

**MARIN COUNTY PLANNING COMMISSION MINUTES**  
**JUNE 9, 2003**  
**Marin County Civic Center, Room #328 - San Rafael, California**

*Commissioners Present:* Allan Berland  
Ross Herbertson  
Don Dickenson  
Jo Julin  
Hank Barner  
Steve Thompson

*Commissioners Absent:* Ray Buddie

*Staff Present:* Alex Hinds, Agency Director  
Brian C. Crawford, Deputy Director of Planning Services  
Christine Gimmler, Senior Planner  
Alicia Giudice, Planner  
Alexandra Morales, Planning Commission Secretary

*Minutes Approved on:* **JULY 7, 2003**

Convened at 1:00 p.m.  
Adjourned at 7:30 p.m.

1. ROUTINE TRANSACTIONS:

- a. M/s Barner/Julin, and passed unanimously of those present, to incorporate Staff Report into Minutes. Motion passed 6/0 (Commissioner Buddie not present).
- b. Continuances: None.

2. COMMUNICATIONS

The Commission acknowledged additional correspondence from the Environmental Action Committee, Cela O'Connor, and Wiebke Buxbaum regarding the Draft Development Code Update.

### 3. SECOND DWELLING UNIT ORDINANCE WORKSHOP

A workshop to discuss proposed revisions to the Marin County Zoning Ordinance to implement new provisions of State law related to the regulation and permit process for second dwelling units for unincorporated properties in Marin County. At this workshop, information regarding the State second dwelling unit statute, Government Code Section 65852.2, and proposed modifications to Marin County's second dwelling unit ordinance were presented. Generally, the new state law requires local agencies to consider applications for second dwelling units through a ministerial process based on compliance with objective criteria, without discretionary review or a public hearing.

**A decision on the proposed ordinance was not made at the workshop.** Following the workshop, the draft zoning ordinance will be revised as necessary prior to consideration at a future public hearing by the Planning Commission, who will make a recommendation on the ordinance to the Board of Supervisors. At a subsequent public hearing, the Board of Supervisors will consider whether to approve or deny the ordinance after receiving the recommendation from the Planning Commission.

Alex Hinds, Agency Director, clarified that this was simply a workshop and therefore, no formal action would be taken.

Christine Gimmler, project planner, summarized background information regarding existing second unit regulations in Marin County, as well as the requirements of the recently adopted State Law and how those influenced the proposed text revisions to the County's draft update of the second unit ordinance.

Staff and County Counsel responded to Commissioners' questions and provided clarification regarding: application of the State Law on certain residential zoning districts; Design Review requirements for second units in RSP and RMP zoning districts; different standards for existing and new second units; standards for second units in jurisdictions where an ordinance is in place; exclusion of second units from Design Review when located within an existing structure; enforcement procedures for dealing with potential nuisances/violations related to second units; parking impacts resulting from the conversion of garages into living space; the difference between creating a second unit within an existing structure versus adding floor area; limitation on the size of second units to 750 square feet; application of the Slope Ordinance on developed lots versus undeveloped lots; traffic and parking standards; and the process for a second unit on an undeveloped lot in a conventional district versus a planned district.

In response to Commissioner Herbertson, staff confirmed that the object in complying with State Law is to find terms and conditions under which a second unit could be considered ministerial or require Design Review under three general scenarios: 1) existing second units; 2) new second units in conventional districts; and 3) new second units in planned districts.

Members of the audience were invited to comment.

Roger Hurt, Stinson Beach Village Association, noted that the County was not obligated to accept the new State law since a Second Unit Ordinance was already in place, and therefore, expressed serious concerns with the proposal because this would deny neighbors the opportunity to participate in the review process. He also clarified that Stinson Beach does have square footage restrictions (750 square feet) and parking standards for second units. Mr. Hurt concluded by disagreeing that second units actually provided affordable housing.

Wiebke Buxbaum, Pt. Reyes Village Association, requested that the community be given ample time to review the final revised draft document and concluded by asking that the 750 square foot limitation be retained.

