



MARIN COUNTY  
COMMUNITY DEVELOPMENT AGENCY  
ALEX HINDS, DIRECTOR

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**MEMORANDUM**

**TO:** Marin County Planning Commission **DATE:** June 13, 2003  
**FROM:** Brian Crawford, Deputy Director of Planning Services  
**RE:** DRAFT DEVELOPMENT CODE  
ITEM 6 – JUNE 16, 2003 PLANNING COMMISSION AGENDA

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This memorandum is intended to provide direction to the Planning Commission regarding alternative actions that may be taken at the June 16, 2003 continued meeting in response to the Board of Supervisors referral of revisions to the Draft Development Code. It also includes modifications to revisions previously considered by the Planning Commission that may assist the Commission in a majority vote on one of the alternative actions described below.

**BACKGROUND**

At the Board of Supervisors meeting of April 29, 2003, the Board voted to refer three particular revisions to the Draft Development Code for a report and recommendation prior to further considering the Planning Commission's previous recommendation to adopt the code update. The Board also continued their deliberations on the Development Code to the hearing of June 24, 2003, to consider the Planning Commission's recommendation regarding these additional revisions.

At the Planning Commission hearing of June 9, 2003, the Planning Commission considered the three revisions referred by the Board in addition to several other possible modifications to the Draft Development Code that are based upon public comment received in connection with or subsequent to the April 29<sup>th</sup> Board meeting. The revisions are summarized below and presented in their entirety in the June 9, 2003 Planning Commission staff report. (Refer also to Attachment 1.)

Board Referral Revisions

- Use Permit threshold based upon the size of agricultural processing and retail sales facilities;
- Land use regulation as a function of Design Review;
- Determining density for affordable housing projects through the use permit process if consistent with Countywide Plan density range;

Additional Revisions

- Boarding of up to five horses on land under agricultural production (pursuant to findings in Section 22.32.115).
- Refine non-agricultural use standards in Section 22.32.115.
- Exemption from Master Plan requirements for agricultural production uses;
- Clarify waiver of agricultural management plan for agricultural projects or property;
- Clarify relationship between agricultural processing uses and agricultural accessory activities;
- Clarify regulations pertaining to sale of agricultural products produced on-site versus outside of Marin County.

At the conclusion of the June 9<sup>th</sup> Planning Commission meeting, the Commissioners reached a tentative consensus on the code revision allowing the density of an affordable housing project to be determined through the Use Permit process (if consistent with the Countywide Plan). However, the Planning Commission did not vote to recommend an action regarding any of the other revisions summarized above and presented in the June 9, 2003 staff report. To facilitate an appropriate response to the Board’s referral, the Planning Commission requested staff to outline possible motions for issuing a formal decision on the revisions.

**ALTERNATIVE ACTIONS**

Context of Planning Commission Action

The actions available to the Planning Commission are prescribed to a certain extent by the particular revisions referred by the Board of Supervisors and timeframe within which the Board requested the Commission’s recommendation on the revisions (the June 24, 2003 Board meeting date). That is to say the Planning Commission should vote either to recommend approval, approval with modifications or denial of the revisions referred by the Board of Supervisors at the June 16, 2003 continued Planning Commission meeting. The Planning Commission may also choose, but is not required to take one of the above actions on the additional revisions presented in the June 9, 2000 staff report.

In keeping with the limited timeframe and the nature of the Board’s referral, the Planning Commission should not limit their action to merely continuing the Planning Commission meeting for further review of the present revisions or other issues raised by the Planning Commission, and/or recommending that the Board similarly continue their deliberations, without first voting to approve or deny the revisions that are the subject of the Board referral. The Planning Commission is not, of course, bound to any particular rationale for voting to approve or deny the revisions.

