YOUR ANSWER IN A WORD IS "NO, I'M NOT
 18 GOING TO MAKE THE CHANGE YOU WANT."
 19 A. CORRECT.
 20 Q. THAT WAS YOUR DECISION -- OR SOMEBODY'S
 21 DECISION?
 22 A. THAT WAS THE DEPARTMENT'S DECISION.
 23 Q. AFTER THE DEPARTMENT DECIDED ON JUNE THE
 24 10TH THAT IT WAS NOT GOING TO MAKE THIS CHANGE, WHAT
 25 HAPPENED WITH THE PROCESSING ON JUNE 10TH AFTER THAT

1 DECISION WAS MADE? DID THE PERMIT FOR SUBSTANTIAL
 2 CONFORMANCE GET GRANTED?
 3 A. NO, IT DID NOT.
 4 Q. DID IT GET DENIED?
 5 A. NOT AT THIS POINT.
 6 Q. WHAT WAS THE HOLD UP AT THIS POINT?
 7 A. THE DAY I SPENT WITH JASON PURSUING THE
 8 POTENTIAL AGRICULTURAL PERMIT MAY HAVE BEEN THE DAY
 9 I THINK THE CASE GOT RUN NEGATIVE, NOW THAT I THINK
 10 ABOUT IT.
 11 FROM THIS POINT I WAS ABLE TO FINISH WORK
 12 ON IT, BUT I BELIEVE AFTER THAT DATE, WHICH IS A FEW
 13 DAYS BEFORE THE 10TH, THAT THE COSTS INCURRED DURING
 14 THOSE MEETINGS MAY HAVE PUSHED THE PRODUCT INTO A
 15 NEGATIVE BALANCE.
 16 Q. DID THE WORK ON THE PROCESSING OF THE
 17 APPLICATION FOR SUBSTANTIAL CONFORMANCE STOP BECAUSE
 18 ITS FUND BALANCE WAS NEGATIVE, OR BECAUSE THE FUND
 19 BALANCE ON THE CONDITIONAL USE PERMIT APPLICATION
 20 AND THE ZONE CHANGE APPLICATION WAS NEGATIVE?
 21 A. BECAUSE IT WAS NEGATIVE.
 22 Q. JUST BECAUSE --
 23 A. SUBSTANTIAL CONFORMANCE, YES.
 24 Q. PLANNING WAS WILLING TO PROCESS THE
 25 APPLICANT FOR SUBSTANTIAL CONFORMANCE AS LONG AS ITS

1 LITTLE FUND BALANCE WAS CORRECT?
 2 A. CORRECT. THESE WERE NOT TIED TOGETHER.
 3 THEY STAYED INDEPENDENT PROJECTS WITH FEE --
 4 INDEPENDENT COFFERS.
 5 Q. YOU TOLD JASON THAT THIS ACCOUNT WAS A FEW
 6 HUNDRED DOLLARS NEGATIVE; RIGHT?
 7 A. I DON'T HAVE PROOF.
 8 MS. SMITH: HE JUST ASKED IF YOU TOLD JASON
 9 OF ANY WAIVER OR DOCUMENTS.
 10 A. I DON'T RECOLLECT. I CAN'T REMEMBER IF
 11 THAT WAS CONVEYED TO HIM.
 12 Q. DO YOU KNOW IF ANYONE TOLD JASON THAT THIS
 13 WORK FOR THE SUBSTANTIAL CONFORMANCE, WHICH WAS
 14 NECESSARY FOR PERMITS, WHICH JASON SAID THEY WERE IN
 15 DESPERATE NEED OF HAD STOPPED FOR A FEW HUNDRED
 16 DOLLARS? DID ANYBODY TELL HIM THAT, TO YOUR
 17 KNOWLEDGE?
 18 MS. SMITH: OBJECTION. THAT MISSTATES THE
 19 FACTS IN EVIDENCE. THE DESPERATE NEED OF E-MAIL WAS
 20 NOT ON THE 10TH; IT WAS TWO WEEKS BEFORE.
 21 MR. SCHAEFER: RIGHT.
 22 Q. AS OF THE TIME THIS PROJECT WENT INTO
 23 NEGATIVE A FEW HUNDRED DOLLARS, WE KNOW THAT THE
 24 DUETS WERE IN DESPERATE NEED OF THIS PERMIT. MY
 25 QUESTION IS: TO YOUR KNOWLEDGE, DID ANYBODY TELL

1 THE DUETS THAT WHAT WAS HOLDING UP THE ACTION ON
 2 THESE PERMITS THAT THEY DESPERATELY NEEDED WAS A
 3 COUPLE HUNDRED DOLLARS WORTH OF FEES?
 4 MS. SMITH: THAT MISSTATES THE FACTS IN
 5 EVIDENCE. OBJECTION. MISSTATES THE EVIDENCE. IF
 6 YOU KNOW, YOU CAN ANSWER THAT.
 7 THE DEPONENT: I DON'T KNOW.
 8 Q. (BY MR. SCHAEFER:) LET'S LOOK AT PAGE 5.
 9 PAGE 5 HAS AN E-MAIL TO YOU FROM JASON DATED
 10 JUNE 22ND, 2010. THE SECOND PARAGRAPH, SAYS:
 11 "REGARDING THE C.U.P. YOU INDICATED
 12 IN A PRIOR E-MAIL 50 DOGS WOULD BE
 13 SUPPORTED.
 14 WE NEED A BIT MORE ASSURANCE FROM
 15 PLANNING ON THAT ISSUE. DID THIS
 16 COME FROM RON GOLDMAN? IF SO,
 17 CAN WE GET A STATEMENT IN WRITING
 18 TO THAT EFFECT SO WE HAVE SOMETHING
 19 A BIT MORE CONCRETE BEFORE WE MOVE
 20 FORWARD?
 21 ALSO, WHAT IS THE DECISION ON HOW
 22 PUBLIC ACCESS WILL BE CONDITIONED
 23 ON THE C.U.P.? WILL THE C.U.P.
 24 BE CONDITIONED TO PROVIDE THE PUBLIC
 25 RIGHT-OF-WAY POST-APPROVAL OF THE

1 C.U.P.?"
 2 AND YOU WRITE BACK, "THAT NUMBER
 3 DID COME DIRECTLY FROM MR. GOLDMAN.
 4 I WILL WORK TO SEE WHAT I CAN
 5 PROVIDE TO YOUR (SIC) IN WRITING TO
 6 THAT AND ADDITIONAL CONCERNS."
 7 DID YOU SAY THAT IN AN E-MAIL?
 8 A. YES.
 9 Q. WHAT DID YOU DO TO TRY DO GET SOMETHING IN
 10 WRITING?
 11 A. ASKED RON TO PROVIDE ME SOMETHING IN
 12 WRITING.
 13 Q. WHAT DID HE DO?
 14 A. HE DID NOT PROVIDE SOMETHING IN WRITING.
 15 Q. DIDN'T HE EVER TELL YOU ANY REASON WHY HE
 16 DID NOT PROVIDE ANYTHING IN WRITING?
 17 A. NO.
 18 Q. DID YOU ASK HIM?
 19 A. NO.
 20 Q. NOW, LOOK AT THIS EXHIBIT 8.
 21 (DISCUSSION OFF THE RECORD.)
 22 CAN YOU TELL ME, IN GENERAL, WHAT'S EXHIBIT
 23 8 IS?
 24 A. THIS IS THE INITIAL STUDY PREPARED FOR THE
 25 PROPOSE AS OF THE CONFIGURATION IN JANUARY AND MARCH

1 COPIES.
 2 Q. DID YOU PREPARE THIS INITIAL STUDY?
 3 A. YES.
 4 Q. HOW DO YOU GO ABOUT PREPARING AN INITIAL
 5 STUDY?
 6 A. DOING -- READING ANY STUDIES THAT WERE
 7 PROVIDED BY THE APPLICANT TO THE DIFFERENT
 8 DEPARTMENTS. READING ANY LANGUAGE CREATED BY OUR
 9 LAND USE DEVELOPMENT COMMITTEE, USING THEIR
 10 CONDITIONS OF APPROVAL TO SERVICE MITIGATION, AND
 11 THEN DO ANY SORT OF RESEARCH THROUGH THE COUNTY
 12 GENERAL PLAN. WE HAVE SEVERAL DIFFERENT LAYERS THAT
 13 HELP US KNOW QUICKLY WHAT KIND OF ENVIRONMENTAL
 14 IMPACTS MAY BE WITHIN THAT AREA.
 15 Q. WHAT IS THE PURPOSE OF AN INITIAL STUDY?
 16 A. TO PROVIDE NOTIFICATION TO THE PUBLIC OF
 17 ANY ENVIRONMENTAL IMPACTS THAT THE PROJECT MAY
 18 IMPOSE.
 19 Q. IN DOING AN INITIAL STUDY, DO YOU EVALUATE
 20 THE POTENTIAL IMPACTS THAT A PROJECT MAY HAVE ON ITS
 21 SURROUNDING PROPERTIES?
 22 A. YES. SOME OF THE QUESTIONS THAT S.E.Q.U.A.
 23 ASKS DO PERTAIN TO THE LAND AND SENSITIVE RECEPTORS
 24 IN THE PROJECT.
 25 Q. YOU LOOK AT THINGS LIKE HOW MUCH NOISE THE