Becky Cranford, concerned resident, expressed concern regarding the timing for considering this matter since summer vacation was almost here. She then commented on the following: 1) safety issues related to inadequate water supply, 2) composition of households; 3) enforcement of garage conversions, 4) options for affordable housing; and 5) the number of illegal second units.

Cela O'Connor, Bolinas resident, recommended that Criteria #5 of the draft update require 100-foot setbacks from wetlands, as well as including specific provisions for second units on lots located within the Streamside Conservation Areas (SCA).

The public comment portion was closed.

After taking into consideration the information presented, and expressing individual comments and concerns, the following suggestions were made:

- The ordinance should apply to all residential zoning districts.
- References to census tracts should be deleted.
- Minimum lot size standards should be required.
- Second units could be considered ministerial, assuming all criteria are met. Second units larger than 750 square feet may be allowed as a conditional use.
- In planned districts, allow the creation of second units within an existing structure through a ministerial process. Any additions to a structure should be subject to Design Review in the Design Review exemption procedures.
- Safety and traffic impacts should be included in the criteria for determining whether a unit can be considered ministerial or not.
- Reconsider the number of native trees (5) allowed for removal.
- While second units could be exempt from the Slope Ordinance, it may not be appropriate throughout the entire county.
- Second units shall be subject to property owner residency.
- Courtesy notices should be sent to neighbors regardless of whether a second unit is considered ministerial or not.
- Second unit proposals on large properties should take into account associated infrastructure.
- Require 100 foot setbacks in SCAs.
- Clearly differentiate between worker housing and second units.

The Commission directed staff to consider the suggested revisions in the next iteration of the draft ordinance.

#### 4. DRAFT MARIN COUNTY DEVELOPMENT CODE

A public meeting to consider revisions to the Draft Development Code in the following general areas: Use Permit requirements for processing and retail sales of agricultural products, land use control in the Design Review process, and density for affordable housing projects. At their April 29, 2003 hearing, the Marin County Board of Supervisors referred these issues back to the Planning Commission for a report and recommendation prior to the Board conducting a continued public hearing on June 24, 2003 to consider the Planning Commission recommendation to the adopt the Development Code and certify a Supplemental Final Environmental Impact Report (SFEIR). The Planning Commission previously recommended certification of the SFEIR at their meeting of July 24, 2002, and adoption of the Draft Development Code at their meeting of August 19, 2002. At the June 9, 2003 meeting, Planning Commission may also consider several other issues pertaining to the Draft Development Code, including, but not necessarily limited to: land use controls in the Design Review process; the boarding of horses on agricultural lands; standards for non-agricultural land uses; Master Plan requirements for agricultural production activities; standards for agricultural management plans; land use definitions pertaining to agricultural processing, agricultural accessory structures, agricultural production facilities, crop production, and retail sales of agricultural products. The Draft Development Code generally consists of an update of the County Zoning Code (Title 22) and Subdivision Code (Title 20). The zoning and subdivision regulations comprise most of the requirements for the development and use of private and public land and building and structures located within the unincorporated areas of Marin County (the Draft Development Code does not apply within the corporate limits of cities and towns in Marin County).

Brian C. Crawford, project planner, explained the purpose of the meeting and summarized the issues referred to the Commission by the Board of Supervisors with regards to: 1) use permit thresholds for agricultural processing and retail sales facilities ; 2) Master Plan Waiver exemption process; 3) Design Review process; 4) Use Permit process for affordable housing projects; 5) boarding of horses on agricultural land; 6) non-agricultural land use standards; 7) agricultural processing and agricultural accessory activities; and 8) definition of retail sale of agricultural products.

Staff responded to Commissioners' questions and comments regarding the determination of density for affordable housing, economic criteria for determining the agricultural use of a property, density bonuses for affordable housing, and the definition of commercial agriculture.

The hearing was opened to public testimony.

