

MARIN COUNTY PLANNING COMMISSION MINUTES
September 8, 2003
Marin County Civic Center, Room #328 - San Rafael, California

Commissioners Present: Ray Buddie (Commissioner excused himself for items #7-9)
Allan Berland
Ross Herbertson
Don Dickenson
Jo Julin
Hank Barner
Steve Thompson (Commissioner excused himself for items #6-9)

Commissioners Absent:

Staff Present: Alex Hinds, Agency Director
Brian Crawford, Deputy Director
Michele Rodriguez, Principal Planner
Thomas Lai, Principal Planner
Barbara Collins, Affordable Housing Strategist
Michelle Reed, Recording Secretary

Minutes Approved on: ***October 6, 2003 (Item #5 minutes)***
October 20, 2003 (Items #1-4, and #6-9 – minutes)

Convened at 1:05 p.m.
Adjourned 4:20 p.m.
Reconvened 4:35 p.m.
Adjourned at 6:55 p.m.

1. ROUTINE TRANSACTIONS:

- a. Incorporate Staff Reports into Minutes

M/s Julin/Berland, and passed unanimously to incorporate the Staff Report into the Minutes. Motion passed 7/0.

- b. Continuances: None

2. COMMUNICATIONS

The Commission acknowledged additional correspondence received from the Marin Consortium For Workforce Housing dated September 5, 2003, Robert J. Sos dated September 4, 2003, and Jack Watson dated September 4, 2003

3. DIRECTOR'S ORAL REPORT

Report on Countywide Plan Scenarios:

Agency Director Alex Hinds presented a summary of the report on Countywide Plan Scenarios. He then responded to questions regarding the county's direction for an improved transit system and updating of statistics.

Agency Director Hinds also presented an update on the San Rafael Rock Quarry stating that said matter was currently in court. The operator may apply for a use permit which would be heard by the Planning Commission. Commissioner Dickenson questioned the ability of approving the expansion of a non-conforming use.

Chair Herbertson asked for periodic status reports on this matter.

4. OPEN TIME FOR PUBLIC EXPRESSION, LIMITED TO THREE MINUTES PER SPEAKER

None.

5. MARIN COUNTY CODE TITLE 22 (DEVELOPMENT CODE) AMENDMENT
CHAPTER 22.22 – AFFORDABLE HOUSING REGULATIONS AND
CHAPTER 22.130 - DEFINITIONS

Hearing to consider proposed amendments to Chapters 22.22 (Affordable Housing Regulations) and 22.130 (Definitions) of Marin County Code Title 22 (Development Code) to implement programs identified in the Countywide Plan's Housing Element. The proposed amendments would: (1) expand the applicability of the inclusionary housing requirements for all new residential projects resulting in two or more housing units or lots where the current ordinance applies only to new projects resulting in 10 or more residential units or lots; (2) increase the percentage of required affordable housing units for new residential projects from 15% to 20%; (3) require that inclusionary residential units be affordable to low and very low income households and not moderate income households; and (4) require new non-residential developments to provide housing for 20% of the number of employees at very low, low, and moderate incomes that would be generated by the development. The Planning Commission will consider recommending the proposed Development Code Amendments to the Board of Supervisors for final action.

Barbara Collins, Housing Strategist, presented the proposed Development Code amendments.

Staff provided the following response to questions from members of the Commission, as follows:

- The proposed linkage requirements for non-residential uses were developed with input from the Cities of Novato and San Rafael, where there is a greater potential for commercial development.
- The proposed non-residential inclusionary requirement represents 20% of the legally-justifiable requirement based on the nexus study.
- Information collected from a local non-profit developer (Ecumenical Association for Housing) and the Census indicates that there is greater need for smaller housing units due to decreasing household sizes within the very low and low income brackets.
- The 40-year maximum length required for affordability is based on lending restrictions from Fannie Mae, which provides a large amount of the loans used in residential construction.

The public testimony portion of the hearing was opened.

Judy Binsacca (representing the League of Women Voters), Margaret Zegart, Rocky Birdsey (representing the Marin Center for Independent Living), and Dave Coury (representing Life House-Work Force), spoke in support of the proposed regulations and identified concerns with respect to not including one-unit projects, the need to comply with accessibility and Medicare requirements, provision of different types of workforce housing, and need to provide access to public transportation facilities.

Linda Jackson (representing the City of San Rafael Community Development Agency), and Hans Grunt (representing the City of Novato Planning Department) spoke in support of the staff recommendation and indicated that their respective municipalities are working on moving forward with their amended inclusionary ordinances as well.

The public testimony portion of the hearing was closed.

Staff provided the following response to questions from individual Commissioners:

- The goal is to gain approval of the proposed amendments from the Board of Supervisors by the end of the year.
- Since the recommended non-residential component of the ordinance is based on 20% of the legally-justifiable requirements, increasing the percentage to 25% would still result in a requirement that is significantly below the legally-justifiable requirement.

- Instead of limiting the term of affordability to a set term, the ordinance may be modified to indicate that affordability shall be provided in perpetuity, unless the review authority reduces it to reflect the maximum term that is permitted by the financing sources.
- With respect to the possibility of applying the inclusionary ordinance to the development of one residence, additional study would be required to establish the legal nexus. Greg Chin, representing David Paul Rosen & Associates, concurred.

Commissioner Berland identified the following concerns: (1) the limit on the size of the inclusionary employee unit does not address the needs of low income families with a larger household sizes; (2) the threshold to keep the 15% inclusionary requirement for non-luxury attached housing is too high and should be reduced to units selling for less than 75-100% median price for single family homes; (3) other options should be pursued if financing restrictions limit the maximum term of affordability to 40 years.

Commissioner Barner urged staff to consider physical accessibility for physically disabled needs.

Commissioner Dickenson identified the following concerns: (1) consideration should be given to reducing the inclusionary threshold below two units; (2) the reduced inclusionary requirement for non-luxury attached residences should be eliminated; (3) consideration should be made to increase the percentage from 20% to 25% for the non-residential inclusionary requirement; (4) the 1,000 square foot maximum size for employee units should be eliminated; (5) flexibility should be provided to an applicant who may wish to develop the inclusionary unit for projects involving less than 5 units rather than the mandated payment of fees; and (6) the term of the affordability should be in perpetuity unless limited by the specific financing source.