1 PROJECT IS GOING TO CREATE?
 2 A. CORRECT.
 3 Q. AND YOU LOOK AT HOW MUCH TRAFFIC THE
 4 PROJECT WILL CREATE?
 5 A. CORRECT.
 6 Q. AND YOU ARRIVE AT A CONCLUSION AS TO
 7 WHETHER OR NOT THE NOISE AND THE TRAFFIC, AMONG
 8 OTHER THINGS, WILL BE SIGNIFICANT?
 9 A. CORRECT.
 10 Q. AND THEN YOU LOOK AT STEPS THAT ARE GOING
 11 TO BE TAKEN TO MITIGATE OR LESSEN VARIOUS IMPACTS?
 12 A. CORRECT.
 13 Q. AND THEN YOU ARRIVE AT CONCLUSIONS?
 14 A. YES.
 15 Q. AS PART OF THIS INITIAL STUDY, YOU LOOK AT
 16 THE ISSUE OF NOISE?
 17 A. YES.
 18 Q. I'M LOOKING AT PAGE 28 OF 39 AND I SEE
 19 THERE IS A LITTLE SECTION ON OTHER NOISE. A NOISE
 20 ANALYSIS STARTS ON PAGE 26 OF 39, DOESN'T IT?
 21 A. YES.
 22 Q. FIRST THING YOU HAVE TO EVALUATE IS THE
 23 SUBJECT OF AIRPORT NOISE.
 24 A. RIGHT.
 25 Q. THEN YOU EVALUATE RAILROAD NOISE.

1 A. CORRECT.
 2 Q. THEN YOU EVALUATE HIGHWAY NOISE.
 3 A. YES.
 4 Q. THEN YOU EVALUATE OTHER NOISE?
 5 A. YES.
 6 Q. WHAT DID YOU DO IN PREPARING THIS REPORT TO
 7 ASCERTAIN THE AMOUNT OF NOISE THAT INCREASE OF DOGS
 8 UP TO, I THINK YOU SAID, 70 COULD CREATE?
 9 A. I DIDN'T POTENTIALLY -- DIDN'T REALLY
 10 ASSESS THE -- NO NOISE STUDY WAS SUBMITTED FOR THIS
 11 PROJECT. SO THERE WERE NO QUANTIFIABLE NUMBERS IN
 12 THE ANALYSIS.
 13 IT'S MORE OF A GENERAL VIEW OF WHAT AN
 14 EXISTING KENNEL MAKING NOISE WOULD CREATE. THE
 15 MITIGATION IS MORE OR LESS FOR HOW A CONDITION IS --
 16 HOW A KENNEL IS CONDITIONED, I BELIEVE, PER ANIMAL
 17 SERVICES REQUIREMENTS. WE KIND OF CODIFY THEM INTO
 18 OUR CONDITIONS OF APPROVAL.
 19 Q. YOUR CONCLUSION, 32-A, YOU WERE ASKED THE
 20 QUESTION: WILL THERE BE A SUBSTANTIAL PERMANENT
 21 INCREASE IN AMBIENT NOISE LEVELS IN THE PROJECT
 22 VICINITY ABOVE LEVELS EXISTING WITHOUT THE PROJECT?
 23 YOU'RE SUPPOSED TO ANSWER THAT QUESTION;
 24 RIGHT?
 25 A. UH-HUH.

1 Q. AND YOUR ANSWER WAS: THERE WILL BE LESS
 2 THAN SIGNIFICANT IMPACT WITH MITIGATION.
 3 A. CORRECT.
 4 Q. YOU WERE ALSO ASKED WHETHER OR NOT PERSONS
 5 WOULD BE SUBJECT TO THE GENERATION OF NOISE LEVELS
 6 IN EXCESS OF STANDARDS ESTABLISHED IN THE LOCAL
 7 GENERAL PLAN OR NOISE ORDINANCE OR APPLICABLE
 8 STANDARDS OF OTHER AGENCIES. AND YOUR CONCLUSION
 9 WAS "LESS THAN SIGNIFICANT IMPACT."
 10 A. CORRECT.
 11 Q. GO TO PAGE 33.
 12 A. OKAY.
 13 Q. WERE YOU CALLED UPON TO EVALUATE THE IMPACT
 14 THAT THIS PROJECT WOULD HAVE ON TRAFFIC?
 15 A. YES.
 16 Q. WHAT DID YOU DO TO TRY TO EVALUATE THE
 17 IMPACT THAT THIS PROJECT WOULD HAVE ON TRAFFIC?
 18 A. TRAFFIC, TYPICALLY I WOULD DEFER IMPACT
 19 DETERMINATIONS TO THE TRANSPORTATION DEPARTMENT, WHO
 20 DID NOT REQUIRE A TRAFFIC STUDY FOR THIS PROJECT OR
 21 AT THE TIME OF WRITING THIS DOCUMENT, ANY
 22 IMPROVEMENTS.
 23 Q. YOUR FINDING OF FACT "C" IS:
 24 "DUE TO THE SIZE OF THE PROJECT,
 25 THE PROPOSED PROJECT WILL NOT

1 EXCEED LEVELS OF SERVICE
 2 STANDARDS ESTABLISHED BY THE
 3 COUNTY CONGESTION MANAGEMENT
 4 AGENCY FOR DESIGNATED ROAD OR
 5 HIGHWAYS; THEREFORE, THERE IS
 6 NO IMPACT."
 7 WAS THAT YOUR CONCLUSION?
 8 A. YES.
 9 Q. NOW I'M GOING BACK TO EXHIBIT 6, THE
 10 APPLICATION FOR SUBSTANTIAL CONFORMANCE. I'M ON
 11 PAGE 10, 11. THIS IS THE REJECTION LETTER.
 12 DO YOU RECOGNIZE THIS AS A LETTER DATED
 13 AUGUST 11, 2010, SIGNED BY CAROLYN SYMS LUNA,
 14 DENYING THIS APPLICATION FOR SUBSTANTIAL
 15 CONFORMANCE?
 16 A. YES.
 17 Q. I THINK WHEN WE LEFT OFF ON OUR CHRONOLOGY
 18 HERE IN THE MIDDLE OF JUNE, THIS APPLICATION WAS NOT
 19 BEING PROCESSED FOR WANT OF A COUPLE HUNDRED DOLLARS
 20 IN FEES.
 21 WHAT CHANGED TO CAUSE THIS PROJECT TO BE
 22 PROCESSED THROUGH TO REJECTION? ANYBODY PAY ANY
 23 FEES?
 24 A. NO.
 25 Q. SO WHAT CHANGED TO ALLOW -- WHY WAS THIS

1 PROJECT, ALL OF A SUDDEN, GOING FROM A SUSPENDED
 2 STATUS BECAUSE OF LACK OF FEES TO PROCESSED AND
 3 REJECTED, NOTWITHSTANDING THE LACK OF FEES?
 4 A. I DO NOT KNOW.
 5 Q. DO YOU HAVE ANY INFORMATION AT ALL ON THAT
 6 SUBJECT?
 7 A. I DO NOT KNOW. I ONLY REVIEWED THIS FOR
 8 CONSISTENCY OF THE PRODUCT DESCRIPTION. THAT'S THE
 9 ONLY TIME I REALLY SAW THIS DOCUMENT.
 10 Q. WHAT DO YOU MEAN BY THAT?
 11 A. MAKING SURE WHAT THEY WERE PROPOSING WAS
 12 CORRECT, AND I ACTUALLY MODIFIED SOME OF THIS
 13 LANGUAGE.
 14 Q. WHAT LANGUAGE DID YOU MODIFY?
 15 A. PARAGRAPH 3.
 16 Q. THE THIRD COMPLETE PARAGRAPH?
 17 A. YES. I CLARIFIED THAT WHAT WAS SHOWN ON
 18 THE EXHIBIT MODIFIED THE APPROVED PLOT PLAN
 19 NO. 139925 BY REMOVING TEN EXTERNAL DOG RUNS FROM
 20 THE NORTH SIDE OF THE EXISTING SINGLE-STORY METAL
 21 BUILDING TO HELP REDUCE POTENTIAL NOISE IMPACTS.
 22 THE WAY IT WAS ORIGINALLY DRAFTED DIDN'T
 23 DESCRIBE WHY THOSE WERE BEING REMOVED. THAT WAS THE
 24 ONLY MODIFICATIONS.
 25 Q. NOW, IN YOUR PROCESSING OF THIS

1 APPLICATION, IN TERMS OF WHAT YOU DID, DID YOU EVER
 2 COME TO THE CONCLUSIONS THAT ARE SET FORTH ON
 3 PAGE 2, YOU PERSONALLY?
 4 MS. SMITH: DO YOU HAVE AN OPINION THAT
 5 AGREES WITH THAT? I THINK THAT'S WHAT HE'S ASKING.
 6 THE DEPONENT: YES.
 7 MS. SMITH: IF YOU HAVE AN OPINION. DO YOU
 8 WANT TO TALK TO ME OUTSIDE?
 9 THE DEPONENT: KIND OF, YEAH.
 10 (DISCUSSION OFF THE RECORD.)
 11 MS. SMITH: ON THE RECORD.
 12 I ACTUALLY ASKED HIM TO EXPRESS THE CONCERN
 13 HE EXPRESSED TO ME.
 14 MR. SCHAEFER: OKAY.
 15 MS. SMITH: TELL ME YOUR CONCERN.
 16 THE DEPONENT: MY CONCERN WAS, YOU ASKED MY
 17 PERSONAL OPINION. AND ME AS A STAFF PLANNER, I
 18 DON'T -- PERSONAL OPINIONS DON'T GET INTO MY WORK
 19 ALL THAT MUCH. FACTS COME AT THE DIRECTIVE OF MY
 20 SUPERVISOR. EVEN WHEN I DO CONDUCT IT, IT'S
 21 MODIFIED.
 22 Q. (BY MR. SCHAEFER:) IN THE COURSE OF YOUR
 23 PROFESSIONAL WORK ON THIS CASE, DID YOU EVER
 24 RECOMMEND DENIAL OF THIS SUBSTANTIAL CONFORMANCE?
 25 A. NO, I NEVER RECOMMENDED DENIAL.

