

**MARIN COUNTY PLANNING COMMISSION MINUTES**  
**JUNE 16, 2003**  
**Marin County Civic Center, Room #328 - San Rafael, California**

*Commissioners Present:* Ray Buddie (Out for Items #1 and #2)  
Allan Berland  
Ross Herbertson  
Don Dickenson  
Jo Julin  
Hank Barner  
Steve Thompson (Out for Items #1-4, 6)

*Commissioners Absent:*

*Staff Present:* Alex Hinds, Agency Director  
Brian C. Crawford, Deputy Director of Planning Services  
Jeremy Tejirian, Assistant Planner  
Alexandra Morales, Planning Commission Secretary

*Minutes Approved on:* **OCTOBER 20, 2003**

Convened at 1:00 p.m.  
Adjourned at 5:00 p.m.

1. ROUTINE TRANSACTIONS:

- a. M/s Julin/Berland, and passed unanimously of those present, to incorporate Staff Report into Minutes. Motion passed 5/0 (Commissioners Buddie and Thompson not present).
- b. Continuances: None.

2. COMMUNICATIONS

The Commission acknowledged additional correspondence regarding the Development Code update.

3. DIRECTOR'S ORAL REPORT

- a. Report on Progress of General Plan Updates

Agency Director Alex Hinds informed the Commission that the San Quentin Reuse Committee will be rendering their recommendations in July, 2003. He also stated that Countywide Plan workshops are expected to begin in July, 2003.

- b. Report on On-Going Development Projects

4. TIME FOR PUBLIC EXPRESSION ON ITEMS NOT ON TODAY'S AGENDA

None.

5. VARIANCE, USE PERMIT, DESIGN REVIEW CLEARANCE, AND LOT LINE ADJUSTMENT APPEAL: SHAW (RIFKIND, ON BEHALF OF FLORENCE LAUDER)

Hearing to consider an application proposing to adjust the existing lot lines and combine Assessor's Parcel 071-152-51 with the subject property. The existing property is 10,114 and the Lot Line Adjustment would increase the size of the lot by 4,483 square feet, resulting in a proposed lot area of 14,597 square feet. The applicant proposes to demolish an existing single-family residence and detached garage and replace them with a new single-family residence and a new detached accessory structure with an upper level garage and living area underneath. The proposed development would be located in approximately the same area as the existing development, and would maintain the following minimum setbacks: 38.3 feet from the southern front property line; 2 feet from the access easement along the western side property line; 19 feet from the eastern side property line; and 9 feet from the northern rear property line. The residence would attain a maximum height of 32 feet above finished grade and the detached accessory structure would attain a maximum height of 25.25 feet above natural and finished grade. The proposed three-story residence and living area underneath the garage would have a total of 4,379 square feet of floor area, and the garage would have 390 square feet of floor area. The floor area ratio on the proposed 14,597 square foot lot would be 30 percent, not including the floor area of the garage. The proposed development would require Variance approval to encroach into the western side yard setback, Use Permit approval is required to allow the 2-story detached accessory structure to exceed a height of 15 feet above grade and encroach into the rear yard setback, and Design Review Clearance approval is required to allow the residence to exceed a floor area of 4,000 square feet and a height of 30 feet above finished grade. The subject property is located at **53 Laurel Grove Avenue, Kentfield**, and is further identified as **Assessor's Parcel 071-152-31, & -51**.

Jeremy Tejrjian, project planner, summarized the merits of the proposed project, the issues raised in the appeal, and the responses to the issues raised in the appeal as set forth in the staff report.

Planning and Public Works staff responded to Commissioners' questions regarding the application process, height of existing structure, setbacks, proposed floor area ratio, and emergency vehicle access.

The hearing was opened to public testimony.

Doug Shaw, applicant, explained the needs for demolishing and reconstructing the residence, the proposed design of the project, and the application process. He responded to Commissioners' questions regarding square footage, height, landscaping, setbacks, and design.

Leonard Rifkind, appellant's representative, reiterated the basis of the appeal as set forth in his letter dated April 2, 2003. He concluded by stating that should a project be approved, that the conditions regarding construction hours be modified to further protect Ms. Lauder.

Mr. Bornstein, adjacent neighbor, stated that while the proposed project would be visible, impacts would not be detrimental. He concluded by commenting in support of the proposed artist studio.

The hearing was closed to public testimony.

Staff further clarified issues regarding the zoning district, proposed Lot Line Adjustment, development standards, maximum height allowed, and Kentfield/Greenbrae Community Plan Policies.

Following input from staff, the Commissioners raised concerns in the following areas: purchasing additional property to allow a higher FAR was not consistent with the intent of the Kentfield/Greenbrae Community Plan policies; minimal setbacks; height; location of the garage; the amount of grading required for construction of the artist studio; discrepancies between exhibits; and landscape screening. However, after holding a lengthy discussion, the majority of the Commission agreed that the project could be approved with the following modifications:

- Require recordation of the conditions of approval (new condition)

- Modify the condition of approval for permitted construction hours to be more restrictive

M/s Buddie/Berland, to adopt the attached Resolution denying the Lauder Appeal and conditionally approving the Shaw Variance, Use Permit, Design Review Clearance, and Lot Line Adjustment based on the findings and subject to the modified conditions, as set forth therein.