Commissioner Thompson would like to strive to have the affordability be maintained in perpetuity and to have inclusionary requirements for the development of one or more units. He is not comfortable with allowance for a developer to substitute inexpensive materials in the construction of the required low income housing.

Commissioner Buddie supported the project, but would like to explore the possibility of applying the ordinance to the development of more than one housing unit.

Commissioner Julin wants to make sure that fiscal impacts on community services are addressed.

Commissioner Herbertson commented on the size of the units and asked staff to relay to the Board of Supervisors that the Commission has mixed impressions on whether the ordinance should also apply to the development of one residence.

The Agency Director, Alex Hinds, stated that the Commission can consider voting on an intent to recommend adoption of the ordinance and that they may take a straw poll on each of the items raised by individual Commissioners.

The majority of the Commissioners agreed on the following modifications:

1. Eliminate the proposed distinction between luxury and non-luxury attached residences;
2. Increase the inclusionary requirement from 20% to 25% of the legally-justifiable requirement for non-residential development;
3. Eliminate the 1,000 square foot maximum size of the employee unit and indicate that a mixture of sizes be provided instead;
4. Require the affordability to be in perpetuity unless the review authority reduces the term to reflect the maximum term that is permitted by the financing sources;
5. Require that ground floor inclusionary units be designed to be accessible to the disabled;

6. Give the ability for an applicant to provide one unit or lot or pay the required in-lieu fee for developments with less than 5 units; and
7. Direct staff to convey to the Board of Supervisors that the Planning Commission had differing opinions on whether the ordinance should also apply to one-unit developments.

Commissioner Dickenson recommended approving a modified Resolution with the following changes: (1) eliminating the distinction between luxury and non-luxury attached residences; (2) increasing the inclusionary requirement for non-residential development from 20% to 25%; (3) eliminating the 1,000 square foot maximum size of an employee unit but allow for a mixture of sizes; (4) require the affordability restrictions be in place in perpetuity unless reduced to reflect requirements from financing sources; (5) require ground floor inclusionary units to be accessible to the disabled; and (6) give the ability for an applicant to provide one unit or lot or pay the required in-lieu fee for developments with less than 5 units.

Alex Hinds indicated that the minutes could reflect the Commission's request to convey to the Board of Supervisors that there were differing opinions on the Commission on whether the ordinance should apply to one-unit developments.

M/s Julin/Thomson to adopt a motion of intent to recommend approval of the proposed Development Code Amendments with the changes that were summarized by Commissioner Dickenson. Motion passed 7/0.

MARIN COUNTY PLANNING COMMISSION

RESOLUTION NO. PC03-020

A RESOLUTION RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT
AMENDMENTS TO MARIN COUNTY CODE TITLE 22 (DEVELOPMENT CODE)
CHAPTER 22.22 – AFFORDABLE HOUSING REGULATIONS
CHAPTER 22.130 - DEFINITIONS

SECTION I. FINDINGS

WHEREAS, the Marin County Planning Commission hereby find and declare the following:

- I. The Marin Countywide Plan’s Housing Element contains policies that encourage the development of new affordable housing. Objective 3.0 of the Housing Element contains programs that promote the use of land efficiently to meet housing needs and to implement smart and sustainable development principles. One means for accomplishing this objective consists of the adoption of zoning regulations that, “promote closer linkages between creating housing nearby to where people work and to establish commercial, office, industrial and other non-residential use contributions for affordable ‘workforce’ housing.”
- II. There is a shortage of affordable workforce housing in Marin County. Only 19% of the households living in the county are able to afford a median-priced home. Between 1990 and 2000, employment in Marin County increased by 15,550 jobs, while only 8,107 additional housing units, mostly targeting higher income earners, were constructed. As a result, many lower-wage workers must commute into the county to their jobs, resulting in increased traffic congestion, lost quality time for the employee, and a less diverse local workforce. If the increase in demand for affordable housing is not met, employers will have more difficulty attracting and retaining a work force.
- III. Construction of commercial and industrial space accommodates business expansion and results in the creation of new jobs, which increase the demand for housing. This demand is especially strong for service and support employees because most of the new jobs that are created in the county are support, service, or retail-related with below-average compensation. As part of a community-wide approach to providing workforce housing, contribution of solutions by the business community is equitable and reasonable.
- IV. The County of Marin completed an inclusionary housing study with the consulting firm of David Paul Rosen and Associates to provide economic research and analysis and to make findings supporting the nexus for changes to the inclusionary requirements. In addition, the County of Marin and all 12 cities and towns developed a Housing Workbook as a policy toolkit that could be tailored by each jurisdiction to advance affordable housing goals countywide. The workbook also contains strategies that are intended to address the shortage of affordable housing countywide. As part of the Housing Workbook, the County participated in the creation of a Housing Linkage Study which documented the need for affordable housing because of job creation and developed a nexus for the creation of affordable housing based on the number and types of new jobs that are and will be created.
- V. The County-initiated amendment to Title 22 (Development Code) of the Marin County Code would implement the Countywide Plan’s housing policies that encourage the development of new affordable housing and the recommendations contained in the Housing Linkage Study. The proposed amendments would: (1) expand the applicability of the inclusionary housing requirements for all new residential projects resulting in two or more housing units or lots where the current ordinance applies only to new projects resulting in 10 or more residential units or lots; (2) increase the percentage of required affordable housing units for most new residential projects from 15% to 20%; (3) require that inclusionary residential units be restricted to low and very low income households and not moderate income households; and (4) require new

commercial and industrial developments to provide housing for 25% of the number of employees at very low, low, and moderate incomes that would be generated by the development. In conjunction with this, the proposed amendments would also include expansion of the existing definitions contained in Chapter 22.130 for “Dwelling,” “Dwelling Unit,” and “Medical Services – Extended Care” to include units housing independent seniors, such as assisted living facilities, so that they would be subject to the inclusionary requirements.