Alternative Actions

Within this context, the Planning Commission may take one of the following actions at the June 16, 2003 continued meeting:

1. Recommend approval of all of the revisions presented in the June 9, 2003 staff report; or
2. Recommend denial of all of the revisions presented in the June 9, 2003 staff report; or
3. Recommend approval of certain revisions, and denial of other revisions, presented in the June 9, 2003 staff report; or

4. Recommend approval of revisions with modifications to the text presented in the June 9, 2003 staff report.

#### Discussion

At the June 9, 2003 meeting, the Planning Commission did not vote to recommend an action on all of the revisions referred by the Board of Supervisors as well as the additional revisions presented by staff. A majority of the Planning Commission did, however, expresses support, or at least did not oppose, the proposal to determine density for affordable housing projects through a Use Permit. Members of the Commission also supported the concept of size thresholds for agricultural processing and retail sales facilities, but suggested regulatory approaches that differed somewhat from the revisions presented in the staff report. The proposal to include greater land use controls in the Design Review process was not received favorably from a majority of the Commissioners. Based upon this input, it appears that the latter two alternative actions listed above reflect the general direction of the Commission. In the interest of focusing the Commission's options for responding to the Board, staff recommends that the following action be considered:

- I. Approve the revision regarding determining density for affordable housing projects through a Use Permit process as presented in the June 9, 2003 staff report (Attachment 1);
- II Eliminate the Use Permit requirement for agricultural processing facilities based upon the following criteria:
  - A. Processing of products that are produced on the same site or on property in Marin County that is owned or leased by the processing facility operator or owner; and
  - B. Processing facilities that do not exceed an aggregate floor area of 10,000 square feet (or other figure agreeable to a majority of the Planning Commission).

Processing facilities that do not meet the above criteria would be subject to a Use Permit.

- II. Eliminate the Use Permit requirement for seasonal agricultural retail sales facilities based upon the following criteria:
  - A. Retail sale (seasonal) of products that are produced on the same site or on property within Marin County that is owned or leased by the sales facility operator or owner; and
  - B. Retail sales facilities that do not exceed an aggregate floor area or sales area of 1,000 square feet (or other figure agreeable to a majority of the Planning Commission).

Processing facilities that do not meet the above criteria would be subject to a Use Permit.

The recommendation outlined above is a simplified approach to addressing the Use Permit requirement for agricultural processing and retail sales facilities without relying upon an expanded Design Review process as an intermediate level of discretionary control. It therefore lessens or obviates the need for approving the revision proposing to expand the scope of the Design Review process by including a Use Permit finding for the purpose of addressing land use issues. This approach more closely resembles the recommendation made in the 1996 Agricultural Zoning Study to allow agricultural processing and retail sales facilities without a Use Permit if the products are produced on-site (the study did not propose floor area thresholds or Design Review for exempt facilities). It should be kept in mind that the Use Permit regulations for agricultural processing and retail sales facilities have been proposed as a first step in attempting to simplify and reduce the cost of the County permit process for these projects. Staff

anticipates that more refined regulations would be prepared in conjunction with a subsequent update of the Development Code.

The Planning Commission may also consider approving or denying the additional revisions presented by staff in the June 9, 2003 staff report. At a minimum, staff recommends that the definition of "Sale of Agricultural Products" be revised as shown below if the Planning Commission approves a related revision that would allow the sale of agricultural products from off-site locations. Alternatively, this definition could be revised to restrict sales to only those products produced within Marin County.

**Sale of Agricultural Products (land use).** This land use consists of sales of agricultural produce. Includes seasonal structures for seasonal sales, such as roadside stands, which are open structures for retail sales, and permanent structures for year-round sales. Does not include hay, grain and feed sales; see "Farm Equipment and Supplies."

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## RECOMMENDATION

Review the above alternative actions and revisions, in addition to the revisions contained in the June 9, 2003 staff report, and adopt the attached Resolution representing the Planning Commission report and recommendation to the Board of Supervisors. The specific revisions recommended for adoption by the Planning Commission will be provided in the final version of Exhibit "A" of the resolution based upon the Planning Commission action at the June 16, 2003 continued meeting. The Planning Commission may also recommend further study of and refinement to the Use Permit regulations discussed above, as well as other issues, as part of a subsequent phase of the Development Code update process.

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- Attachments:
1. June 9, 2003 Revisions (Exhibit A of June 9, 2003 Resolution)
  2. June 16, 2003 Planning Commission Resolution (Draft)