AYES: Berland, Buddie, Barner, Herbertson

NOES: Julin, Thompson, Dickenson

Motion passed 4/3.

Commissioner Herbertson informed all parties of interest that this action could be appealed to the Board of Supervisors within five (5) working days.

MARIN COUNTY PLANNING COMMISSION

RESOLUTION NO. PC03-013

A RESOLUTION DENYING THE LAUDER APPEAL AND CONDITIONALLY APPROVING  
THE SHAW VARIANCE , USE PERMIT, DESIGN REVIEW CLEARANCE,  
AND LOT LINE ADJUSTMENT

ASSESSOR'S PARCEL 071-152-31 AND -071-152-51  
53 LAUREL GROVE AVENUE, KENTFIELD

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**SECTION I: FINDINGS**

- I. WHEREAS, the applicant would adjust the existing lot lines between the subject property, Assessor's Parcel 071-152-31, and Assessor's Parcel 071-152-51, which is a portion of an adjacent flag lot. The existing property is 10,114 square feet and the Lot Line Adjustment would increase the size of the lot by 4,483 square feet, resulting in a proposed lot area of 14,597 square feet. The applicant proposes to demolish an existing single-family residence and detached garage and replace them with a new single-family residence and a new detached accessory structure with an upper level garage and living area underneath. The proposed development would be located in approximately the same area as the existing development, and would maintain the following minimum setbacks: 38.3 feet from the access easement along the southern front property line; 2 feet from the access easement along the western side property line; 19 feet from the eastern side property line; and 9 feet from the northern rear property line. The residence would attain a maximum height of 32 feet above finished grade and the detached accessory structure would attain a maximum height of 25.25 feet above natural and finished grade. The proposed three-story residence and living area underneath the garage would have a total of 4,379 square feet of floor area, and the garage would have 390 square feet of floor area. The floor area ratio on the proposed 14,597 square foot lot would be 30 percent, not including the floor area of the garage. The proposed development would require Variance approval to encroach into the western side yard setback, Use Permit approval is required to allow the two-story detached accessory structure to exceed a height of 15 feet above grade and encroach into the rear yard setback, and Design Review Clearance approval is required to allow the residence to exceed a floor area of 4,000 square feet and a height of 30 feet above finished grade. The subject property is located at 53 Laurel Grove Avenue, Kentfield, and is further identified as Assessor's Parcels 071-152-31, and -51.
- II. WHEREAS, the Marin County Deputy Zoning Administrator held a duly noticed public hearing on April 24, 2003, to consider the merits of the project, and hear testimony in favor of, and in opposition to, the project.
- III. WHEREAS, the Marin County Planning Commission held a duly noticed public hearing on June 16, 2003, to consider the merits of the project and the appeal, and hear testimony in favor of, and in opposition to, the project.
- IV. WHEREAS, the Marin County Planning Commission finds that there is insufficient basis to support the Lauder appeal, for the following reasons:
  - A. Granting the setback Variance would benefit the downslope neighbor by increasing the distance between the residences, and would reduce the amount of grading and tree removal that would otherwise be necessary for construction of the residence.
  - B. Granting Use Permit approval would allow the detached accessory structure, which would be a garage on the upper level and an artist's studio on the lower level, to exceed a height of 15 feet above grade and encroach by 1 foot into the 10-foot rear yard setback required by the governing R-1:B-2 zoning district. The elevation of the finished floor of the garage is determined by the elevation of the driveway to provide level and code-compliant access to the parking area. Developing the studio area underneath the garage is

an efficient use of understory area that would not substantially increase the mass, bulk, or highest elevation of the structure.

