

MARIN COUNTY PLANNING COMMISSION HEARING MINUTES
April 26, 2004
Marin County Civic Center, Room #328 - San Rafael, California

Commissioners Present: Allan Berland, Chairman
Steve Thompson, Vice
Hank Barner
Ray Buddie
Don Dickenson
Wade Holland
Jo Julin

Commissioners Absent: None

Staff Present: Alex Hinds, Agency Director
Brian Crawford, Deputy Director of Planning Services
Michele Rodriguez, Principal Planner
Dan Dawson, Senior Planner
Jessica Woods, Recording Secretary

Minutes Approved on: **May 17, 2004**

Convened at 5:08 p.m.
Adjourned at 7:13 p.m.
Reconvened at 7:50 p.m.
Adjourned at 9:16 p.m.

1. ROUTINE TRANSACTIONS:
 - a. Incorporate Staff Reports into Minutes – Continued
 - b. Continuances - None
 - c. Minutes of March 29, 2004 and March 30, 2004 – Continued to the May 3rd, 2004 Planning Commission meeting.
2. COMMUNICATIONS - None
3. DIRECTOR'S ORAL REPORT
 - a. Update on Board of Supervisors Actions - Continued
 - b. Report on On-Going/Pending Development Projects - Continued
4. OPEN TIME FOR PUBLIC EXPRESSION (LIMITED TO THREE MINUTES PER SPEAKER)
5. FUTURE AGENDA DISCUSSION ITEMS, FIELD TRIPS - None

6. DRAFT MARIN COUNTYWIDE PLAN

Public hearing on the Draft Countywide Plan.

Alex Hinds, Agency Director, summarized the staff report and noted that the consultant are in the process of completing the draft EIR. He also noted the memo highlighting the “Summary of Key Unresolved Issues” and initial direction provided by the Commission.

Commissioner Julin pointed out that the proposed Baylands corridor must be delineated.

Commissioner Thompson recommended that the Commission review the Summary of Key Unresolved Issues document provided by staff privately and then come back and provide staff with their comments and modifications. The Commission and staff agreed.

The hearing was open to the public on the Agriculture and Food section.

Henry Grossi, Farm Bureau, expressed concern about the lawsuit filed regarding Warren Webber’s agricultural practices on an agriculturally zoned property in Marin County. They had raised these concerns during the Development Code update and were assured by County officials that even though agriculture fell under the definition of development they would not need an exemption to avoid the master plan requirement. They are pleased that there is a separate section for agriculture and all the commitment to keeping agriculture viable. He pointed out that Countywide Plan has different sections in conflict with the Agriculture and Food section, since the Countywide Plan would be the overriding governing document under which the development code and the local costal programs must comply, it is vitally important that agriculture issues be addressed now and any conflict be eliminated to prevent the County and agriculturalists from undue litigation. He further explained that they have been working on a letter with specific requests and wording to be presented to the Commission early next month.

Bobbie Kimball, Bolinas resident, supported agriculture and believed agriculture and food is an integral part to the Countywide Plan’s Natural Systems Element. She felt the goal should be to strengthen the interdependency between agriculture, the natural environment and the humans that will benefit from the results. She then provided the Commission with a list of ten reasons why agriculture belongs in Natural Systems for their consideration.

Nancy Gates, West Marin property owner, discussed the “Summary of Unresolved Issues,”.

Eleanor Sluis, Novato resident, discussed Page 3-180 and pointed out that there is an implication about the generation and disposal of waste. She then provided the Commission with written comments in that regard along with a map for the Commission’s consideration.

Martin Pozzi, landowner, desired a better notification process in regard to affected landowners. He expressed concern for proposed trails listed that would run through three different family farms, which is not acceptable. He stated that there are several issues in this Plan where the County could be in a lawsuit. He believed the Development Code provisions should be the same as the General Plan. He also discussed the amount of pesticides used and noted that Marin County is mostly organic, but without additional regulations more foods would come from outside the County.

James Stark, representing, St. Vincent School for Boys, stated that they would continue to work with the County to plan a better community at the St. Vincent’s property. He added that the policies have identified important environmental values as well as housing and employment opportunity areas at St. Vincent’s. He noted that St. Vincent’s did not believe there were any new issues that would lead to new policies on those lands. They further asked that the past planning efforts on the part of St. Vincent’s be recognized with the existing efforts.

Sam Dolcini, Marin County Farm Bureau, encouraged the Commission to keep agricultural as a separate section. He then commented on: house size limitation, mandatory easements, land management plans, and communication with landowners for the Commission’s consideration.

Sally Pozzi, West Marin resident, commented in support of Agriculture and Food, and exempting agriculture from the definition of development. She further believed fewer regulations would keep agriculture viable.