1 MS. SMITH: CAN HE ADD TO HIS ANSWER?
 2 MR. SCHAEFER: OF COURSE.
 3 A. ON THE LINES OF SHOWING IN -- SOME OF MY
 4 E-MAILS HAD ALREADY BEEN PREPARED.
 5 Q. YOU HAD PREPARED CONDITIONS OF APPROVAL.
 6 SO YOU WERE OKAY WITH IT PROFESSIONALLY?
 7 A. PROFESSIONALLY AND PER DIRECTIVE AS WELL, I
 8 WOULD SAY.
 9 Q. NOW, MY NEXT QUESTION. THE TOP PARAGRAPH
 10 ON THE SECOND PAGE SAYS:
 11 "THE ADDITIONAL 23 RUNS AND
 12 STRUCTURES SUBSTANTIALLY CHANGES
 13 THE ORIGINAL APPROVAL AND WOULD
 14 HAVE AN ADVERSE EFFECT ON PUBLIC
 15 HEALTH SAFETY WELFARE AND THE
 16 ENVIRONMENT INCLUDING THE
 17 SURROUNDING PROPERTIES.
 18 THE ADVERSE EFFECTS INCLUDE
 19 BUT ARE NOT LIMITED TO ADDITIONAL
 20 TRAFFIC AND NOISE GENERATED
 21 FROM THE ADDITIONAL 23 DOG RUNS
 22 AND STRUCTURES"; RIGHT?
 23 A. YES.
 24 Q. IN YOUR WORK ON THIS CASE -- I MEAN ON THIS
 25 ENTIRE PROCESS -- ZONE CHANGE, CONDITIONAL USE

1 PERMIT, APPLICATION FOR SUBSTANTIAL CONFORMANCE,
 2 HAVE YOU, IN YOUR PROFESSIONAL CAPACITY, IDENTIFIED
 3 ANY ADVERSE EFFECT ON PUBLIC HEALTH, SAFETY WELFARE,
 4 ENVIRONMENT CAUSED BY THE TUFF SHEDS, APART FROM
 5 EVERYTHING ELSE?
 6 MS. SMITH: OBJECTION AS TO "CAUSED BY THE
 7 TUFF SHEDS." VAGUE. GO AHEAD.
 8 THE DEPONENT: NO SUCH REVIEW WAS DONE
 9 THROUGH THE SUBSTANTIAL CONFORMANCE APPLICATION.
 10 ANY OF THE ENVIRONMENTAL REVIEW DONE ON THAT C.U.P.
 11 WAS DONE ON A DIFFERENT PROPOSAL WHERE THE DOGS WERE
 12 TO BE LOCATED IN DIFFERENT BUILDINGS MUCH FURTHER TO
 13 THE EAST, FURTHER AWAY FROM THE RESIDENCE AND PEOPLE
 14 THAT IT WOULD HAVE IMPACTS ON.
 15 Q. I'M TRYING TO IDENTIFY THE STAFF WORK THAT
 16 WAS DONE TO SUPPORT A CONCLUSION THAT THE TUFF SHEDS
 17 HAVE A DETRIMENTAL EFFECT ON THE SURROUNDING
 18 PROPERTIES.
 19 CAN YOU IDENTIFY FOR ME ANY STAFF WORK
 20 FOCUSED ON THE DETRIMENTAL EFFECT OF THE TUFF
 21 SHADES.
 22 MS. SMITH: OBJECTION. VAGUE AS TO --
 23 LOCATION -- OR CONSTRUCTION OF IT?
 24 MR. SCHAEFER: ANY OF THE TUFF SHEDS.
 25 MS. SMITH: INCLUDING LOCATION?

1 MR. SCHAEFER: UH-HUH.
 2 A. THE COMMON SENSE APPROACH OR INTERPRETATION
 3 WAS IF THESE STRUCTURES ARE HERE, THERE IS POTENTIAL
 4 THAT ADDITIONAL DOGS WOULD BE STORED WITHIN THESE
 5 TUFF SHEDS BEYOND THE SCOPE OF WHAT THE CURRENT PLOT
 6 PLAN IS ALLOWING. AND AGAIN, SUBSTANTIAL
 7 CONFORMANCE AT NO TIME WAS GOING TO ALLOW ANY
 8 ADDITIONAL DOGS TO BE ON THE PROPERTY.
 9 Q. SO THE PROBLEM THAT, AT LEAST YOU THOUGHT,
 10 WAS NOT THAT THE TUFF SHEDS WERE THE PROBLEM. IT'S
 11 THE USE TO WHICH THE TUFF SHEDS MIGHT BE PUT?
 12 A. CORRECT.
 13 Q. WHAT ABOUT THE SHADE STRUCTURES. WHAT WORK
 14 WAS DONE TO IDENTIFY ADVERSE EFFECTS TO ADJOINING
 15 PROPERTY CAUSED BY THE SHADE STRUCTURES?
 16 A. WOULD BE THE SAME INTERPRETATION THAT WOULD
 17 ALLOW FOR OUTDOOR STORAGE OF ADDITIONAL DOGS,
 18 POTENTIALLY.
 19 Q. IN OTHER WORDS, THE SHADE STRUCTURES
 20 THEMSELVES DON'T CAUSE ANY DETRIMENTAL EFFECT. IT'S
 21 THE POSSIBILITY THAT THEY MIGHT BE USED AS PART OF
 22 HOUSING ADDITIONAL DOLLARS?
 23 A. THE SHADE STRUCTURES HAVE A POTENTIAL FOR
 24 BEING DETRIMENTAL.
 25 Q. HOW SO?

1 A. THEY WERE BUILT WITHOUT BUILDING PERMITS.
 2 WE DON'T HAVE ANY PROOF OF THE STRUCTURAL INTEGRITY
 3 ON THESE STRUCTURES, WHETHER THEY'RE BUILT FOR ANY
 4 FIRE STANDARDS.
 5 Q. ISN'T IT TRUE THAT THE STRUCTURAL INTEGRITY
 6 OF EXISTING NONCONFORMING USES IS NOT A PLANNING
 7 ISSUE BUT A BUILDING AND SAFETY ISSUE AND WHICH IS
 8 ADDRESSED AT THE PERMIT STAGE?
 9 A. MATERIAL TYPES, I WOULD SAY, WOULD BE A
 10 BUILDING PERMIT STAGE, BUT LOCATION AND THINGS OF
 11 THAT NATURE ARE ALL LOOKED AT BY BUILDING AND SAFETY
 12 AND FIRE DURING THE PLANNING PROCESS.
 13 Q. WHAT REFERENCES WERE MADE OF THE AMENDMENT
 14 TO THE -- I MEAN, THE PROPOSED SUBSTANTIAL
 15 CONFORMANCE TO FIRE? DID YOU SEND THIS OVER TO FIRE
 16 FOR REVIEW?
 17 A. NO, I DID NOT.
 18 Q. DID YOU SEND IT OVER TO BUILDING AND SAFETY
 19 FOR REVIEW?
 20 A. NO.
 21 Q. YOU TESTIFIED EARLIER THAT THIS REQUEST FOR
 22 SUBSTANTIAL CONFORMANCE DID NOT ASK FOR AN INCREASE
 23 IN THE NUMBER OF DOGS PERMITTED BY LAND USE ON THE
 24 PROPERTY. DO YOU REMEMBER THAT?
 25 A. YES.