Concerned residents and community representatives Kathy Lowrey (Marin Cares), Catherine Caufield (Environmental Action Committee), Wiebke Buxbaum (Pt. Reyes Village Association), Cela O'Connor, and Nancy Gates made the following comments:

- Additional time for review and comment on the proposed revisions should be provided.
- Clearer definitions of "Agriculture", "Agricultural Accessory Activities", and "Agricultural Processing" must be provided.
- All agricultural processing should be subject to a Use Permit.
- Retail sales of agricultural products should require a Use Permit.
- Horse boarding is acceptable as a permitted use, but Table 3-5 should be revised to eliminate references to C-ARP and C-APZ zoning districts, the definition of "commercial agricultural property" should be clarified and agricultural production activities should be eliminated from the Master Plan exemption in planned districts.
- The Williamson Act criteria should be used for the non-agricultural land use standards.
- Establish a cap on the percentage of products to be imported from outside the county necessary to process products generated in the county.
- Seasonal structures for the sale of agricultural products should be exempt from the permitting process.
- Any changes to the Development Code must provide protection for endangered species, Stream Conservation Areas (SCA), and wetlands.

- Agricultural development or changes of agricultural use in SCAs and/or wetlands should trigger Design Review.
- All revisions to the Development Code that could adversely impact the SCA or wetlands needs further environmental review prior to adoption of the Development Code.
- Exempting specific traditional historical agricultural uses from the Master Plan Waiver requirement should be a top priority.

Stacy Carlsen, Marin County Agricultural Commissioner, agreed that it was important to consider commercial viability, labor practices, and environmental protection when considering allowable uses of agricultural lands. The hearing was closed to public comment.

After taking into consideration the information presented, and expressing individual comments and concerns the Commissioners could not reach consensus on all the issues and revisions presented by staff. After holding a lengthy discussion, recognizing the need to finalize the document, the Commission agreed that further consideration must be given to issues that lacked a majority vote. Therefore, the Commission discussed at length the possibility of recommending that the Board of Supervisors adopt the document, but that the proposed agricultural zoning changes be delayed for further consideration.

M/s Dickenson/Berland, to adopt the attached resolution recommending that the Board of Supervisors adopt the Development Code Update, but exclude the proposed agricultural zoning changes.

After further discussing the appropriateness of acting only on a portion of the Development Code, Commissioner Dickenson withdrew his motion and made a new one.

M/s Dickenson/Thompson, and passed unanimously of those present, to continue this matter to the hearing of June 16, 2003 to further consider the proposed revisions within the context of alternative actions for responding to the Board of Supervisors' referral.. Motion passed 6/0 (Commissioner Buddie not present).

5. APPROVAL OF MINUTES –JUNE 2, 2003, MEETING

M/s Thompson/Berland, and passed unanimously of those present, to approve the minutes with minor modifications. Motion passed 6/0 (Commissioner Buddie not present).

6. UPDATE ON BOARD OF SUPERVISORS ACTIONS

June 3, 2003 – Dickens Master Plan/Subdivision/Design Review approved (San Rafael); Melvin Design Review Appeal denied in part (Fairfax); Housing Element adopted

7. FUTURE AGENDA DISCUSSION ITEMS, FIELD TRIPS

June 16, 2003

Shaw Variance/Use Permit/Design Review Clearance/Lot Line Adjustment Appeal (Kentfield)

July 7, 2003

Countywide Plan Alternatives

Qualls Coastal Permit/Minor Design Review Appeal (Muir Beach)

Sparks Variance/Design Review Clearance Appeal Withdrawal (Mill Valley)

July 14, 2003

Fireside Housing Master Plan/Rezoning/Precise Development Plan(Tam Valley)

Draft Second Unit Ordinance (Countywide)

July 28, 2003

LAFCO Presentation on Sphere of Influence Study

Marin City Church of God Master Plan/RZ/Subdivision (Marin City)

Eliot Appeal of the Ravizza Design Review (Mill Valley)

Redwood Landfill Draft EIR (Novato)

Hicks Mountain Master Plan/Precise Development Plan (Nicasio)