- C. As modified by the conditions of approval, Design Review Clearance approval would allow the floor area for the development on the property to exceed 4,000 square feet. The residence would be 3,833 square feet and the studio area beneath the garage would be 715 square feet in size. However, a large portion of the lower levels of these structures would be sunken into the hillside, which would reduce the mass and bulk of the proposed development. Further, the rear portion of the proposed residence would not extend as far to the northeast as the existing residence, which would reduce the visual impact to the downslope neighbor. The architecture of the proposed residence has a distinctive style characterized by exterior walls that would not conform to right angles and roofs that are pitched and oriented to reflect the natural topography. The atypical angles and architectural features such as decking and the vertically tapered window seat area in the den would articulate the facades of the residence. The exterior materials would be clapboard or fire resistant shingle siding stained a dark color to recede in the natural surroundings.
  - D. The proposed project would minimize grading because it would be located in the same area as the existing residence, and the majority of the ground disturbance would be related to the excavation for the lower level living areas. This excavation would not significantly reform the surrounding natural topography, and lowering the residence into the hillside would reduce its mass and bulk. Two trees would be removed for the project, but the remainder would be protected during construction. Further, by obtaining an exception from the Department of Public Works for the required width of the driveway improvements, the applicant would protect the mature trees along the common driveway to Laurel Avenue. These trees enhance the local neighborhood and are a distinguishing natural feature of the area. Finally, as modified by the conditions of approval, the proposed landscaping would provide privacy and soften the appearance of the proposed development from the surrounding area.
  - E. As modified by the conditions of approval, the proposed development would be of a comparable height, size and scale with other structures existing in the surrounding community. Additionally, the project would utilize creative design features that break up the mass of the structure such as articulations in the building facades, decking and fenestration.
  - F. As modified by the conditions of approval, the proposed development would not limit or inhibit the use or enjoyment of other properties in the vicinity because the improvements are consistent with the uses permitted by the governing zoning district and would maintain adequate setbacks from all property lines and other buildings on the subject and surrounding properties. Finally, the project has been designed to protect and preserve existing views, light, and privacy of surrounding residences.
- V. WHEREAS, the Marin County Planning Commission finds that the proposed project is Categorically Exempt from the requirements of the California Environmental Quality Act, per Sections 15303, Class 3, and Section 15305, Class 5, of the CEQA Guidelines because it entails the construction of a single-family residence with no potentially significant impacts to the environment.
- VI. WHEREAS, the Marin County Planning Commission finds that the proposed project is consistent with the Marin Countywide Plan because:
- A. The project would comply with Marin County standards for geotechnical engineering and seismic safety, and include improvements to protect lives and property from hazard;
  - B. The project would comply with the Countywide Plan SF5 Land Use Designation as a single-family residence;
  - C. The project would comply with Department of Public Works standards related to parking, grading and drainage;

- D. The project would not cause significant adverse impacts on water supply, fire protection, waste disposal, schools, traffic and circulation, or other services;
- E. The project would comply with Countywide Plan Policy EQ-3.11 in that the project would not result in significant visual impacts to the surrounding natural or built environment, as discussed in the findings below;
- F. The project would minimize soil disturbance and maximize protection of natural vegetation as discussed in the findings below; and
- G. The project would minimize potential hazards to the public from private construction.

VII. WHEREAS, the Marin County Planning Commission finds that the proposed project is consistent with the Kentfield/Greenbrae Community Plan because:

- A. The proposed project would not adversely impact the surrounding built environment relative to views from adjacent properties, privacy for the subject and surrounding properties, and building design, mass and bulk.
- B. The subject property maintains adequate access and off-street parking to accommodate the proposed project as verified by the Marin County Department of Public Works.
- C. The subject property would have adequate water supply and sewage disposal, as confirmed by the Marin Municipal Water District and Ross Valley Sanitary District.
- D. As discussed in the analysis section, the proposed project would not adversely impact the surrounding natural environment relative to vegetation, species habitats or on-site drainage.

VIII. WHEREAS, the Marin County Planning Commission finds that the proposed project is consistent with the mandatory findings to approve a Variance (Section 22.86.025[4] of the Marin County Code).

- A. **Because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the zoning ordinance deprives such property of privileges enjoyed by other properties in the vicinity under an identical zoning district.**

The topography of the subject property exceeds an 18 percent slope descending from the west to the east, resulting in site constraints that affect the proposed development. The steep slope deprives the property of privileges enjoyed by other properties in Kentfield that have level building areas. The development proposal responds to these constraints by locating the structures near the upper portion of the lot, encroaching into the required western side yard setback. Strict application of the 10-foot setback would result in a constrained building envelope in comparison to other lots in the area that are subject to identical zoning.

- B. **The granting of a Variance for the property will not be detrimental to the public welfare or injurious to other property in the vicinity.**

The portion of the residence that would encroach into the side yard setback would not adversely impact the adjacent neighbors because the existing and proposed vegetation would provide screening to the surrounding area, and the residence would be designed to blend into the natural landscape. The setback is measured from the edge of a 10-foot access easement, which is used as a private driveway benefiting a single neighbor behind the applicant's property. Adequate separation from the upslope property owner to the east is provided by this 10-foot driveway, and Variance approval would allow the residence to be located farther from the downslope neighbor, who has raised concerns regarding visual and privacy

impacts from the proposed development. Granting the setback Variance would benefit the downslope neighbor by increasing the distance between the residences, and would reduce the amount of grading and tree removal that would otherwise be necessary for construction of the residence. Therefore, Variance approval would benefit the community because it would allow the applicant to minimize adverse affects to the surrounding natural and built environment.

**C. The granting of a Variance for the property does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity under an identical zoning district.**

Granting a Variance for the subject property would not constitute a grant of special privilege that is inconsistent with the limitations placed on other properties in the vicinity. Review of planning records indicates that several other properties in the vicinity and shown on the same Assessor’s map page have been granted Variance approval for setback encroachments in the past. Consequently, approval of the proposed Variance would be consistent with previous County actions in the community as summarized in the table below.