1 Q. IS IT POSSIBLE THAT THE STRUCTURES, THE
 2 TUFF SHEDS AND THE SHADE STRUCTURES, COULD BE USED
 3 FOR PURPOSES ASSOCIATED WITH THE LEGAL USE OF THE
 4 NUMBER OF DOGS PERMITTED ON THE PROPERTY?
 5 A. PER THE APPROVED . . .
 6 Q. PER THE APPROVED PLOT PLAN.
 7 A. THAT WOULD BE ALLOWED FOR WHAT, THE USES
 8 STATED ON THE SITE PLAN?
 9 Q. CORRECT. IS THAT A POSSIBILITY?
 10 A. YES, THAT IS.
 11 Q. HOW IS THAT POSSIBILITY TAKEN INTO ACCOUNT
 12 BY YOU IN YOUR ANALYSIS OF THIS APPLICATION FOR
 13 SUBSTANTIAL CONFORMANCE?
 14 A. I PREVIOUSLY HAD WRITTEN CONDITIONS FOR
 15 APPROVAL.
 16 Q. IN FACT, WHEN YOU WERE REVIEWING THIS AT
 17 YOUR LEVEL, YOU PRETTY MUCH BELIEVED THAT THE TUFF
 18 SHEDS AND THE SHADE STRUCTURES WOULD BE USED IN
 19 CONNECTION WITH THE PERMITTED NUMBER OF DOGS; IS
 20 THAT A TRUE STATEMENT?
 21 A. YES.
 22 Q. IT WAS SOMEBODY ELSE HIGHER UP THAT PERHAPS
 23 HAD A DIFFERENT VIEW?
 24 A. CORRECT.
 25 Q. PRIOR TO THE ISSUANCE OF THIS LETTER OF

1 DISAPPROVAL, DO YOU KNOW WHETHER OR NOT THE DUETS,
 2 AS THE APPLICANT OR THEIR REPRESENTATIVE, WERE EVER
 3 APPROACHED BY ANYONE FROM THE PLANNING DEPARTMENT TO
 4 SAY, "LOOK, IN ORDER TO APPROVE THIS, YOU NEED TO
 5 PAY A COUPLE HUNDRED DOLLARS IN FEES AND TAKE OUT OF
 6 THE DOG RUNS?"
 7 A. AT NO TIME HAVE I HEARD THAT.
 8 Q. TO YOUR KNOWLEDGE, DID THAT HAPPEN?
 9 A. NO.
 10 Q. TO YOUR KNOWLEDGE, WAS THERE ANY DISCUSSION
 11 WITH THE DUETS OR THEIR REPRESENTATIVE ABOUT MAKING
 12 -- PRIOR TO THE DENIAL OF THE APPLICATION FOR
 13 SUBSTANTIAL CONFORMANCE, AS TO WHAT CHANGES COULD BE
 14 MADE IN THE APPLICATION TO GET IT APPROVED?
 15 A. I DON'T KNOW IF THAT WAS EXPRESSED.
 16 Q. DID YOU EVER HAVE SUCH A DISCUSSION?
 17 A. NO.
 18 Q. IS IT FAIR TO SAY THAT, AT LEAST FROM YOUR
 19 PERSPECTIVE, WHAT HAPPENED WAS IN JUNE YOU SENT THIS
 20 PACKAGE TO THE PLANNING DIRECTOR'S OFFICE AND THEN
 21 YOU DIDN'T HEAR ANYTHING BACK UNTIL THE PLANNING
 22 DIRECTOR CAME TO YOU WITH A DRAFT OF PAGES 10 AND 11
 23 OF EXHIBIT 6 AND ASKED YOU TO REVIEW IT?
 24 MS. SMITH: OBJECTION. COMPOUND QUESTION,
 25 LEADING THE WITNESS.

1 MS. SMITH: YOU CAN ANSWER IF THAT IS
 2 CLEAR.
 3 THE DEPONENT: LATER THERE WAS AN
 4 INSPECTION THAT OCCURRED ON THE PROPERTY THAT MAY
 5 HAVE CHANGED THE OPINIONS OF MY SUPERVISORS.
 6 Q. (BY MR. SCHAEFER:) WHAT DO YOU KNOW ABOUT
 7 THAT?
 8 A. THAT MEMBERS OF THE COUNCIL, CODE
 9 ENFORCEMENT, AND THE SHERIFF WENT WITH A WARRANT TO
 10 DO A SURPRISE INSPECTION ON THE PROPERTY.
 11 Q. WHAT DO YOU KNOW ABOUT THE SURPRISE
 12 INSPECTION?
 13 A. SOMEWHERE AROUND 60, 70 DOGS WERE WITNESSED
 14 ON SITE, VARIOUS TRAINING ACTIVITIES THAT WEREN'T
 15 EXPLICITLY PERMITTED IN THE PLOT PLAN APPLICATION,
 16 SOME SENTRY DOGS ON SITE, AND I BELIEVE -- I THINK
 17 THERE WAS -- THAT'S IT.
 18 Q. WAS THE OBSERVATIONS FROM -- DO YOU THINK
 19 THAT THE OBSERVATIONS MADE AT THIS SURPRISE
 20 INSPECTION IS THE REASON THAT THIS SUBSTANTIAL
 21 CONFORMANCE GOT DENIED?
 22 MS. SMITH: AN OBJECTION. FACTS NOT IN
 23 EVIDENCE. LACK OF FOUNDATION.
 24 A. I DON'T KNOW.
 25 Q. (BY MR. SCHAEFER:) DID YOU EVER TALK TO

1 THE PLANNING DIRECTOR, CAROLYN LUNA, ABOUT THE
 2 REASONS SHE DENIED THIS APPLICATION FOR SUBSTANTIAL
 3 CONFORMANCE?
 4 A. NO.
 5 Q. YOU SAID THAT YOU MADE SOME CHANGES TO
 6 PARAGRAPH 3.
 7 A. YES.
 8 Q. WERE YOU GIVEN A DRAFT OF THIS LETTER TO
 9 REVIEW BEFORE THE FINAL LETTER WAS SIGNED AND SENT
 10 OUT?
 11 A. YES.
 12 Q. AND THE DRAFT LETTER THAT YOU REVIEWED, DID
 13 IT DENY THE SUBSTANTIAL CONFORMANCE?
 14 A. YES. THE BASIS OF THE LETTER WAS THE SAME.
 15 Q. DID IT DENY THE SUBSTANTIAL CONFORMANCE ON
 16 THE GROUNDS SET FORTH IN THE FINAL TWO PARAGRAPHS OF
 17 THE FINAL LETTER?
 18 A. YES.
 19 Q. BEFORE THAT LETTER CAME TO YOUR DESK, DID
 20 YOU KNOW IT WAS COMING?
 21 A. NO.
 22 Q. SO I'M LOOKING AT MY E-MAILS, IN MID-JULY
 23 YOU ARE TELLING THE DUETS' REPRESENTATIVE THAT YOU
 24 ARE NOT GOING TO MAKE THIS CHANGE TO DESIGNATE THESE
 25 BUILDINGS AGRICULTURAL.

1 A. CORRECT.
 2 Q. AND THE NEXT TIME YOU PERSONALLY TOUCHED
 3 THIS FILE IS WHEN THE DRAFT LETTER ARRIVED ON YOUR
 4 DESK WITH INSTRUCTIONS TO REVIEW?
 5 A. CORRECT.
 6 Q. YOU DIDN'T HAVE ANY CONVERSATIONS WITH
 7 ANYBODY IN THE PLANNING DEPARTMENT ABOUT THIS
 8 SUBSTANTIAL CONFORMANCE BETWEEN THOSE TWO DATES?
 9 A. NO. CORRECT.
 10 Q. BEFORE THE LETTER ARRIVED AT YOUR DESK, DID
 11 YOU KNOW THAT THE PLANNING DIRECTOR HAD DECIDED TO
 12 DENY THE SUBSTANTIAL CONFORMANCE?
 13 A. I DID NOT.
 14 Q. DID YOU HAVE A VERBAL DISCUSSION WITH THE
 15 PLANNING DIRECTOR ABOUT THE CONTENTS OF THE LETTER?
 16 A. I DID NOT.
 17 Q. AND DID YOU SIMPLY WRITE UP YOUR
 18 MODIFICATIONS AND SEND THEM BACK TO THE PLANNING
 19 DIRECTOR?
 20 A. CORRECT -- TO MY SUPERVISOR, LATER ON.
 21 Q. AND I PRESUME THIS WAS ALL DONE
 22 ELECTRONICALLY?
 23 A. YES.
 24 Q. NOW, I'M GOING TO COVER A SUBJECT THAT I
 25 HAVE BEEN ASSURED IS IMPORTANT. THAT IS THE FIVE

1 DIAGRAMS.
 2 A. OKAY.
 3 Q. DO YOU KNOW WHAT THE FIVE DIAGRAMS ARE?
 4 A. YES.
 5 Q. WHAT ARE THEY, BECAUSE I DON'T KNOW WHAT
 6 THEY ARE, BUT YOU DO?
 7 A. IT'S THE VARYING -- WELL, THE VARYING SITE
 8 PLANS BETWEEN THE APPROVED ORIGINAL PLOT PLAN, THE
 9 FIRST SUBSTANTIAL CONFORMANCE, AND THE C.U.P., AND
 10 THE SECOND SUBSTANTIAL CONFORMANCE TO THE PLOT PLAN
 11 APPLICATION.
 12 Q. DO WE HAVE ALL FIVE IN YOUR BOX?
 13 A. YES, WE DO.
 14 Q. LET'S GET THEM ALL OUT AND MARKED SO
 15 EVERYBODY KNOWS WHAT WE'RE TALKING ABOUT.
 16 OFF THE RECORD.
 17 (A RECESS WAS TAKEN.)
 18 MR. SCHAEFER: BACK ON THE RECORD.
 19 Q. YOU'VE BEEN KIND ENOUGH TO PULL FROM THE
 20 BOX OF EXHIBITS THREE DIAGRAMS OR PLOT PLANS,
 21 WHATEVER YOU WANT TO CALL THEM. WE'VE MARKED THEM
 22 9, 10, AND 11. I'M GOING TO START WITH NO. 9.
 23 CAN YOU TELL ME WHAT NO. 9 IS, PARTICULARLY
 24 COMPARING AND CONTRASTING AND DISTINGUISHING 9 FROM
 25 10, 11 AND 5?