- VI. The proposed Development Code Amendment is exempt from the requirements of the California Environmental Quality Act pursuant to Section 15162 of the CEQA Guidelines because the proposed Development Code Amendments would implement the Countywide Plan’s Housing Element and would not result in new information or new environmental impacts that were not previously evaluated in the Negative Declaration of Environmental Impact for the Housing Element.
- VII. On September 8, 2003, the Marin County Planning Commission conducted a public hearing on the proposed revisions to the Development Code related to affordable housing regulations and approved a motion of intent to direct staff to modify the recommended ordinance. On October 6, 2003, the Planning Commission considered the modified ordinance.
- VIII. The proposed Development Code Amendment is consistent with the Marin Countywide Plan, including the following Housing Element Policies and Programs:
 - A. **Inclusionary Housing Approach.** To increase affordable housing construction, the county will require residential developments involving one or more units to provide a percentage of units or an “in-lieu” fee for very low, low and moderate income housing. The units provided through this policy are intended for permanent occupancy and must be deed restricted, including but not limited to single-family housing, multi-family housing, condominiums, townhouses, locally approved licensed care facilities, stock cooperatives or land subdivisions. (Housing Element Policy H3.19)
 - B. **Income Levels.** Inclusionary zoning requirements will target very low or low-income rental units and low or moderate-income ownership units. This includes 30-80% of the Area Median Income (AMI) for rental units and 50-120% AMI for ownership units. (Housing Element Policy H3.20)
 - C. **Options for Meeting Inclusionary Requirements.** The primary intent of the inclusionary requirement is the construction of new units on-site, with the focus being multi-family housing developments with deed restrictions to support long periods of affordability. Second priority for meeting inclusionary requirements shall be the construction of units off-site or the transfer of land and sufficient cash to develop the number of affordable units required within the same community or planning area. If these options are not practical, then other alternatives of equal value such as in-lieu fees or rehabilitation of existing units may be considered. (Housing Element Policy H3.21)
 - D. **Long-Term Affordability of Inclusionary Units.** Inclusionary units shall be deed-restricted to maintain affordability on resale to the maximum extent possible (typically in perpetuity or at least 55 years). (Housing Element Policy 3.22)
 - E. **Payment of “In-Lieu” Fees.** Payment of in-lieu fees will only be accepted when it is determined that transfer of land and/or dedication of units would provide fewer affordable housing units than could be obtained by the expenditure of “in-lieu” fees on affordable housing development within the planning area. Fees will be calculated based on the cost for unit development and evaluated every other year (land and improvements). (Housing Element Policy 3.23)
 - F. **Revise the Inclusionary Housing Regulations.** Update the existing Inclusionary Housing Ordinance to include requirements for residential projects, including development of specific income targets and “in-lieu” fee formula. Guidelines for development of an inclusionary program need to meet specific legal tests, but could include. (Housing Element Program H3.X)

- a. Establishment of an in-lieu fee for residential projects involving one to four units.
- b. All residential projects of 5 or greater will be required to provide units or fees at a rate of at least 20 percent affordable.
- c. Some flexibility is desirable in implementing this program, depending on the size of units (number of bedrooms), affordability, and consideration of very low, low and moderate-income housing need.
- d. Apply inclusionary requirements to licensed senior facilities with independent assisted living.
- e. Payment of in-lieu fees, or for fractional unit requirement, shall be at a rate adequate to create the affordable units off-site.

G. Contributions for Workforce Housing from Non-Residential Uses. Local housing needs for local workers is an important factor for the county when reviewing non-residential development proposals. The county will require specific non-residential uses to contribute to the provision of affordable workforce housing, such as the provision of housing on-site, or other alternatives of equal value. (Housing Element Policy H3.2)

H. Adopt a Job/Housing Linkage Ordinance. Adopt a Jobs/Housing Linkage Ordinance with consideration of the following exaction requirements:

- 1) Set exaction requirements for dwelling units and/or in-lieu fees according to empirically based evidence and must comply with all other legal tests.
- 2) Include affordable housing units within manufacturing/light industry/assembly, office/research and development, warehouse, hotel and retail with order of priority being: 1) include housing on-site, 2) provide housing off-site, 3) subsidize mortgages or rents, and 4) as a last resort, collect an in-lieu fee based on subsection c., below.
- 3) Establish the payment of fees into a Housing Trust Fund of in-lieu fees based on a dollar amount per square foot of manufacturing/light industry/assembly, office/research and development, warehouse, hotel and retail. (Housing Element Program H3.B)

SECTION II. AMENDMENTS TO TITLE 22

NOW, THEREFORE, BE IT RESOLVED that the Marin County Planning Commission hereby recommends that the Board of Supervisors adopt amendments to the Marin County Title 22 (Development Code) contained in Exhibit "A" of this Resolution.

SECTION IV: VOTE

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the County of Marin, State of California, on the 6th day of October, 2003, by the following vote to wit:

AYES: Buddie, Berland, Herbertson, Dickenson, Julin, Barner, Thompson

NOES:

ABSENT:

ROSS HERBERTSON, CHAIR
MARIN COUNTY PLANNING COMMISSION

Attest:

Michelle Reed, Recording Secretary

EXHIBIT "A"

CHAPTER 22.22 - AFFORDABLE HOUSING REGULATIONS

Sections:

- 22.22.010 - Purpose of Chapter
- 22.22.020 - General Requirements—Housing Projects
- 22.22.030 - Inclusionary Requirements for Rental Housing Developments
- 22.22.040 - Inclusionary Requirements for Ownership Housing Developments
- 22.22.050 - Inclusionary Requirements for Lot Subdivisions
- 22.22.060 - Eligibility Requirements for Ownership Housing Developments
- 22.22.070 - Control of Resale
- 22.22.080 - In-lieu Participation Fees for Residential Development
- 22.22.090 - Availability of Government Subsidies
- 22.22.095 – General Requirements – Commercial and Industrial Development
- 22.22.096 – In-lieu Participation Fees for Commercial and Industrial Development
- 22.22.100 - Fee Waiver for Inclusionary Units
- 22.22.110 - Technical Assistance
- 22.22.120 - Appeals to Affordable Housing Requirements

22.22.010 - Purpose of Chapter

This Chapter provides procedures which are intended to achieve the following goals:

- A. Countywide Plan housing goals.** Enhance the public welfare and ensure that further residential, commercial, and industrial development contribute to the attainment of the housing goals of the Countywide Plan by increasing the production of housing affordable by households of very low, low and moderate income, and stimulating funds for development of low income housing.
- B. Reduce affordable housing shortage.** Reduce the housing shortage for very low, low, and moderate income households.
- C. Balanced community.** Achieve a balanced community with housing available for households with a range of income levels.
- D. Inclusionary housing.** Ensure that remaining developable land within the County is utilized in a manner consistent with the County's housing policies and needs. This can be accomplished by requiring 20 percent of the total number of housing units of all new residential developments containing 2 or more units to be affordable by households of very low or low income and by requiring that 25 percent of the total number of very low, low, and moderate income housing units generated by new commercial and industrial developments to be affordable by households of very low, low or moderate income.