<i>ASSESSOR’S PARCEL</i>	<i>VARIANCES</i>
071-152-03	rear encroachment
071-152-12	front encroachment
071-152-13	front, side, rear encroachments
071-152-14	side, side, rear encroachments
071-152-22	rear encroachment
071-152-33	side encroachment
071-152-35	front, side encroachments
71-152-40	side encroachment
071-152- 46	side encroachment
071-152-48	side encroachment
071-152-58	front encroachment

Finally, approving the proposed project would not be a grant of special privilege because the slope of the subject lot results in constraints that most property owners in the wider area of Kentfield do not face.

**D. The granting of a Variance for the property does not authorize a use or activity that is not otherwise expressly authorized by the particular zoning district regulations governing such property.**

The granting this Variance would not allow or authorize a use or activity that is not otherwise expressly authorized by the governing R-1:B-2 zoning district regulations because it involves the construction of a single-family residence.

**IX. WHEREAS, the Marin County Planning Commission finds that the proposed project is consistent with the mandatory findings to approve a Design Review Clearance (Section 22.82.040 of the Marin County Code).**

A. Design Review Clearance approval has been requested to allow the proposed residence to exceed a height of 30 feet and to allow the floor area for the development on the property to exceed 4,000 square feet. The residence would be 3,833 square feet and the studio area beneath the garage would be 715 square feet in size. However, a large portion of the lower levels of these structures would be sunken into the hillside, which would reduce the mass and bulk of the proposed development. Further, the rear portion of the proposed residence would not extend as far to the northeast as the existing residence, which would reduce the visual impact to the downslope neighbor. The architecture of the proposed residence has a distinctive style characterized by exterior walls that would have oblique angles and roofs that are pitched and oriented to reflect the natural topography. The atypical angles and architectural features such as decking and the vertically tapered window seat area in the den would



articulate the facades of the residence. The exterior materials would be clapboard or fire resistant shingle siding stained a dark color to recede in the natural surroundings.

- B. The proposed project would minimize grading because it would be located in the same area as the existing residence, and the majority of the ground disturbance would be limited to the excavation for the lower level living areas. This excavation would not significantly reform the surrounding natural topography, and lowering the residence into the hillside would reduce its mass and bulk. Two trees would be removed for the project, but the remainder would be protected during construction. Further, by obtaining an exception from the Department of Public Works for the required width of the driveway improvements, the applicant would protect the mature trees along the common driveway to Laurel Avenue. These trees enhance the local neighborhood and are a distinguishing natural feature of the area. Finally, as modified by the conditions of approval, the proposed landscaping would provide privacy and soften the appearance of the proposed development from the surrounding area.
- C. As modified by the conditions of approval, the proposed development would be of a comparable height, size and scale with other structures existing in the surrounding community. Additionally, the project would utilize creative design features that break up the mass of the structure such as articulations in the building facades, decking and fenestration.
- D. As modified by the conditions of approval, the proposed development would not limit or inhibit the use or enjoyment of other properties in the vicinity because the improvements are consistent with the uses permitted by the governing zoning district and would maintain adequate setbacks from all property lines and other buildings on the subject and surrounding properties. Additionally, the project has been designed to protect and preserve existing views, light, and privacy of surrounding residences.
- E. As modified by the conditions of approval, the proposed development would minimize potential adverse physical and visual impacts because it would be constructed of building materials and colors that compliment the surrounding natural environment and would be consistent with the surrounding community character. Finally, the design of the proposed development would incorporate current goals and policies contained in the Marin Countywide Plan and development standards in the Marin County Code to ensure that it minimizes alterations to the natural environment by reducing grading activities and replacing significant trees removed for development.

X. WHEREAS, the Marin County Planning Commission finds that the proposed project is consistent with the mandatory findings to approve a Lot Line Adjustment (Section 20.56.080 of the Marin County Code).

- A. The proposed Lot Line Adjustment is limited to four or fewer existing adjoining lots.

The proposed adjustment includes a single legal lot of record and a portion of an adjacent lot.

- B. Each of the affected lots is a separate legal lot of record because they were created in compliance with the applicable subdivision regulations in effect at the time of their creation.

As a condition of project approval the Lands of Shaw, including Assessor's Parcel 071-152-31, and Assessor's Parcel 071-152-51, which is currently owned by Dean, but would be purchased by Shaw, shall be merged into a single, legal lot of record. A voluntary merger application has already been submitted, but cannot be finalized until the sale of the property has been completed. There is no indication that Assessor's Parcel 071-152-51 is a legal lot of record, however, the Merger would resolve any remaining questions regarding the legal status of the Assessor's Parcel 071-152-51.

- C. The proposed Lot Line Adjustment would not result in the creation of additional parcels or additional potential building sites.

The proposed Lot Line Adjustment would reconfigure existing legal lots of record, but would not create additional lots.

- D. The proposed Lot Line Adjustment would comply with policies of the Countywide Plan and applicable community plan and local coastal plan.