1 A. SURE. EXHIBIT NO. 9 IS THE APPROVED
 2 EXHIBIT "A" FOR PLOT PLAN 13992, DATED SEPTEMBER
 3 8TH, 1994. THIS IS HOW THIS PLOT PLAN IS REFERENCED
 4 WITHIN THE CONDITIONS OF APPROVAL FOR PLOT PLAN
 5 13992 ON EXHIBIT 343. THIS SHOWS -- THIS IS THE
 6 EXHIBIT THAT WAS APPROVED, EVEN THOUGH ALL THE TWO
 7 APPEAL PROCESSES, APPEAL 136 AND APPEAL 140.
 8 Q. OKAY.
 9 A. SHORTLY AFTER THE SUBSTANTIAL CONFORMANCE
 10 WAS APPLIED FOR AND APPROVED, THIS BEING THE SITE
 11 PLAN, EXHIBIT 10, THIS IS SITE PLAN FOR SUBSTANTIAL
 12 CONFORMANCE NO. 530 -- WE LABELED THEM DIFFERENTLY
 13 IN THE NINETIES. SUBSTANTIAL CONFORMANCE NO. 1
 14 DATED JULY 6, 1995. THERE WERE THREE NOTED --
 15 MS. SMITH: CONFIRMATION ON THE RECORD.
 16 ALSO KNOWN AS PLOT PLAN 13992S-1. IT'S THE SAME
 17 THING AS NO. 530.
 18 THE DEPONENT: THERE WERE THREE CHANGES ON
 19 THIS SITE PLAN,
 20 ONE WAS, "REMOVE DOG RUNS ON NORTH
 21 SIDE OF PROPOSED DOG KENNEL/BETTER
 22 NOISE CONTROL. EXTEND BREEZEWAY
 23 BY 4 FEET TO ALLOW FOR CONCRETE
 24 RAMP FROM DOG KENNEL TO ADMIN
 25 BUILDING. REMOVE DOGLEG TO

1 PROVIDE HUNDRED PERCENT EXPANSION
 2 AREA OF SEPTIC SYSTEM."
 3 THE SEPTIC SYSTEM WAS MOVED. THAT DOGLEG
 4 WAS MOVED SO THE SUBJECT COULD MOVE SOUTHERLY, AND
 5 THE DOGLEG WAS RELOCATED TO JUST THIS PORTION RIGHT
 6 HERE.
 7 Q. WHAT WAS RELOCATED?
 8 A. THE FIRE TURNAROUND DOGLEG.
 9 Q. YOU SAY IT'S A DOGLEG, BUT IT'S REALLY A
 10 ROAD?
 11 A. FIRE TURNAROUND.
 12 Q. FIRE TURNAROUND LOOKS LIKE A ROAD?
 13 A. IT'S A ROAD.
 14 MS. SMITH: IT'S GRAVELED.
 15 Q. (BY MR. SCHAEFER:) IT'S A ROAD FOR FIRE
 16 ENGINES?
 17 A. YES. AND SOMETIMES A PARKING SPOT.
 18 Q. WE MOVED THIS FIRE TURNAROUND FROM THE
 19 ORIGINAL PLAN TO THE SUBSTANTIAL CONFORMANCE NO. 1.
 20 A. UH-HUH.
 21 Q. AND IS THE MOVING OF THE FIRE TURNAROUND
 22 RELATED TO THE CHANGE IN THE SEPTIC TANK?
 23 A. I BELIEVE IT WAS A RESULT OF A NEED TO HAVE
 24 A NEW LOCATION FOR THE SEPTIC TANK. THE FIRE HAS TO
 25 BE RELOCATED.

1 Q. THE FIRE HAS TO BE RELOCATED IF YOU MOVE
 2 THE SEPTIC TANK?
 3 A. CORRECT.
 4 Q. THAT'S BECAUSE YOU DON'T WANT TO DRIVE THE
 5 FIRE ENGINES ON TOP OF THE SEPTIC --
 6 A. BECAUSE THE FIRE WAS GOING TO BE ON TOP OF
 7 THE NEW SEPTIC TANK LOCATION; CORRECT.
 8 Q. BEFORE WE LEAVE THIS, I'M GOING TO ASK YOU
 9 A QUESTION. WHEN WE GO TO SUBSTANTIAL CONFORMANCE
 10 NO. 1 AND REMOVE THE DOG RUNS ON THE NORTH SIDE OF
 11 THE BUILDING -- OKAY -- I'M GOING TO ASK YOU IF YOU
 12 KNOW THE ANSWER TO THIS QUESTION.
 13 A. ONCE THE SUBSTANTIAL CONFORMANCE GETS
 14 APPROVED, IS THE PROPERTY OWNER REQUIRED TO BUILD OR
 15 REMOVE WHAT'S SHOWN ON THE PLOT PLAN, THE
 16 SUBSTANTIAL CONFORMANCE PLOT PLAN, OR IS THAT AN
 17 OPTION THAT IS GIVEN TO THE PROPERTY OWNER IF HE OR
 18 SHE WANTS TO DO IT?
 19 SPECIFICALLY IN THE CONTEXT OF THE DOG RUNS
 20 ON THE NORTH SIDE OF THE BUILDING, WHEN SUBSTANTIAL
 21 CONFORMANCE NO. 1 GETS APPROVED, DO THEY HAVE TO
 22 TAKE THE RUNS OUT, OR IS IT OPTIONAL WHETHER OR NOT
 23 THEY TAKE THOSE RUNS OUT?
 24 A. THE SUBSTANTIAL CONFORMANCE IS A VOLUNTARY
 25 ACTION THAT THE APPLICANT DID. IF IT WAS ONE ITEM,

1 THE CHANGE WOULD NOT BE REQUIRED UNLESS IT IS MAYBE
 2 TO SATISFY A DIFFERENT DEPARTMENT'S CONCERN, BUT AT
 3 THIS TIME THREE CHANGES WERE PROPOSED WITHIN THE
 4 SUBSTANTIAL CONFORMANCE. AT LEAST ONE OF THOSE
 5 CHANGES WAS MADE FOR THE RELOCATION OF THE DOGLEG.
 6 IT SEEMS THE LOCATION OF SEPTIC HAS BEEN -- THE
 7 ACTUAL LOCATION IS STILL NOT --
 8 MS. SMITH: DON'T SPECULATE.
 9 A. BECAUSE ONE ITEM PROPOSED ON THIS SITE PLAN
 10 WAS MADE -- THE SITE PLAN, THEREFORE, WOULD BECOME
 11 THE NEW DICTATING SITE PLAN. SO THE DOG ROUNDS
 12 WOULD NEED TO BE REMOVED.
 13 Q. IF I'M HEARING WHAT YOU'RE SAYING, THERE
 14 ARE THREE CHANGES: EITHER DO NO CHANGES, WHICH IS
 15 OKAY, OR ALL THREE CHANGES, WHICH IS OKAY. YOU
 16 CAN'T DO ONE CHANGE AND NOT DO THE OTHER TWO.
 17 A. CORRECT.
 18 Q. WHAT IS EXHIBIT 11?
 19 A. EXHIBIT 11 DATED OCTOBER 26, 1995. THIS
 20 GOT LABELED THE SAME TITLE AS THE PREVIOUS PLOT
 21 PLAN, APPROVAL EXHIBIT, AS AMENDED NO. 1 TO PLOT
 22 PLAN EXHIBIT "A" WOULD BE NO. 1, PLOT PLAN
 23 NO. 13992.
 24 THIS EXHIBIT SHOWS ALL THE CHANGES THAT
 25 WERE PROPOSED WITHIN THE SUBSTANTIAL CONFORMANCE

1 SITE PLAN. IT SHOWS THE DIAGRAMS BEING REMOVED, THE
 2 SEPTIC LOCATION, AND THE NEW FIRE TURNAROUND.
 3 IT ALSO SHOWS A RELOCATION OF THE HANDICAP
 4 SITE SPACE TO THE END OF THE FIRE TURNAROUND, WHICH
 5 I BELIEVE WHERE IT DID GET PLACED.
 6 WE ASSUME THAT FIRE DURING THE REVIEW
 7 DIDN'T LIKE THAT LOCATION AND HAD THIS MOVED, BUT
 8 THAT'S NOT CONFIRMED. THIS IS THE NEWEST DATE OF
 9 EXHIBIT WE HAVE. AND SO THE ONE CHANGE IT HAS, THAT
 10 WAS COMPLETED, BEING THE RELOCATION OF THAT HANDICAP
 11 SITE.
 12 Q. WAS EXHIBIT 11 APPROVED?
 13 A. IT GOT STAMPED WITH AN "APPROVED" EXHIBIT
 14 NUMBER. IT WAS IN THE CASE FILE FOR
 15 Q. IF I GET THIS RIGHT, EXHIBIT 10 SHOWS THE
 16 PROPERTY AFTER APPROVAL OF THE FIRST SUBSTANTIAL
 17 CONFORMANCE?
 18 A. CORRECT.
 19 Q. EXHIBIT 11 SHOWS ANOTHER PLOT PLAN. IT GOT
 20 STAMPED "APPROVED," BUT YOU DON'T KNOW THE
 21 CIRCUMSTANCES UNDER WHICH IT WAS APPROVED.
 22 IS THAT FAIR TO SAY?
 23 A. YES.
 24 Q. I'LL ASK YOU TO DO ONE MORE THING AND THEN
 25 HIT THE ROAD. CAN YOU GO THROUGH MY BOX AND PULL