22.22.020 - General Requirements—Housing Projects

Any proposed development of 2 or more residential parcels or housing units intended for permanent occupancy, including but not limited to single-family housing, multi-family housing, condominiums, townhouses, stock cooperatives, or subdivisions that create the potential for one or more additional housing units, shall comply with all the following requirements. The inclusionary housing requirements of this Section shall be imposed only once on a given development.

This Section does not apply to residential development projects that comply with the provisions of 22.24.030 (State-Mandated Density Bonus and Other Incentives) and to agricultural worker housing, second units, or any deed-restricted housing development that is affordable to very low or low income persons.

- A. Where allowed.** An affordable housing project in compliance with this Chapter may be allowed with Use Permit approval in any zoning district provided that the review authority first finds that residential uses are allowed by the applicable Countywide Plan land use designation.
- B. Number of Inclusionary Units Required.** Proposed residential development projects with 2 or more units shall:
1. Provide 20 percent of the total number of housing units within the development as inclusionary units, affordable by low or very low income households; or
 2. Provide 20 percent of the total number of parcels in the case of land subdivisions, for the development of inclusionary units;
 3. Where the application of the above percentages results in any decimal fraction less than or equal to 0.50, the project applicant shall pay an in-lieu fee proportional to the decimal fraction in compliance with 22.22.080 (In-Lieu Participation Fees for Residential Development). Any decimal fraction greater than 0.50 shall be interpreted as requiring one additional dwelling unit or lot, except that developments with less than 5 units may have the option of providing one unit or lot or paying the required in-lieu participation fees.
- C. Conditions of approval.** Any development permit for a residential development project that is subject to the requirements of this Chapter shall contain conditions of approval that will ensure compliance with the provisions of this Chapter. The conditions of approval shall:
1. Specify the construction of the inclusionary units and/or the timing of payment of in-lieu fees;
 2. Specify the number of inclusionary units at appropriate price levels, to be determined by the review authority;
 3. Specify provisions for a density bonus and/or other incentives in compliance with State law (Government Code Sections 65915 et seq.), and Chapter 22.24 (Affordable Housing Incentives) where applicable; and
 4. Require a written agreement between the County and the applicant which indicates the number, type, location, approximate size, and construction scheduling of all housing units, and the reasonable information that shall be required by the County for the purpose of determining compliance with this Chapter. This agreement shall also specify provisions for income certification and screening of potential purchasers and/or renters of inclusionary units, and specify resale control mechanisms.

D. Location and type of inclusionary units.

1. All inclusionary residential units shall be provided within the development, except as provided for in Section 2 below. Inclusionary units shall be reasonably dispersed throughout the development, where feasible.
2. If the Director finds that the required inclusionary units cannot be provided on-site, one or more of the following alternative means may be approved for compliance with the requirements of this chapter:
 - a. The inclusionary residential units may be constructed on one or more sites not contiguous with the proposed development if the Director finds that placement of the required housing units within the larger development is not reasonable or appropriate, taking into consideration factors, including, but not limited to, overall project character, density, location, size, accessibility to public transportation, and proximity to retail and service establishments. Additionally, the Director shall find that the off-site construction will provide an equivalent or better means of serving the County in achieving its affordable housing goals than construction of the on-site inclusionary housing units. The off-site property shall be located in an area with appropriate zoning, character and density, location, size, accessibility to public transportation, and other services, consistent with sound community planning principles.
 - b. The project applicant may dedicate suitable real property for the required housing to the County or its designee to be developed by the County, or a profit or nonprofit, private or public applicant if the Director finds that placement of the required housing units within the larger development is not reasonable or appropriate, taking into consideration factors, including, but not limited to, overall project character, density, location, size, accessibility to public transportation, and proximity to retail and service establishments. Additionally, the Director shall find that the dedication of real property will provide an equivalent or better means of serving the County in achieving its affordable housing goals than construction of the on-site inclusionary housing units. The off-site property shall be located in an area with appropriate community character, residential density, location, and accessibility to public transportation, and other services, consistent with sound community planning principles. Additionally, the property shall be offered in a condition that is suitable for development and devoid of contaminants and other hazardous wastes and shall be appropriately sized and zoned for development equivalent to the residential units that are not created on-site.
 - c. Inclusionary residential units not constructed within the larger development shall be constructed within the unincorporated area of the County. Inclusionary units may also be constructed within the boundaries of a City or Town provided there is an inter-agency agreement with the County which defines the sharing of affordable housing resources and compliance with fair share housing allocations.
 - d. The project applicant may pay an in-lieu participation fee in compliance with 22.22.080 (In-Lieu Participation Fees). The Director shall apply the lowest preference to the payment of an in-lieu fee for compliance with the requirements of this chapter.

E. Design and character of inclusionary units. Inclusionary units shall contain on average the same number of bedrooms as the non-inclusionary units in the development, and shall be compatible with the design and use of the remaining units in appearance, materials, amenities, and finished quality. All inclusionary rental units on the ground floor that are provided in compliance with this chapter shall be accessible to the disabled.

F. Interior design. The applicant may have the option of reducing the interior amenity level, as well as the square footage of the inclusionary units below that of large market-rate units, provided all of the units conform to the requirements of County Building and Housing Codes and the Director finds that the reduction

in interior amenity level would still meet the purpose of this chapter and provide a quality living environment.

- G. Rental units within an ownership housing development.** The applicant shall have the option, in a homeownership development, of constructing rental units in a number sufficient to meet the inclusionary requirements of this Chapter. These rental units shall be subject to 22.22.030 (Inclusionary requirements for rental housing developments), below. The County shall assist the applicant in identifying available financing and/or subsidies for the rental housing development.
- H. Timing of construction.** All inclusionary housing units and other phases of a development shall be constructed prior to or concurrent with the construction of non-inclusionary units, unless the Director approves a different schedule.
- I. Eligible occupants.** All inclusionary units shall be sold or rented to low or very low income households as certified by the Housing Authority.