Cela O'Connor, Bolinas resident, submitted material from the Public Resources Code, Division 20 of the California Coastal Act for the Commission's review.

Gordon Bennett, Sierra Club Marin Group, desired basic criteria in order to protect the Streamside Conservation Zones. He then provided the Commission with written comments in regard to agriculture for the Commission's consideration.

The public hearing was closed.

Chairman Berland announced that the Commission would discuss the six Key Issues provided by staff:

Should the proposed agriculture residential home size be modified?

Commissioner Barner expressed concerns about limiting the home size and noted that in other areas the home size would increase valuation, which he opposed. Agency Director Hinds explained that there is increasing pressure for those to buy agricultural land for a very large home, for example, the Hicks Mountain project. Staff suggested having a number that reflects a reasonable size residential home and home office with an additional allowance if assurances are provided that the land would be protected for agricultural purposes. Staff added that the proposed house size is based on the agricultural economic analysis. Staff further pointed out that there is a real problem with agricultural land remaining agricultural and staff felt there is a need for protection.

Commissioner Buddie believed it is unfair to place a maximum house size only on agricultural lands, and suggested dealing with the current situation through design review.

Commissioner Dickenson believed the issue of estate development on agricultural lands should be addressed, although he did not agree with the specific staff proposal.

Commissioner Thompson discussed Policy AG1.6 on page 2-125 and believed there is a place for an agricultural compound that would not be out of the ordinary. He suggested a building envelope limitation rather than a building size limitation. He stated that if a building size must be used, he suggested that it be larger to have at least 7,500 to 8,000-square-foot home.

Commissioner Holland appreciated the fact that individuals did not desire to be restricted, but believed this should be addressed in some manner and agreed that the house size restriction may not be the only mechanism that could be used.

Commissioner Julin agreed to explore the idea of creating a building envelope limitation as suggested by Commissioner Thompson.

Chairman Berland discussed the special designations and agreed that there are economic pressures and that the analysis in the agricultural economic report is very interesting. He agreed with staff that there is a problem, but he is against discriminatory treatment against agriculturally designated property unless there is an extraordinary problem and in his view an absolute limit on home size would be beneficial in this case.

Commissioner Julin asked staff if there were examples throughout the State in regard to this situation as well as alternatives. Agency Director Hinds noted that staff opposed the idea of a single home size restriction on the entire County, but there are communities with home size restrictions in the County, for example, in Indian Valley in Novato a 7,000 square feet maximum was applied. Staff released the Single-Family Design Guidelines and individual communities around Marin County would likely be establishing home size limits through community

plans. Staff felt it is beneficial to have clear rules from the beginning stages. Staff also noted that there are not many models for this particular issue, most communities around the State are just protecting the land rather than ensuring continued agricultural use of the land.

Commissioner Barner stated that the County currently has a 5% limit on the total lot area where overall development may be allowed, and in many cases that would allow more than needed. He suggested studying that 5% in more detail because his concern is that there is no science to back the 7,000-square-foot maximum. He asked staff if there is a manner to review the 5% in order to understand how much of that 5% is for residential use versus barns and other accessory buildings in order to avoid the absolute numbers that cause concern.

Commissioner Buddie believed they should not lose sight of the fact that a tremendous amount of work had been done to protect agriculture. He further stated that housing subdivisions are the biggest threat to agriculture.

Commissioner Thompson discussed Table 3 in the Agricultural Economy Analysis regarding the five different alternatives for the Commission's review. He pointed out that the 5% idea would not apply to any of the alternatives listed.

Commissioner Dickenson pointed out that there are also limited commercial uses allowed in agricultural zoned areas, including Lucas Films. He further added that there are other non-agricultural uses that are allowed that should be addressed.

Commissioner Holland stated that the issue is to make these parcels unattractive for those that desire to build a monster home and in his view there is no alternative other than limiting the home size. He further agreed with a limitation.

Chairman Berland announced that the majority of the Commission is not in favor of staff's proposal regarding limiting residential home sizes and asked staff to establish an alternative looking at limiting building envelope size based on lot size and also consider whether more than one home on a lot is appropriate for the Commission's review.

Commissioner Buddie agreed with Commissioner Dickenson's comments opposed to construction of several small homes in order to avoid a subdivision appearance.

The Commission took a 30-minute recess.

Should subdivision of agricultural land continue to be strongly discouraged?

The Commission unanimously agreed that subdivision of agricultural lands should be strongly discouraged.

Should the 60 acres minimum agricultural parcel size be increased?

The Commission unanimously agreed that the 60 acres minimum agricultural parcel size should not be increased at this time, but there is wording that clarifies that a 60-acre density may not be achieved based on site-specific constraints.