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1 OUT THE ORIGINAL CONDITIONS OF APPROVAL AND THE
 2 SUBSTANTIAL CONFORMANCE CONDITIONS, AND WE'LL STAPLE
 3 THEM TO THESE DRAWINGS, AND THEN MY LIFE WILL BE
 4 EASIER IN THE FUTURE.
 5 MS. SMITH: I HAVE JUST A COUPLE OF
 6 CLARIFYING QUESTIONS THAT I THINK WILL HELP.
 7 MR. SCHAEFER: SURE. OFF THE RECORD WHILE
 8 YOU DO THAT.
 9 (A RECESS WAS TAKEN.)
 10 Q. (BY MR. SCHAEFER:) YOU PROVIDED ME WITH A
 11 DOCUMENT FROM THE COUNTY OF RIVERSIDE PLANNING
 12 DEPARTMENT, DATED JULY 31, 1995, AND ADDITIONAL
 13 PAGES.
 14 ARE THESE THE DOCUMENTS THAT SPELL OUT THE
 15 TERMS OF THE SUBSTANTIAL CONFORMANCE THAT WAS
 16 GRANTED FOR THE DUETS' PROPERTY?
 17 A. CORRECT.
 18 Q. I'M GOING TO STAPLE THOSE DOCUMENTS TO
 19 EXHIBIT 10 AND MAKE THEM A PART OF EXHIBIT 10 FOR
 20 EASE OF REFERENCE IN THE FUTURE.
 21 YOU'VE ALSO GIVEN ME ANOTHER SET OF
 22 DOCUMENTS. ARE THESE THE DOCUMENTS THAT SPELL OUT
 23 THE TERMS OF THE APPROVAL OF THE ORIGINAL PLOT PLAN?
 24 A. YES.
 25 Q. I'M STAPLING THOSE TO EXHIBIT 9 AND MAKING

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1 THEM A PART OF EXHIBIT 9.
 2 ONE LAST THING. THERE IS A SMALL CHANCE,
 3 ALBEIT EXTREMELY REMOTE, THAT YOU MAY GET TO COME
 4 BACK AND REVISIT THIS WITH US.
 5 THERE IS ALWAYS A POSSIBILITY THAT THERE
 6 MAY BE A TRIAL AND THE JUDGE IS GOING TO WANT TO
 7 HAVE YOUR TESTIMONY. I MAY NEED TO SERVE YOU WITH A
 8 SUBPOENA.
 9 CAN YOU TELL ME WHERE I CAN FIND YOU AFTER
 10 YOU LEAVE HERE?
 11 A. YES.
 12 Q. WHERE? WHAT IS YOUR ADDRESS?
 13 A. 527 THIRD STREET, UNIT 303, SAN FRANCISCO,
 14 CALIFORNIA 95107.
 15 MR. SCHAEFER: THANK YOU. ALL RIGHT. YOUR
 16 WITNESS.
 17
 18 EXAMINATION
 19 BY MS. SMITH:
 20 Q. VERY QUICKLY, LOOK AT EXHIBIT 8. WHEN DID
 21 YOU WRITE THIS DOCUMENT?
 22 A. DECEMBER OF 2009.
 23 Q. DECEMBER 2009? SO IT WAS AFTER THE FIRST
 24 PLANNING COMMISSION HEARING?
 25 A. CORRECT.

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1 Q. DID FACTS SURFACE THAT WOULD IMPACT THIS
 2 ENVIRONMENTAL ASSESSMENT STUDY?
 3 A. YES. MANY ISSUES CAME OUT SINCE THE
 4 WRITING OF THIS ARTICLE -- DOCUMENT.
 5 Q. WOULD THAT HAVE MATERIALLY ALTERED YOUR
 6 OPINION SET FORTH HERE?
 7 A. YES.
 8 Q. ALSO I WANT TO CONFIRM ON THE RECORD
 9 EXHIBIT 6. MR. SCHAEFER TRIED TO ASK YOU A QUESTION
 10 ONCE REGARDING WHETHER OR NOT YOU HAVE AN OPINION
 11 REGARDING THE STATEMENTS MADE BY CAROLYN SYMS LUNA.
 12 HE ALREADY READ THE WORDS INTO THE RECORD, PAGE 11
 13 OF EXHIBIT 6, REGARDING THE IMPACT OF THE 23 DOG
 14 RUNS.
 15 YOU STATED ON THE RECORD THAT YOUR OPINION
 16 WASN'T REALLY RELEVANT TO THE DIRECTOR. YOU
 17 PROVIDED FACTS. BUT DO YOU ACTUALLY HAVE AN OPINION
 18 AS TO THE FACTS SET FORTH BY CAROLYN SYMS LUNA?
 19 A. WITH THE INFORMATION SEEN THAT THESE HAD
 20 ALREADY ONCE BEEN USED FOR STORING OF DOGS. I
 21 AGREED THAT APPROVING THESE TUFF SHEDS AND
 22 STRUCTURES HAD THE POTENTIAL TO CAUSE AN IMPACT BY
 23 ALLOWING THE STORAGE OF MORE DOGS THAN APPROVED ON
 24 SITE.
 25 Q. DO YOU HAVE ACTUAL KNOWLEDGE OF DISCUSSIONS

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1 IN THE PLANNING DEPARTMENT AS TO WHETHER OR NOT
 2 THOSE STRUCTURES WERE SUSPECTED TO BE USED BY DOGS
 3 OR EXCESSIVE DOGS OVER THE 20 LIMIT WHILE THE
 4 SUBSTANTIAL CONFORMANCE WAS PENDING?
 5 A. YES.
 6 Q. WHAT WERE THOSE CONVERSATIONS, ESSENTIALLY,
 7 YOUR RECOLLECTION OF WHAT WAS BEING SAID IN THE
 8 PLANNING DEPARTMENT?
 9 A. THAT THERE CURRENTLY ISN'T ENOUGH SPACE IN
 10 THE ONE APPROVED BUILDING FOR KENNELS TO POSSIBLY
 11 CONTAIN THE AMOUNT OF DOGS THAT WERE SEEN ONSITE.
 12 MS. SMITH: THAT'S IT. THANK YOU.
 13
 14 FURTHER EXAMINATION
 15 BY MR. SCHAEFER:
 16 Q. I'VE GOT EXHIBIT 5 OUT HERE. EXHIBIT 5
 17 SHOWS THE EXISTING HOUSE; CORRECT?
 18 A. CORRECT.
 19 Q. EXHIBIT 5 SHOWS A 10 X 10 GARDEN SHED;
 20 CORRECT?
 21 A. CORRECT.
 22 Q. AND THESE LITTLE HEXAGONS HERE, WHAT IS
 23 THAT? IS THIS DRIVEWAY?
 24 A. INDICATES ALL-WEATHER SURFACE. I THINK
 25 DECOMPOSED GRANITE.

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1 Q. WE'RE SHOWING A 10 X 10 GARDEN SHED SITTING
 2 ON A DECOMPOSED GRANITE SURFACE UP BY THE HOUSE?
 3 A. CORRECT.
 4 Q. THE APPLICATION FOR SUBSTANTIAL CONFORMANCE
 5 ASKED PLANNING TO APPROVE THIS 10 X 10 GARDEN SHED
 6 UP BY THE HOUSE ON THIS DECOMPOSED SURFACE; RIGHT?
 7 A. CORRECT.
 8 Q. DID SOMEBODY AT THE PLANNING DEPARTMENT
 9 THINK THAT THIS 10 X 10 GARDEN SHED WAS GOING TO BE
 10 USED SOMEHOW IN CONNECTION WITH ILLEGAL DOGS?
 11 MS. SMITH: OBJECTION. VAGUE AS TO
 12 "ILLEGAL DOGS."
 13 Q. (BY MR. SCHAEFER:) DID SOMEBODY AT THE
 14 PLANNING DEPARTMENT, TO YOUR KNOWLEDGE, THINK THAT
 15 THIS 10 X 10 GARDEN SHED WAS GOING TO BE USED TO
 16 HOUSE DOGS IN EXCESS OF 20 ON THIS PROPERTY?
 17 A. THERE IS A POTENTIAL FOR THAT, YES.
 18 Q. HOW DO YOU STORE A DOG IN A 10 X 10 GARDEN
 19 SHED?
 20 A. WHEN THESE DOGS ARE BEING TRAINED THEY'RE
 21 STACKED IN TYPICAL DOG-CARRYING CAGES SO THERE IS
 22 THE POTENTIAL TO PUT MANY, MANY DOGS IN SAFELY, WITH
 23 THEIR -- MORE OR LESS HUMANELY ON THE SITE.
 24 Q. AND I HAVE A 10 X 20 STORAGE SHED ON THE
 25 DRIVEWAY. I TAKE IT YOU ALSO FEEL THAT THE 10 X 10