22.22.030 - Inclusionary Requirements for Rental Housing Developments

The following requirements apply to proposed residential development projects with housing units intended for rental, in addition to the provisions of Section 22.22.020 (General Requirements - Housing Projects), above. The provisions of this Section do not apply to housing developments that comply with the provisions of Section 22.24.030 (State-Mandated Density Bonus and Other Incentives) and to agricultural worker housing, second units, or any deed-restricted housing development that is affordable to very low or low income persons.

- A. Limitation on rental prices.** In rental developments of 2 or more units, 20 percent of the units shall be inclusionary rental units in perpetuity, unless the review authority reduces the term of the inclusionary requirement to reflect the maximum term that is permitted by the financing sources. The inclusionary rental units shall be offered at rent levels not exceeding 30 percent of the gross income of households earning 50 percent of area median income. Where housing financing is available for rental subsidy, units shall be made available to very low income households.

The housing unit rental prices shall be established by the County or its designee and shall be based on the number of bedrooms and location.

- B. Eligible tenants.** The County shall contract with the Housing Authority to screen applicants for the inclusionary rental units, and to refer eligible tenants to the applicant or owner of the rental units. The applicant or owner shall have final discretion in the selection of eligible tenants, provided that the same rental terms and conditions are applied to tenants of inclusionary units as are applied to all other tenants, with the exception of rent levels, household income, and any requirements of government subsidy programs.
- C. Designated administrator.** The Housing Authority shall be the agency designated to administer inclusionary housing programs on behalf of the County. The Housing Authority shall require guarantees, enter into recorded agreements with applicants, and take other appropriate steps necessary to ensure that the required inclusionary income rental dwelling units are provided, and that they are rented to low or very low income households. When these requirements have been met to the satisfaction of the Housing Authority, the Housing Director shall prepare a certification indicating that the applicant has complied with the requirements of this Section, and shall transmit it to the County.

22.22.040 - Inclusionary Requirements for Ownership Housing Developments

The following requirements apply to residential development projects with units intended for sale, in addition to the provisions of Section 22.22.020 (General Requirements). The provisions of this Section do not apply to housing developments that comply with the provisions of Section 22.24.030 (State-Mandated Density Bonus and Other

Incentives) and to agricultural worker housing, second units, or any deed-restricted housing development that is affordable to very low or low income persons.

- A. Limitation on sales prices.** In ownership residential development projects of 2 or more units, 20 percent of the units shall be inclusionary units affordable by households earning 60 percent of the area median income in perpetuity, unless the review authority reduces the term of the inclusionary requirement to reflect the maximum term that is permitted by the financing sources. Low income units shall be sold to a range of families earning no more than 60 percent of the area median income. The housing unit sales prices shall be established by the County or its designee, and shall be based on the number of bedrooms and location.
- B. Duration of initial inclusionary requirement.** The applicant shall be required to offer to the Housing Authority, or a County designated party, all the inclusionary units required by this Chapter for sale to eligible purchasers for a period of not less than 90 days from the date of the County's issuance of a Certificate of Occupancy.

Sale and resale restrictions are removed in the event the Housing Authority or County designee does not complete the sale of a unit to an eligible purchaser or public entity or non-profit organization responsible for providing affordable housing.

- C. Notice of resale restrictions.** The Housing Authority shall advise all prospective purchasers of the resale restriction applicable to ownership inclusionary units contained in Section 22.22.070 (Control of Resale).
- D. Screening of eligible purchasers.** The Housing Authority shall review the assets and income of prospective purchasers of the ownership inclusionary units on a project-by-project basis. The Housing Authority shall advertise the inclusionary units to the general public. Upon notification of the availability of ownership units by the applicant, the Housing Authority shall seek and screen qualified purchasers through a process involving applications and interviews. Where necessary, the Housing Authority shall hold a lottery to select purchasers.

The applicant/owner shall select buyers from the list of qualified purchasers provided by the Housing Authority; provided, that the same terms and conditions (except income) are applied to purchasers of inclusionary units as are applied to all other purchasers. Preference will be given to residents of the County and/or to people employed in the County.

22.22.050 - Inclusionary Requirements for Lot Subdivisions

In subdivisions of 2 or more parcels, where one or more additional housing units could be developed, 20 percent of the developable parcels or their equivalent shall be set aside for immediate or future development of low or very low income units. The land may be developed by the applicant or another profit or nonprofit applicant, private or public, or deeded to the County or its designee. The units built on the parcels may be rental or owner occupied, and shall be in compliance with the requirements of this Chapter. The method of providing inclusionary units from lot subdivisions shall be specified in the conditions of approval of each applicable subdivision.

22.22.060 - Eligibility Requirements for Ownership Housing Developments

- A. In establishing moderate household income, the County or its designee shall consider, among other things, the median household income data provided periodically by the Department of Housing and Urban Development (HUD), household size and number of dependents, and all sources of family income and assets.
- B. Every purchaser of an inclusionary housing unit shall certify, by a form acceptable to the County, that the unit is being purchased for the purchaser's primary place of residence. The Housing Authority shall verify this certification.

Failure of the purchaser to maintain eligibility for a homeowner's property tax exemption shall be construed to mean that the inclusionary unit is not the primary place of residence of the purchaser.

22.22.070 - Control of Resale

- A. **Limitation on resale price.** In order to maintain the availability of the housing units constructed in compliance with this Chapter, the County shall impose the following resale condition. The price received by the seller of a resale unit shall be the lowest of the following:
 - 1. **Median income.** The original price paid by the seller increased by an amount equal to purchase price multiplied by the percentage increase in the median household income for the San Francisco Primary Metropolitan Statistical Area since the date of purchase;
 - 2. **Index price.** The original price increased by an amount equal to the original price multiplied by the percentage increase in the Consumer Price Index for the San Francisco Bay Area since the date of purchase; or
 - 3. **Fair market value.** The fair market value of the resale unit as determined by an appraiser selected and paid for by the seller.
- B. **Eligible purchasers.** Homeownership inclusionary units shall be sold and resold from the date of the original sale only to very low or low income households, as determined to be eligible for inclusionary units by the Housing Authority, in compliance with the requirements of this Chapter.