Should agriculture be further restricted in environmentally sensitive areas?

Agency Director Hinds noted that specific agricultural products should not be affected by this policy. Commissioner Buddie believed the issue should be clarified. Agency Director Hinds read the definition of development for the Commission's review that indicated that there is an exception for agricultural activity. Staff noted that there are Federal and State laws that address the conversion of wetlands, but legal non-conforming uses would be allowed to continue operation.

Commissioner Dickenson expressed concern for the existing wording that stated, "*encourage only those agricultural uses that are compatible with wetlands and other sensitive resources.*" Agency Director Hinds pointed out that in terms of agricultural regulation, they are actually regulated fairly heavily by a variety of State and Federal agencies. Commissioner Dickenson found Policy BIO-5.9 meaningless.

Commissioner Holland believed if the woody area is not present, then a 50-foot buffer should be in place. Commissioner Dickenson pointed out that the SCA is 100 feet from the top of the bank. Agency Director Hinds noted that it is complicated to indicate that row cropping is not allowed in the SCA. Staff added that if the Commission desired further restrictions in the SCA, staff could propose a program in consultation with the agriculture and environmental community to further protect riparian areas.

Brian Crawford, Director, Planning Services, pointed out that typically the best soils are found adjacent to streams, and staff found that as a potential conflict. Staff added that they are promoting one type of agricultural activity and then making it difficult to pursue that by not recognizing where the best soils are located. Commissioner Buddie stated that this particular issue had not been analyzed as to how it would work and he believed more definitive restrictions should require additional information before a determination is made.

Commissioner Barner suggested establishing a group that would work with the environmentalist and the agriculturist to discuss these issues. Agency Director Hinds responded that there are ongoing efforts to increase communications between agriculturalist and environmentalist. Staff noted that a cooperative program with the Soil Conservation and the Department of Agricultural could be established to have more restoration along stream banks.

Commissioner Dickenson noted that he would be satisfied if there is a policy, but pointed out that it must be studied in more detail rather than adopting specific regulations at this time because it is an issue that is very important. He noted that the general wording by Agency Director Hinds would be acceptable in his view. Agency Director Hinds responded that staff would add such a program.

Commissioner Julin requested the definition of "development" in terms of agriculture for a better understanding. Agency Director Hinds agreed to provide a copy of the definition of the development code for the Commission's review.

The Commission agreed with staff's restrictions on agriculture with the exception of the SCA, which staff would further study an alternative approach for the Commission's consideration.

Should environmentally sensitive agricultural water development be explored?

Agency Director Hinds indicated that staff proposed changing the word "*encourage*" to "*evaluate or assess.*"

Commissioner Holland agreed with staff's proposed changes. He stated that the reference to "*gray water*" should be deleted because there is not much potential in his view. Agency Director Hinds responded that there are other treatment technologies that should be also considered.

Commissioner Thompson had no objection to "gray water" or "treated water," but he expressed concern for sinking wells and irrigating row crops without assuming that the water table would be affected. He believed the water supply should be addressed.

Commissioner Buddie favored language that would encourage the collection, treatment and reuse of water to the extent possible. He stated that with respect to the water table, he asked staff if there are general water rights because he is unclear as to whether the County could regulate wells. Agency Director Hinds responded that the County requires well permits and sanitary seals, but there remains the issue of drilling wells near riparian areas, and generally, there is little regulation of water tables.

Commissioner Thompson believed negative effects could occur if the County is not careful about the water table. The Commission agreed with the revisions as indicated.

Should small-scale agricultural diversification and sustainable or organic farming be encouraged?

Commissioner Thompson questioned how agricultural land would be protected over time. Agency Director Hinds responded that, for example, the Marin Organic Program is an example of local agricultural stewardship.

Commissioner Dickenson preferred to retain the “*small-scale*” language. The Commission agreed.

Commissioner Julin stated that agriculture had been the most critical issue facing the County and because it is so important she felt it should be moved to the top of the Natural Systems Element. However, she realized that Agriculture and Food was not a Natural System, and, therefore it did not belong in the Natural Systems Element. Her alternative proposal was to place it back in the first element and rename the element the “*Resource Management Element.*” She also suggested changing “*Agriculture and Food*” to “*Agricultural Lands*” as well as alphabetically reordering that section. The Commission agreed with Commissioner Julin’s suggested changes.

Renee Silveira, representing, Silveira Properties, appealed to the Commission to carefully review the implications of the Baylands corridor on their property. She added that as property owners they would assert their property rights if viable use was limited or removed.

The Commission adjourned at 9:16 p.m. and continued the hearing to May 3, 2004.