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1 STORAGE SHED COULD BE USED TO HOUSE DOGS?
 2 A. IT COULD BE, POTENTIAL, YES.
 3 Q. IN YOUR INVESTIGATION OF THIS APPLICATION
 4 FOR SUBSTANTIAL CONFORMANCE, DID YOU EVER DO
 5 ANYTHING TO FIND OUT WHAT USE THE 10 X 10 GARDEN
 6 SHED IS ACTUALLY PUT TO?
 7 A. IN HAVING THE CLARIFICATION FROM THE
 8 ENGINEER ON THIS SECOND EXHIBIT, THE INTENT WAS FOR
 9 HIM TO FURTHER CLARIFY WHAT WAS GOING TO GO ON IN
 10 EACH SHED.
 11 Q. WELL, HE SAYS A GARDEN SHED. WHEN YOU WERE
 12 PROCESSING THIS APPLICATION, WHAT DID YOU THINK
 13 GARDEN SHED MEANT?
 14 A. I KNOW THAT HIS INTENT WAS TO WRITE GARDEN
 15 SHED ON THE EXHIBIT.
 16 Q. WHEN YOU WERE DOING YOUR WORK ON THIS, WHAT
 17 DID YOU THINK THIS SHED WAS GOING TO ACTUALLY BE
 18 USED FOR, AS OPPOSED TO WHAT IT POTENTIALLY COULD BE
 19 USED FOR?
 20 A. I HOPED IT WOULD BE USED AS A GARDEN SHED.
 21 Q. DID YOU EVER GO OUT AND LOOK TO SEE WHAT
 22 ITS ACTUAL USE WAS?
 23 MS. SMITH: ASKED AND ANSWERED.
 24 A. NO.
 25 Q. THIS 10 X 20 STORAGE SHED, DID YOU EVER GO

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1 OUT AND SEE WHAT IT'S ACTUAL USE WAS?
 2 A. NO.
 3 Q. THIS WHAT YOU CALL THE IMPENETRABLE
 4 SURFACE, CAN THAT BE ALSO USED AS A DRIVEWAY?
 5 A. I THINK THE MAJOR INTENT OF THAT IS THE
 6 DRIVEWAY TO THE HOUSE.
 7 Q. SO WE'RE TALKING ABOUT A COUPLE OF TUFF
 8 SHEDS ON THE DRIVEWAY TO THE HOUSE; RIGHT?
 9 A. YES.
 10 Q. AND THIS AREA HERE WHERE IT SAYS 20 X 25
 11 SHADE STRUCTURE, SIX DOG RUNS, DO YOU KNOW WHAT THE
 12 GROUND SURFACE IS UNDER THIS SHADE STRUCTURE? DO
 13 YOU KNOW?
 14 A. EXISTING TURF.
 15 Q. OR EXISTING CONCRETE? OR DO YOU KNOW?
 16 A. TURF.
 17 Q. YOU THINK IT'S TURF?
 18 A. YES.
 19 Q. YOU WOULD BE SURPRISED IF IT WERE CONCRETE?
 20 A. YES, I WOULD BE SURPRISED. I'VE SEEN
 21 OVERHEADS, AND IT'S LABELED AS TURF.
 22 Q. WHAT'S LABELED AS TURF?
 23 A. THE LITTLE GREEN THINGS.
 24 Q. THE LITTLE GREEN THINGS?
 25 A. YES.

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1 Q. IS THE LITTLE LABELED GREEN THINGS TURF
 2 AROUND THE EDGES?
 3 A. IT COULD BE EDGES, BUT I BELIEVE THE EDGES
 4 ARE MORE SIGNIFIED WITH THE FLUFFINESS.
 5 Q. IF I GO OVER HERE, IT SHOWS EXISTING
 6 OFFICE, AND IT'S GOT CROSS-HATCH. HOW CAN I TELL
 7 WHICH OF THESE STRUCTURES ON THE DIAGRAM ARE FOR --
 8 ARE SUBJECT TO THE SUBSTANTIAL CONFORMANCE AS
 9 OPPOSED TO WHICH ONES ARE ALREADY THERE AND ON THE
 10 PLOT PLAN, LEGALIZED?
 11 A. I THINK THE USE OF THE WORD "EXISTING" IS
 12 SUPPOSED TO SIGNIFY IT'S BEEN APPROVED ON A SITE
 13 PLAN BEFORE, NOT THAT IT IS EXISTING STRUCTURE,
 14 SINCE THEY ARE ALL PART OF EXISTING STRUCTURES IN
 15 TERMS OF BEING BUILT.
 16 Q. "EXISTING" ON THIS MEANS THAT IT'S ALREADY
 17 APPROVED?
 18 A. IT'S APPROVED PER PLOT PLAN, SUBSTANTIAL
 19 CONFORMANCE NO. 1.
 20 Q. SO WE'RE BEHIND THE OFFICE. I HAVE
 21 "EXISTING SHADE STRUCTURE." THAT YOU THINK IS
 22 LEGAL?
 23 A. CORRECT, THAT WAS APPROVED.
 24 Q. RIGHT NEXT TO IT IS ANOTHER SHADE STRUCTURE
 25 THAT YOU THINK IS NOT APPROVED?

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1 A. THAT WAS WITHOUT APPROVAL; CORRECT.
 2 Q. ON THE OTHER SIDE OF IT THERE'S ANOTHER
 3 SHADE STRUCTURE THAT WAS ADDED WITHOUT APPROVAL?
 4 A. CORRECT.
 5 Q. HOW MANY TUFF SHEDS ARE WE TRYING TO GET
 6 APPROVED BY THIS -- I AM ONLY COUNTING TWO TUFF
 7 SHEDS.
 8 MS. SMITH: IT'S WRITTEN RIGHT HERE.
 9 MR. SCHAEFER: OKAY.
 10 A. THESE ARE ALL TUFF SHEDS. THE SHADE
 11 STRUCTURES, TWO SHADE STRUCTURES, SOME OF THESE HAD
 12 ELECTRIC CONNECTIONS. I DON'T BELIEVE THEY DO
 13 ANYMORE.
 14 Q. IN YOUR INVESTIGATION OF THE USE OF THESE
 15 SHADE STRUCTURES, DID YOU EVER ASCERTAIN ANY LEGAL
 16 USES RELATIVE TO THE DOGS? I'M SORRY. WE ARE
 17 LOOKING AT THE TUFF SHED BUILDINGS.
 18 A. LEGAL USES?
 19 Q. LEGAL USES. FOR EXAMPLE --
 20 A. FOR STORAGE OF FOOD, ANYTHING UNRELATED TO
 21 KENNEL BUSINESS AT ALL.
 22 Q. COULDN'T THE TUFF SHEDS BE USED TO STORE
 23 THE 20 DOGS AT NIGHT BECAUSE THEY HAVE BETTER SOUND
 24 INSULATING QUALITIES THAN THE EXISTING METAL
 25 BUILDING? IS THAT SOMETHING THAT YOU CONSIDERED?

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1 A. NO.
 2 Q. WHY DID YOU NEVER VISIT THE PROPERTY TO SEE
 3 IT IN YOUR EVALUATION OF THE SUBSTANTIAL
 4 CONFORMANCE?
 5 A. ORIGINALLY AFTER IT WAS TRANSFERRED TO ME
 6 -- WE USUALLY GET APPLICANTS COMPLAINING HEAVILY
 7 ABOUT THE REDUNDANCE OF WORK WHEN A PROJECT'S -- YOU
 8 KNOW, TRANSFERS BETWEEN PLANNERS. I ORIGINALLY HAD
 9 NOT -- TYPICALLY I SEE A SITE BEFORE I WILL SCHEDULE
 10 IT FOR HEARING. THIS ONE WAS ACTUALLY SCHEDULED
 11 WITHOUT PERFORMING A SITE VISIT.
 12 MS. SMITH: THE C.U.P. OR THE PLOT PLAN?
 13 THE DEPONENT: THE C.U.P.
 14 MS. SMITH: THIS IS A SUBSTANTIAL
 15 CONFORMANCE QUESTION.
 16 WHY DIDN'T YOU VISIT THE SUBSTANTIAL
 17 CONFORMANCE APPLICATION?
 18 THE DEPONENT: THE APPROVAL OF THE PLOT
 19 PLAN WASN'T REALLY -- AGAIN, THAT WAS COMING MORE AS
 20 A DIRECTIVE TO GET IT APPROVED.
 21 Q. (BY MR. SCHAEFER:) WHAT DO YOU MEAN BY
 22 THAT?
 23 A. IT WAS ASSIGNED TO ME, AS MENTIONED
 24 EARLIER. I INITIALLY CREATED THE CONDITIONS OF
 25 APPROVAL FOR IT.