The seller shall not levy or charge any additional fees nor shall any "finders fee" or other monetary consideration be allowed other than customary real estate commissions and closing costs.

- C. **Deed restrictions.** The owners of any inclusionary unit shall attach and legally reference in the grant deed conveying title of any inclusionary ownership unit a declaration of restrictions provided by the Housing Authority, stating the restrictions imposed in compliance with this Chapter. The grant deed shall afford the grantor and the County the right to enforce the attached declaration of restrictions. The declaration of restrictions shall include all applicable resale controls, occupancy restrictions, and prohibitions required by this Chapter.
- D. **Monitoring of resales.** The Housing Authority shall be given the responsibility of monitoring the resale of ownership inclusionary units. The Housing Authority or its assignee shall have a 90-day option to commence purchase of ownership inclusionary units after the owner gives notification of intent to sell. Any abuse in the resale provisions shall be referred to the County for appropriate action.

22.22.080 - In-Lieu Participation Fees for Residential Development

- A. Purpose.** The purpose of this Section is to provide the means to levy fees for construction of affordable housing, when the inclusion of affordable housing is impractical or unreasonable within a proposed residential development or in cases where the inclusionary requirement includes a decimal fraction of a unit, and a combination of both inclusionary units and in-lieu fees is required.
- B. Use of in-lieu participation fees.** In-lieu fees shall be used by the County, or its designee (e.g., a non-profit housing development corporation) for the purpose of developing affordable housing for very low and low income households, with preference for use in the unincorporated areas of the County.
- C. Calculation of in-lieu fees.** The in-lieu participation fees for all residential development, including lot subdivisions, shall be calculated as the difference between the ability of low income families (earning 60 percent of median income for ownership units and 50 percent of median income for rental units) to pay for housing, and the estimated cost of a market rate unit of appropriate size, to be determined by the County. This differential shall be multiplied by the required number of inclusionary units to determine the total required fee to be paid in-lieu of constructing below market rate units. For the purposes of applying percentages to in-lieu fees on developments of 2 or more units, decimal fractions of a unit shall be used.

Estimates of the price of a market rate unit and the corresponding in-lieu participation fee are to be determined periodically by the Director.

- D. Timing of in-lieu fee payment.** At the option of the applicant, in-lieu participation fees may be paid as proceeds from sales are received, or at the time of sale of the last unit or parcel. The in-lieu fees shall constitute a lien on the property, which shall be recorded as a separate document at the recordation of the subdivision map. The in-lieu fee shall be due within 24 months from the date of approval of the development, regardless of whether or not the individual parcels have been sold. The lien shall include a provision for foreclosure under power of sale if the in-lieu payment is not made within 24 months from the recordation of the lien, regardless of whether or not the individual parcels have been sold. If payment of the in-lieu fee is not made in full at the end of the 24-month period, any unpaid balance shall accrue interest at the rate of 1% per month.

22.22.090 - Availability of Government Subsidies

It is the intent of this Chapter that the requirements for inclusionary units affordable by very low and low income families shall not be determined by the availability of government subsidies. This is not to preclude the use of these programs or subsidies. This Chapter is also not intended to be an undue burden on the applicants of residential developments. Therefore, as detailed in Chapter 22.24 (Affordable Housing Incentives), incentives are given to provide inclusionary units.

22.22.095 – Inclusionary Requirements for Commercial and Industrial Development

Any proposed commercial or industrial development, including light industrial, office/research and development, warehouse, hotel, and retail uses, shall provide the amount of affordable inclusionary residential units in compliance with the following requirements. The inclusionary units may be developed by the applicant or another profit or nonprofit applicant, private, or public. In order to provide a jobs/housing balance and address traffic congestion concerns, the review authority may condition the project to include market rate housing in excess of the inclusionary units required in this chapter on a case-by-case basis through the discretionary permit review process.

- A. Where Allowed.** Required inclusionary residential units are allowed in any zoning district where residential uses are permitted as a principal use and with Use Permit approval in any other zoning district. Inclusionary units that are required to be built on-site shall comply with all other provisions of this title.
- B. Number of Inclusionary Units Required.** Proposed commercial and industrial development projects shall comply with the following requirements:
1. Twenty-five (25) percent of the total number of housing units for very low, low, and moderate income households that are generated by the development shall be provided within the development;
 2. Where the application of the above percentages results in any decimal fraction less than or equal to 0.50, the project applicant shall pay an in-lieu fee proportional to the decimal fraction in compliance with 22.22.096 (In-Lieu Participation Fees for Commercial and Industrial Development). Any decimal fraction greater than 0.50 shall be interpreted as requiring one additional dwelling unit.
- C. Conditions of approval.** Any development permit for a commercial or industrial development project that is subject to the requirements of this Chapter shall contain conditions of approval that will ensure compliance with the provisions of this Chapter. The conditions of approval shall:
1. Specify the construction of the inclusionary units and/or the timing of payment of in-lieu fees;
 2. Specify the number of inclusionary units at appropriate price levels to be determined by the review authority; and
 3. Require a written agreement between the County and the applicant which indicates the number, type, location, approximate size, and construction scheduling of all housing units, and the reasonable information that shall be required by the County for the purpose of determining compliance with this Chapter. This agreement shall also specify provisions for income certification and screening of potential purchasers and/or renters of inclusionary units, and specify resale control mechanisms. All rental units developed in compliance with this Chapter shall be affordable to very low, low, or moderate income renters in perpetuity, unless the review authority reduces it to 55 years. The requirements of 22.22.030 and 22.22.040 shall apply where applicable.
- D. Location and type of inclusionary units.**
1. All inclusionary residential units shall be provided within the development, except as provided for in Section 2 below.
 2. If the Director finds that the required inclusionary units cannot be provided on-site, one or more of the following alternative means may be approved for compliance with the requirements of this chapter:
 - a. The inclusionary residential units may be constructed on one or more sites not contiguous with the proposed development if the Director finds that placement of the required housing units within the larger development is not reasonable or appropriate, taking into consideration factors, including, but not limited to, overall project character, density, location, size, accessibility to public transportation, and proximity to retail and service establishments or where the nature of the commercial or industrial use or its surroundings is incompatible with residential uses in terms of noise or other nuisance, health, or safety hazards. Additionally, the Director shall find that the off-site construction will provide an equivalent or better means of serving the County in achieving its affordable housing goals than construction of the on-site inclusionary housing units. In allowing compliance through off-site construction, the Director may consider commercial lending requirements which render construction of the housing on-site infeasible. The off-site property shall be located in an area with appropriate zoning, character and density, location, size,

accessibility to public transportation, and other services, consistent with sound community planning principles.