The adjustment would transfer ownership of Assessor's Parcel 071-152-51 from Dean to Shaw. The subject Assessor's Parcel is the access easement portion of the flag lot owned by Dean. The remainder of the lot owned by Dean would be contained in Assessor's Parcel 071-152-57, which is approximately 13,300 square feet in size. The existing residence on the remaining Dean lot is approximately 3,072 square feet in size, and therefore the lot line adjustment would result a floor area ratio on the Dean property of approximately 23 percent. The adjustment would not affect the setbacks on the Dean property, because front yard setbacks are measured from where the bulk of the lot begins. The proposed project is consistent with the goals and policies of the Marin Countywide Plan SF5 single-family land use designation, Title 22 of the Marin County Code, and the Kentfield/Greenbrae Community Plan because the resulting properties would meet the development standards required by the governing R-1:B-2 zoning district. The reconfiguration of the lot lines would result in lots that meet the 10,000 square foot minimum lot size requirement for the subject properties.

- E. The proposed Lot Line Adjustment would comply with zoning and development provisions of Titles 18, 20, 22, and 24 of Marin County Code, including but not limited to those which address minimum lot size, lot width, street frontage and setbacks from all property lines.

- XI. WHEREAS, the Marin County Planning Commission finds that the proposed project is consistent with the mandatory findings to approve a Use Permit (Section 22.88.020 of the Marin County Code).

**The establishment, maintenance or conducting of the use for which a Use Permit is sought will not, in this case, be detrimental to the health, safety, morals, comfort, convenience, or welfare of persons residing or working in the neighborhood of this use and will not, under the circumstances of this case, be detrimental to the public welfare or injurious to property or improvements in said neighborhood for the reasons listed below.**

- A. Use Permit approval has been requested to allow the detached accessory structure, which would be a garage on the upper level and an artist's studio on the lower level, to exceed a height of 15 feet above grade and encroach by 1 foot into the 10-foot rear yard setback required by the governing R-1:B-2 zoning district. The elevation of the finished floor of the garage is determined by the elevation of the driveway to provide level and code-compliant access to the parking area. Developing the studio area underneath the garage is an efficient use of understory area that would not substantially increase the mass, bulk, or highest elevation of the structure.
- B. The accessory structure would not generate any activities that would be detrimental to the use or enjoyment of surrounding properties because the use of the structure would be compatible with surrounding residential uses within the neighborhood and would not result in adverse noise or visual impacts on adjacent properties. Furthermore, as a condition of project approval, the applicant would be required to record a deed restriction stipulating that the detached accessory structure would not be converted into a second dwelling unit without County authorization.
- C. The accessory structure would be visually compatible with development on the subject property and surrounding properties because it would have a rustic design with a pitched roof and wood siding.
- D. The accessory structure does not impair or obstruct significant viewsheds enjoyed from off-site locations because of its location on the subject property.
- E. Improvements to the accessory structure would not impact or alter existing water or sewer services to the subject or surrounding properties.

- F. The accessory structure would be required to meet Uniform Building Code standards and, therefore, would be constructed in a manner that would preclude potential damage to improvements on the subject property or on neighboring properties.
- G. The proposed project would not entail significant alterations to the natural environment, including topography and vegetation.
- H. The proposed project has been reviewed and recommended for approval by the Kentfield Planning Advisory Board.

**SECTION II: CONDITIONS OF PROJECT APPROVAL (VR 02-1, UP 02-1, DC 03-83, LL 03-8)**

NOW THEREFORE, BE IT RESOLVED that the Marin County Planning Commission hereby approves the Shaw Variance, Use Permit, Design Review Clearance, and Lot Line Adjustment, subject to the following conditions:

**Marin County Community Development Agency - Planning Division**

1. The Shaw Variance, Use Permit, Design Review Clearance, Lot Line Adjustment, and Merger is approved to adjust the existing lot lines between the subject property, Assessor's Parcel 071-152-31, and Assessor's Parcel 071-152-51, which is a portion of an adjacent flag lot. The existing property is 10,114 square feet and the Lot Line Adjustment is approved to increase the size of the lot by 4,483 square feet, resulting in a lot area of 14,597 square feet. The approvals include demolishing an existing single-family residence and detached garage and replacement with a new single-family residence and a new detached accessory structure with an upper level garage and living area underneath. The approved development would be located in approximately the same area as the existing development, and would maintain the following minimum setbacks: 38.3 feet from the access easement along the southern front property line; 2 feet from the access easement along the western side property line; 19 feet from the eastern side property line; and 9 feet from the northern rear property line. The residence is approved to attain a maximum height of 30 feet above finished grade and the detached accessory structure is approved to attain a maximum height of 25.25 feet above natural and finished grade. The approved three-story residence and living area underneath the garage would have a total of 4,379 square feet of floor area, and the garage would have 390 square feet of floor area. The floor area ratio on the proposed 14,597 square foot lot would be 30 percent, not including the floor area of the garage. The subject property is located at 53 Laurel Grove Avenue, Kentfield, and is further identified as Assessor's Parcels 071-152-31 and -51.
2. The detached structure approved herein shall not be used as a second unit or contain a kitchen or food preparation area without prior approval by the Community Development Agency. This resolution shall be recorded with the Marin County Recorder's Office to notify future owners of the property of this condition.
3. Plans submitted for a building permit shall substantially conform to plans on file in the Community Development Agency-Planning Division identified as "Exhibit A," entitled "Shaw Residence," consisting of 18 sheets, prepared by Doug Shaw, date stamped January 6, 2003.
4. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall revise the site plan or other first sheet of the office and job site copies of the Building Permit plans to list these Conditions of Approval as notes.
5. BEFORE RECORDATION OF A MERGER, the approved Lot Line Adjustment shall be vested in conformance with the requirements contained in condition 19 h.
6. BEFORE ISSUANCE OF A BUILDING PERMIT, Assessor's Parcels 071-152-31 and -51 shall be merged in accordance with the Subdivision Map Act and County requirements.
7. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall submit exterior materials and color samples and details of the exterior lighting for the review and approval of the director. Exterior materials shall be dark earthtone colors and exterior lighting shall be downward directed and hooded.

8. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall submit revised plans that show that the maximum height of the residence shall not exceed 30 feet above natural or finished grade, whichever is more restrictive.
9. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall submit a revised landscape plan that shows additional vegetation for screening the eastern side of the development from the downslope neighbor, and shows that shrubs shall be planted along the western edge of the residence. The location, type, and gallon size of replacement trees shall be indicated on the landscape plan in conformance with Condition 10 below. The location of exterior lighting fixtures shall also be shown on the landscaping plan. A detail of the 6-foot high fence downslope from the development shall be included on the landscape plan. If irrigation is necessary, then drip irrigation shall be utilized, and irrigation shall not be used within 6 feet of significant trees. The plans shall be submitted for the review and approval of the Director.
10. BEFORE COMMENCEMENT OF GRADING OR CONSTRUCTION ACTIVITIES AND ISSUANCE OF A BUILDING PERMIT, the applicant shall submit for the review and approval of the Director a revised site plan and written verification from a licensed consulting arborist that the project conforms to the following requirements:
  - a. The arborist shall establish Tree Protection Zones (TPZ) around trees that are to be retained and may be affected by the approved project. The boundaries of the TPZ shall protect the trees to the maximum extent feasible during construction activities, and should be at the dripline of the trees where possible. Tree protection fencing shall be erected at the perimeter of the TPZs prior to grading and construction activities and shall remain in place until all construction, including utility installation, has been completed. All structures including construction trailers, equipment storage areas and any other construction traffic are prohibited within fenced areas. No materials, equipment, spoil, waste, or washout water shall be deposited or stored within fenced areas. Excavation equipment shall operate from outside the TPZ. The location of the tree protection fencing shall be clearly shown on the revised site plan.
  - b. The arborist shall be on site to monitor any necessary incursions into the TPZs, and the applicant shall follow the protection measures recommended by the arborist to mitigate any disturbance of the protected trees. The arborist shall perform or directly supervise the removal, trimming or root pruning required by the construction.
  - c. Mulch shall be spread under the canopy of all trees to a depth of 6 to 12 inches and remain for the duration of construction activities.
  - d. Cuts for access improvements shall be minimized to avoid disturbing tree root systems.
  - e. Irrigation shall not be located within 6 feet of the trunks of significant trees.
  - f. The arborist shall be responsible for all root and limb trimming necessary for the development.
  - g. The arborist shall assess the impact to the 36-inch pine in the front yard adjacent to the driveway improvements and recommend specific tree protection measures if necessary.
  - h. The installation of utilities, including power lines and sewer lines, shall be done in conformance with the tree protection and replacement measures contained herein.
11. It shall be the responsibility of the applicant to store all construction materials and equipment at the site (or secured at an approved off-site location) in such a manner as to permit safe passage for vehicular traffic at all times. Every effort shall be made by the holder of the building permit to strictly limit the number of vehicles used to transport workers and materials to the site to the minimum number necessary. No authorization to trespass upon other private property is granted or implied by this approval. Work at the site shall be limited to

the hours of 9:00 AM and 5:00 PM, Monday through Friday, and 9:00 AM to 4:00 PM Saturday. No work shall be permitted on Sundays or holidays.