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1 Q. I THOUGHT I HEARD YOU SAY THAT WHEN THE
 2 APPLICATION FOR SUBSTANTIAL CONFORMANCE WAS ASSIGNED
 3 TO YOU, SOMEONE IN THE PLANNING DEPARTMENT TOLD YOU
 4 TO APPROVE IT.
 5 A. CORRECT.
 6 Q. WHO TOLD YOU TO APPROVE IT?
 7 A. RON GOLDMAN, IF AN EXHIBIT COULD BE
 8 SUPPORTED.
 9 Q. AND YOU DIDN'T FEEL THAT IT WAS NECESSARY
 10 FOR YOU TO GO OUT AND ACTUALLY VIEW ALL THIS IN
 11 ORDER TO APPROVE IT; RIGHT?
 12 A. CORRECT.
 13 Q. YOU DID RECOMMEND APPROVAL?
 14 A. CORRECT.
 15 Q. DO YOU KNOW IF MS. LUNA EVER VISITED THE
 16 PROPERTY BEFORE SHE REJECTED THE APPLICATION FOR
 17 SUBSTANTIAL CONFORMANCE?
 18 MS. SMITH: OBJECTION. CALLS FOR
 19 SPECULATION.
 20 Q. BY MR. SCHAEFER: IF YOU KNOW.
 21 A. I DON'T KNOW.
 22 Q. DO YOU KNOW WHETHER OR NOT SHE WAS OUT
 23 THERE ON THIS RAID WITH THE SHERIFF'S OFFICE AND
 24 ANYBODY ELSE?
 25 A. I DON'T THINK SO, ON THAT DAY.

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1 Q. DO YOU KNOW IF SHE'S EVER BEEN OUT THERE?
 2 A. I DON'T KNOW.
 3 MR. SCHAEFER: THAT'S ALL I HAVE.
 4 MS. SMITH: LET ME CLARIFY SOMETHING.
 5
 6 FURTHER EXAMINATION
 7 BY MS. SMITH:
 8 Q. JEFF, YOU TESTIFIED THAT THE PLOT PLAN
 9 SUBSTANTIAL CONFORMANCE NO. 2 -- CAME IN WITHOUT THE
 10 DESCRIPTIVE WORDS.
 11 A. CORRECT.
 12 Q. AND YOU ALSO TESTIFIED THAT THIS
 13 SUBSTANTIAL CONFORMANCE NO. 2 WAS TO DEAL WITH
 14 STRUCTURES; CORRECT?
 15 A. CORRECT.
 16 Q. WAS IT TO DEAL WITH ANY ADDITIONAL DOG
 17 RUNS?
 18 A. IT WASN'T TO INCREASE THE AMOUNT OF DOGS ON
 19 SITE.
 20 Q. WAS IT SPECIFICALLY TO INCREASE THE NUMBER
 21 OF DOG RUNS?
 22 A. NO.
 23 Q. ALTHOUGH YOU THOUGHT THAT DISCUSSION MIGHT
 24 -- MOVE TO STRIKE.
 25 SO DURING THIS TIMEFRAME THAT MR. SCHAEFER

1 TALKED ABOUT, BETWEEN APRIL 27TH AND JUNE, YOU SAID
 2 YOU RECEIVED ONE SUBSTANTIAL CONFORMANCE NO. 2 SITE
 3 PLAN, KICKED IT BACK BECAUSE THERE WAS NOT ENOUGH
 4 DESCRIPTIVE?
 5 A. CORRECT.
 6 Q. IS IT YOUR TESTIMONY THAT WAS BECAUSE YOU
 7 WANTED TO KNOW THE USES OF EACH BUILDING?
 8 A. CORRECT.
 9 Q. WHY ARE THE USES OF EACH BUILDING RELEVANT
 10 TO THE PLANNING DEPARTMENT APPROVAL?
 11 A. UPON ANY FURTHER VISIT BY CODE, IT WOULD --
 12 IT'S MORE LIMITING. IT ALLOWS INSURANCE THAT THE
 13 APPLICANT WAS FOLLOWING WITH WHAT WAS APPROVED, EVEN
 14 DURING THE CONDITIONAL USE PERMIT PROCESS. IT WAS
 15 NOTICED SOME MISLABELING WAS HAPPENING ON EXHIBITS.
 16 SO IT WAS MORE FOR CLARITY'S SAKE. HAVING MORE
 17 INFORMATION SEEM THE BEST COURSE OF ACTION.
 18 Q. WOULD THE USE OF A BUILDING IMPACT --
 19 ENVIRONMENTAL IMPACT ASSESSMENT REPORTS?
 20 A. THERE IS MORE POTENTIAL THAT A USE CAN BE
 21 MORE INTENSE AND --
 22 Q. AND SPECIFICALLY THE USE OF ADDITIONAL
 23 DOGS?
 24 A. YES.
 25 Q. SO WHEN THIS CAME BACK WITH ADDITIONAL DOG

1 RUNS, DID THAT CATCH YOUR ATTENTION?
 2 A. IT DID, KNOWING THAT THE PROJECT WAS
 3 APPROVED FOR 20 DOGS AND THE SITE IS PERMITTED FOR
 4 20 DOGS AND THE MAIN STRUCTURE STATES THAT IT HAS
 5 20 DOG RUNS ITSELF RIGHT THERE.
 6 Q. SO IT CAME BACK WITH ALL THOSE ADDITIONAL
 7 DOG RUNS. WERE QUESTIONS GENERATED BY THAT?
 8 A. YES.
 9 Q. DID YOU RECEIVE ANY SPECIFIC FEEDBACK FROM
 10 CODE ENFORCEMENT AS TO WHETHER SOME OF THESE TUFF
 11 SHEDS OR SHADE STRUCTURES WERE USED FOR HOUSING
 12 DOGS?
 13 A. THERE WERE SOME PHOTOS TAKEN BY CODE
 14 ENFORCEMENT AND THERE WERE STATEMENTS THAT DOGS WERE
 15 BEING STORED WITHIN THE SHED AND SHADE STRUCTURE
 16 AREA.
 17 Q. IS IT SIGNIFICANT THAT THESE TEN DOG RUNS,
 18 SHADE STRUCTURE, IS LOCATED ON THIS SUBSTANTIAL
 19 CONFORMANCE 2, BUT NOT LISTED ON THE PLOT PLAN AS
 20 AMENDED BY SUBSTANTIAL CONFORMANCE 1?
 21 A. I BELIEVE IT IS THAT LOCATION. THAT WOULD
 22 BE THE MOST OBVIOUS ONE THAT WOULD BE CAUSING
 23 CONCERNS TO ANY NEIGHBOR IF YOU LIVED ON THAT
 24 NORTHEAST CORNER, OR ANYONE ON THE PERIMETER OF A
 25 PROJECT SITE.

1 Q. WHY?
 2 A. JUST DUE TO PROXIMITY TO THE EDGES OF THE
 3 BOUNDARY OF THE PROPERTY SITE.
 4 Q. WHY WOULD PROXIMITY TO THE EDGES MAKE A
 5 DIFFERENCE?
 6 A. YOU WOULD BE LOUDER TO THE POINT SOURCE OF
 7 NOISE -- I MEAN CLOSER TO THE POINT SOURCE.
 8 Q. TO IT SPECIFICALLY IMPACTED THE ISSUE OF
 9 NOISE?
 10 A. YES.
 11 Q. WAS NOISE A RELEVANT ISSUE THROUGHOUT THE
 12 ENTIRE PLOT PLAN AND SUBSTANTIAL CONFORMANCE
 13 PROCESS?
 14 A. YES, IT WAS.
 15 Q. WAS NOISE ALSO AN ISSUE WITH THE C.U.P.?
 16 A. YES.
 17 MS. SMITH: OKAY. THAT CLARIFIES.
 18
 19 FURTHER EXAMINATION
 20 BY MR. SCHAEFER:
 21 Q. BOTTOM LINE, CODE APPROVED EXHIBIT -- CODE
 22 ENFORCEMENT APPROVED EXHIBIT 5; CORRECT?
 23 MS. SMITH: CODE ENFORCEMENT?
 24 MR. SCHAEFER: RON WELCH.
 25 MS. SMITH: OBJECTION AS TO "APPROVED."

1 THE DEPONENT: CODE ENFORCEMENT DOES NOT
 2 APPROVE EXHIBITS.
 3 Q. (BY MR. SCHAEFER:) IS IT TRUE THAT
 4 RON WELCH REVIEWED EXHIBIT 5 AND WAS SATISFIED WITH
 5 WHAT WAS SHOWN?
 6 MS. SMITH: LET THE RECORD REFLECT THAT
 7 MR. HORN IS LOOKING AT EXHIBIT 6, PAGE 18.
 8 THE DEPONENT: YES, RON WELCH REVIEWED AND
 9 WAS SATISFIED WITH THE SITE PLAN SHOWN.
 10 Q. (BY MR. SCHAEFER:) WITH ALL THE
 11 DESCRIPTIONS OF WHAT THESE BUILDINGS ARE GOING TO BE
 12 USED FOR?
 13 A. HIS CONCERN WAS MORE IN THE PORTRAYAL OF
 14 ROOF TOPS THAN WHAT USES WERE BEING PROPOSED.
 15 Q. WHEN WE SAY RON WELCH REVIEWED THE SITE
 16 PLAN AND WAS SATISFIED WHAT IS SHOWN, WE'RE TALKING
 17 ABOUT EXHIBIT 5?
 18 A. YES.
 19 Q. AND RON WELCH IS FROM CODE ENFORCEMENT?
 20 A. CORRECT.
 21 Q. RON WELCH IS THE CODE ENFORCEMENT OFFICER
 22 ASSIGNED TO THIS PROPERTY?
 23 A. YES.
 24 MR. SCHAEFER: NO FURTHER QUESTIONS.
 25 /// ///