- b. The project applicant may dedicate suitable real property for the required housing to the County or its designee to be developed by the County, or a profit or nonprofit, private or public applicant if the Director finds that placement of the required housing units within the larger development is not reasonable or appropriate, taking into consideration factors, including, but not limited to, overall project character, density, location, size, accessibility to public transportation, and proximity to retail and service establishments or where the nature of the commercial or industrial use or its surroundings is incompatible with residential uses in terms of noise or other nuisance, health or safety hazards. Additionally, the Director shall find that the dedication of real property will provide an equivalent or better means of serving the County in achieving its affordable housing goals than construction of the on-site inclusionary housing units. In allowing compliance through off-site dedication, the Director may also consider commercial lending requirements which render construction of the housing on-site infeasible. The off-site property shall be located in an area with appropriate community character, residential density, location, and accessibility to public transportation, and other services, consistent with sound community planning principles. Additionally, the property shall be offered in a condition that is suitable for development and devoid of contaminants and other hazardous wastes and shall be appropriately sized and zoned for development equivalent to the residential units that are not created on-site.
- c. Inclusionary residential units not constructed within the larger development shall be constructed within the unincorporated area of the County. Inclusionary units may also be constructed within the boundaries of a City or Town provided there is an inter-agency agreement with the County which defines the sharing of affordable housing resources and compliance with fair share housing allocations.
- d. The project applicant may submit a housing mitigation plan which includes financial subsidies towards new affordable housing development in the County. This alternative may be acceptable if the Director finds that it would provide a better means of serving the County in achieving its affordable housing goals than construction of the on-site inclusionary housing units, that there are sufficient County resources to monitor and implement the plan, and that compliance with the alternative means described in Sections a, b, and c is not feasible.
- e. The project applicant may pay an in-lieu participation fee in compliance with Section 22.22.096 (In-Lieu Participation Fees for Commercial and Industrial Development). The Director shall apply the lowest preference to the payment of an in-lieu fee for compliance with the requirements of this chapter.

E. Number of Very Low, Low and Moderate Income Households Generated. The number of new very low, low and moderate income households that are generated by new non-residential development shall comply with Table 3-3.1.

**TABLE 3-3.1
NUMBER OF NEW VERY LOW, LOW AND MODERATE INCOME
HOUSEHOLDS GENERATED BY
COMMERCIAL AND INDUSTRIAL DEVELOPMENT**

Development Type	Number of New Very Low, Low and Moderate Income Households (per 1,000 square feet of floor area¹)
Manufacturing/Light Industry/Assembly	0.18
Office ² /Research and Development	0.34
Warehouse	0.09
Hotel/Motel ³	0.08
Retail/Restaurant	0.23

¹ For purposes of this Chapter, the floor area excludes all areas permanently allocated for vehicle parking, unless such areas are used for commercial or industrial purposes.

² Office uses include those associated with professional, business, and medical services.

³ Accessory uses, such as retail, restaurant, and meeting facilities within a hotel shall be subject to requirements for a retail use.

F. Size, design and character of inclusionary units. Inclusionary units shall provide a mixture of sizes and shall be compatible with the design of the commercial or industrial development or the predominant residential character in the immediate neighborhood in appearance, materials, amenities, and finished quality. All inclusionary rental units on the ground floor that are provided in compliance with this chapter shall be accessible to the disabled.

G. Timing of construction. All inclusionary housing units and other phases of a development shall be constructed prior to or concurrent with the construction of the commercial or industrial development, unless the Director approves a different schedule.

H. Eligible occupants. All inclusionary units shall be rented or sold to very low, low, or moderate income households as certified by the Housing Authority.

I. Encouragement for On-site Housing. As an inducement for the development of on-site housing, the Director may grant a reduction in the site development standards of this Development Code or architectural design requirements which exceed the minimum building standards approved by the State Building Standards Commission in compliance with State law (Health and Safety Code Sections 18901 et seq.), including, but not limited to setback, coverage, and/or parking requirements.

22.22.096 – In-Lieu Participation Fees for Commercial and Industrial Development

A. Purpose. The purpose of this Section is to provide the means to levy fees for construction of affordable housing, when the inclusion of affordable housing is impractical or unreasonable within a proposed commercial or industrial development or in cases where the inclusionary requirement includes a decimal fraction of a unit, and a combination of both inclusionary units and in-lieu fees is required.

B. Use of in-lieu participation fees. In-lieu fees shall be used by the county, or its designee (e.g. a non-profit housing development corporation) for the purpose of developing affordable housing for very low and low income households, with preference for use in the unincorporated areas of the County.

C. Calculation of in-lieu fees. The in-lieu participation fees for all commercial and industrial development shall be determined based on Table 3.3-2. The fees represent 25% of the fees that are necessary to subsidize housing for new very low, low, and moderate income households that would be created from the commercial or industrial development.

**TABLE 3.3-2
IN-LIEU PARTICIPATION FEES FOR
COMMERCIAL AND INDUSTRIAL DEVELOPMENT
(per square feet of floor area¹ unless noted otherwise)**

Development Type	Fee
<u>Manufacturing/Light Industry/Assembly</u>	\$3.74
<u>Office²/Research and Development</u>	\$7.19
Warehouse	\$1.94
Hotel/Motel ³	\$1,396 per room
Retail/Restaurant	\$5.40

¹ For purposes of this Chapter, the floor area excludes all areas permanently allocated for vehicle parking, unless such areas are used for commercial or industrial purposes.

² Office uses include those associated with professional, business, and medical services.

³ Accessory uses, such as retail, restaurant, and meeting facilities within a hotel shall be subject to requirements for a retail use.

22.22.100 - Fee Waiver for Inclusionary Units

In order to facilitate the construction of affordable housing units, the County may waive any County fees applicable to the inclusionary units of a proposed residential, commercial, or industrial development.

22.22.110 - Technical Assistance

In order to emphasize the importance of securing housing as a part of this program, the County shall provide assistance in obtaining financial subsidy programs to applicants.