12. During construction, the applicant shall take all appropriate measures, including watering of disturbed areas and covering the beds of trucks hauling fill to or spoils from the site, to prevent dust from grading and fill activity from depositing on surrounding properties.
13. All new utility connections and extensions serving the project shall be installed underground. If PG&E connects the approved residence to the power grid through the lines that run underneath the 15 foot access easement that leads to Laurel Grove Avenue, then those lines shall be installed underground to reduce the visual impacts related to the approved development, unless this will cause the extensive loss of the existing trees so as to cause a significant change to the visual and community character, as determined by the Community Development Director.
14. If archaeological resources are discovered during construction, all work at the site shall cease and the applicant shall contact the Marin County Environmental Coordinator. A registered archeologist, chosen by the County and paid for by the applicant, shall assess the site and shall submit a written report to the Community Development Agency Director advancing appropriate measures to protect the resources discovered. No work at the site may recommence without approval of the Community Development Director. All future development of the site must be consistent with findings and recommendations of the archaeological report as approved by the Community Development Director. If the report identifies significant resources, amendment of the permit may be required to implement measures to protect resources.
15. BEFORE FINAL INSPECTION, the applicant shall submit a report by a qualified arborist that assesses the health of the existing trees on the project site that may have been impacted by construction. The report shall confirm that the arborist has conducted periodic site inspections and verify that the project has conformed to the following requirements:
  - a. The applicant shall comply with all recommendations made by the Arborist with respect to tree protection during construction activities, general tree care practices, and long-term vegetation management to ensure continued viability of the site's native vegetation. If damage has occurred to trees, measures such as additional replacement, aeration and fertilization shall be implemented to compensate for any damage. The Director may approve minor adjustments to this condition.
  - b. The applicant shall plant two 15-gallon size Oak trees for every significant tree removed. At least 4 trees shall be planted in an appropriate area on the site to replace the 2 trees proposed for removal.
16. BEFORE FINAL INSPECTION, the applicant shall install all required landscaping and a drip irrigation system to serve it. The applicant shall call for a Community Development Agency staff inspection of the landscaping, including the lighting and fence, at least five working days before the anticipated completion of the project. All plantings shall be clearly and accurately labeled at the time of inspection. Failure to pass inspection will result in withholding of the occupancy and imposition of hourly fees for subsequent reinspections.
17. BEFORE FINAL INSPECTION, and upon vesting of this approval, this Resolution shall be recorded with the Marin County Recorder.
18. Any changes or additions to the project shall be submitted to the Community Development Agency for review and approval before the contemplated modifications may be initiated.

**Department of Public Works-Land Use and Water Resources**

19. BEFORE ISSUANCE OF A BUILDING PERMIT, the following requirements shall be satisfied:
  - a. The applicant shall submit Erosion and Siltation Control plans.

- b. The site/driveway retaining walls, drainage, and grading plans must be designed by a Registered Civil Engineer or Architect. Plans must have the engineer/architect's original signature and wet stamp.
- c. The plans must be reviewed and approved by a Registered Soils Engineer. Certification shall be either by the engineer's wet stamp and original signature on the plans or by wet stamp and signed letter.
- d. Prior to issuance of building permit site plan shall be revised to show guest parking stalls with County standard width of 8 ½ feet. Indicate retaining wall height and all improvements to create guest parking with a cross slope of less than 8%.
- e. Note on the plans that the Design Engineer/Architect shall certify to the County in writing that all grading, drainage, and retaining wall construction was done in accordance with plans and field directions. Also note that driveway, parking, and other site improvements shall be inspected by a Department of Public Works engineer.
- f. The applicant's request for an exception to a 16-foot driveway on the property is acceptable. The minimum driveway width within the property limits shall be 12 feet, except in the immediate area of the single "36-inch pine" which can remain standing. The common driveway outside of the property limits requires no improvements.
- g. It is recommended that points be set at new property corners and that a Record of Survey be filed with the Department of Public Works to be recorded simultaneously with the deeds and descriptions.
- h. If a Record of Survey is not filed, it shall be a condition of approval that prior to recordation, deed(s) shall be submitted to the Department of Public Works for review and approval along with a fee of \$165.00. A Licensed Land Surveyor or a Registered Civil Engineer shall prepare the deeds, and an exhibit shall be attached to each deed that graphically depicts the lot line adjustment. Note that a Record of Survey shall be required for a Lot Line Adjustment in accordance with Section 8762 of the California Business and Professional Code.
- i. A roadway and utility easement shall be created for the benefit of the Lands of Dean (071-152-57)

**Marin Municipal Water District**

20. All landscape and irrigation plans must be designed in accordance with District landscape Ordinance #385.

**Ross Valley Sanitary District**

21. The applicant shall submit written certification from the Sanitary District that the District's requirements have been met.

**Kentfield Fire District**

22. The applicant shall submit written certification from the Fire District that the District's requirements have been met.

**SECTION III: VESTING AND APPEAL RIGHTS**

NOW, THEREFORE BE IT RESOLVED that the applicant must vest the Shaw Variance, Use Permit, Design Review Clearance, and Lot Line Adjustment approval by securing a Building Permit and substantially completing all of the approved work by **June 16, 2005**, or all rights granted in this approval shall lapse unless the applicant applies and pays for an extension at least 30 days before the expiration date and it is approved by the Community

Development Director. An extension may be granted for the approved project for cause pursuant to Sections 22.86.070, 22.88.050 and 22.82.130 of the Marin County Code.

NOW, THEREFORE BE IT FURTHER RESOLVED that this decision is final unless appealed to the Marin County Board of Supervisors. A Petition for Appeal and a \$675.00 filing fee must be submitted in the Community Development Agency - Planning Division, Room 308, Civic Center, San Rafael, no later than 4:00 p.m. on June 23<sup>rd</sup>, 2003.

**SECTION IV: VOTE**

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the County of Marin, State of California, on the 16<sup>th</sup> day of June, 2003, by the following vote to wit:

AYES: Berland, Buddie, Barner, Herbertson

NOES: Julin, Thompson, Dickenson

ABSENT:

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ROSS HERBERTSON, CHAIRMAN  
MARIN COUNTY PLANNING COMMISSION

Attest:

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Alexandra Morales  
Planning Commission Secretary

## 6. DRAFT MARIN COUNTY DEVELOPMENT CODE

A continued 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 Crawford, Deputy Director, explained the purpose of the meeting and summarized the issues referred to the Commission by the Board of Supervisors, as discussed at the hearing of June 9, 2003. At the conclusion of the previous hearing, staff was directed to return with an outline of some possible actions that could be taken in response to the Board's referral. Staff summarized the responses as outlined in his supplemental memorandum of June 13, 2003.

Staff responded to Commissioners' questions regarding the definition of seasonal sales versus seasonal structures, the threshold for triggering a Use Permit for the sale of agricultural products on-site. Alex Hinds, Director, explained the methodology used for determining compliance with the criteria for agricultures sales. A Use Permit would be required regardless of the size of the property unless all of the products sold and processed were produced in Marin, and processed or sold at the site.

Further discussion followed on the regulatory framework for the permits, namely attempting to simplify the review process for agricultural support projects while maintaining a sufficient level of regulatory oversight.

The public testimony portion of the hearing was opened.

Dennis Rodoni, Catherine Caufield, EAC, Wiebke Buxbaum, Cela O'Connor and Gordon Bennett, spoke regarding concerns with how to make determinations for compliance with the Use Permit criteria, retail sales of products unrelated to agriculture, approving the agriculture part of the Development Code separately after further study, small processing and sales operations versus large operations, products produced by the Use Permit applicant, the difference between agriculture processing facilities and agriculture retail facilities, habitat, stream and wetland protections, and potential loop holes in the proposed regulations.

The public testimony portion of the hearing was closed.

The Use Permit threshold based on the size of the agriculture processing and retail sales facilities was discussed in detail. Economic viability for uses such as Bed and Breakfasts was encouraged, and products used in processing, such as sugar and salt were excepted. Further discussion included Second Unit Use Permit s, fees, smaller size of retail sales facilities and Design Review findings.



With respect to the Use Permit procedures for agricultural processing and retail sales facilities, the Commission endorsed a modified version of the proposed regulations that would eliminate the Use Permit requirement for agricultural processing subject to the following criteria: 1) the agricultural products used in the processing operation are produced on-site or on other property within Marin County that is either owned or leased by the processing facility operator or owner, excluding additives and other ingredients; 2) the total size of the facilities does not exceed 5,000 square feet of floor area; and 3) the facilities comply with the stream conservation area standards of the Countywide Plan. The same criteria apply to retail sales of agricultural products with the exception of a lower 500 square foot limit on the total floor and sales area of the facilities.

The Planning Commission also reviewed several other revisions to the Development Code that the Board may consider adopting, including:

- Allow for the boarding of up to five horses on agricultural land subject to the Non-Agricultural Use Standards that have been created for second units, bed and breakfast inns and home occupations. (Refer to Section 22.32.115.);
- Refine the Non-Agricultural Use Standards to provide greater flexibility in their application;
- Create a Master Plan exemption process for traditional agricultural production activities (crop production, livestock grazing and dairies) as well as nature preserves in agricultural zones;
- Clarify the waiver process for agricultural management plans for projects located on land under agricultural production;
- Create a new definition of “Agricultural Accessory Activities” to distinguish customary agricultural production activities, such as hay baling and cubing, drying of fruits and vegetables, cooling and packaging of produce, from more intensive agricultural processing uses, such as wine production and food oil production, that are subject to Use Permit thresholds.
- Clarify the existing regulations that limit the number of dwelling units on A District lands to one primary residence in addition to other dwellings solely for persons engaged in the agricultural use of the land;
- Clarify the criteria by which agricultural accessory structures are subject to exemptions from the Master Plan and Design Review process.

M/s Berland/Herbertson, and passed unanimously of those present, to adopt the attached resolution recommending that the Board of Supervisors adopt the updated Marin County Agriculture Element. Motion passed 6/0 (Commissioner Thompson not present).

7. APPROVAL OF MINUTES –JUNE 9, 2003, MEETINGS

Postponed until July 7, 2003.

8. UPDATE ON BOARD OF SUPERVISORS ACTIONS

June 3, 2003: Melvin Design Review Appeal (Fairfax)

June , 2003: Construction and Demolition Ordinance

July 15, 2003: Tobias Variance Appeal (Lucas Valley)

9. FUTURE AGENDA DISCUSSION ITEMS, FIELD TRIPS

July 7, 2003

Countywide Plan Alternatives

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

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

July 14, 2003

Fireside Housing (Tam Valley)

Job/Housing Ordinance

July 28, 2003

LAFCO Presentation on Sphere of Influence/Countywide Plan

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 (Nicasio)