22.22.120 - Appeals of Affordable Housing Requirements

- A. Any person aggrieved by any action involving disapproval, suspension or revocation of a Building or Occupancy Permit or disapproval, suspension or revocation of any development approval may appeal the action or determination to the Commission, with further appeal possible to the Board, in compliance with Chapter 22.114 (Appeals).
- B. Any applicant or other persons who contend that their interests are adversely affected by any determination or requirement of the Housing Authority staff in compliance with this Chapter may appeal the determination to the Housing Director. Further appeal recourse is open to the Board of Commissioners of the Housing Authority.
- C. The appeal shall clearly specify how the action of the Housing Authority staff fails to conform to the provisions of this Chapter, thereby adversely affecting the appellant's interests. The appeal shall be filed in duplicate in the public office of the Housing Authority. Subsequent appeal may be made to the Board of Supervisors, in compliance with Chapter 22.114 (Appeals). The Board, by resolution, may reverse or modify any determination or requirement of the Housing Authority if it can make the finding that the action under appeal does not conform with the provisions of this Chapter or to the contract between the Housing Authority and the County.

CHAPTER 22.130 - DEFINITIONS

The following definitions are proposed to be modified or added to Development Code Article VIII:

Dwelling, or Dwelling Unit. A room or group of internally connected rooms that have sleeping, cooking, eating, and sanitation facilities, but not more than one kitchen, which constitute an independent housekeeping unit, occupied by or intended for one household on a long-term basis. Types of dwellings include single-family dwellings, two-family dwellings, multi-family dwellings, mobile homes, condominiums and townhouses, floating homes, and independent living units for the elderly.

Medical Services – Extended Care (land use). This land use consists of the provision of nursing and health-related care as a principal use, with in-patient beds. This land use includes: board and care homes; convalescent and rest homes; extended care facilities; skilled nursing facilities, and assisted living facilities that are licensed or supervised by any Federal, State, or local health/welfare agency. Long-term personal care facilities that do not emphasize medical treatment are included under “Residential Care Facilities,” and “Group Homes.”

Hearing to consider the Najarian Appeal of the Community Development Agency administrative approval of the Youssefirad Design Review proposing to: (a) demolish an existing parking deck that currently serves the developed adjacent property to the north (60 Mountain Lane); (b) construct a 1,205 square foot, two-story, single-family residence, a new parking deck, and a sand filtered on-site sewage disposal system on the subject 6,460 square foot vacant parcel; and (c) construct a new parking deck at 60 Mountain Lane to serve the existing residence. The subject properties are located in the Muir Woods Park Subdivision of Mill Valley. The proposed residence would have a maximum height of 24 feet above grade and maintain the following setbacks to the corresponding property lines: approximately 12 feet front (northwest); 17 feet side (northeast); 50 feet rear (southeast); and 8 feet side (southwest). The project will result in a floor area ratio of 19%, where 30% is allowed by County code. Design Review approval is required because the subject vacant parcel is substandard in size per the R-1:B-2 governing zoning district and County slope ordinance requirements. The appellant, Lynda Najarian, asserts that: (1) the project cannot be exempted from the requirements of the California Environmental Quality Act; (2) all of the mandated Design Review findings cannot be made to approve the project; and (3) the project will result in soil erosion, drainage, and tree removal impacts to her property. The subject property is located at **56 Mountain Lane, Mill Valley**, and is further identified as **Assessor's Parcel 045-111-10**.

Ben Berto, Principal Planner, summarized the staff report and provided the Commission with a power point presentation for their consideration.

Janet Stearns, Environmental Health Services, noted that a septic analysis was conducted. Commissioner Dickenson expressed concern regarding the location of the septic tank for the adjacent home. Staff responded that the drawing is for an expansion of the existing septic tank. Staff added that a parking structure could encroach into the setback. Brian Crawford, Deputy Director, pointed out that the Commission could approve parking with no setbacks.

Eric Steger, Department of Public Works, explained that since this project is not located at the end of the road, the County could not request a turnaround space, so staff decided to use the maximum requirement of parking allowed. He also pointed out that it is not a County maintained road.

In response to Commissioner Julin, staff stated that the trees removed were not on the protected species list.

Chair Herbertson opened the public hearing on this item.

Marie Youssefirad, applicant, commented on the planning process of the project and the Fire District requirements. She then stated that adjacent neighbors also park in the turnaround area. Furthermore, she noted that since they currently live at the subject location, no additional traffic would be generated. She concluded by presenting the background history on the lots.

Linda Najarian, appellant, stated that since she was not notified of the proposed project during the application review process, she had to appeal in order for her to express her concerns regarding tree removal, potential removal of the fence on her property, erosion and drainage, and the existing wiring traveling across her property.

Staff noted that the owner must comply with all environmental health service standards.

Steve Berman, concerned neighbor, expressed concern regarding drainage on Mountain Lane as well as parking and safety issues.

Barry Joseph, concerned neighbor, attested to the fact that vehicles usually park in the turnaround and agreed that no additional traffic would be generated since the owners already resided in the area. He supported the project.

Daniel Herman, concerned neighbor, expressed concern regarding the parking space because it would be three feet from his home, which in his view is very close. He also believed the project would cause erosion problems onto his

lot as well as his neighbor. He also indicated that the road is very narrow and the drainage as proposed would add additional impacts to his home. He further expressed concern for parked vehicles and believed safety issues should be addressed.

Ms Youssefirad submitted photographs showing existing parking patterns throughout the neighborhood.

The hearing was closed to public testimony.

Commissioner Barner pointed out that there were issues other than the house and stated that he currently has a similar situation where he lives, but they are working with the Fire District and surveying the widths of the streets and turnarounds, so that streets under 16 feet wide could be declared as official fire lanes with parking prohibited. The Fire District could then cite individuals parked illegally. He further suggested that this neighborhood take the same steps with the Fire District in order to resolve future issues.

Chair Herbertson discussed the basis of the appeal and asked the Commission for their comments on the matter.

Commissioner Berland had no objection for the exemption from CEQA and had no difficulty making the design review findings. He further stated that he would support staff's findings to deny the appeal.

Commissioner Dickenson requested information regarding the trade of the lots in 1984 amongst the family. He requested additional information for the location of the power lines. He also desired information from the Fire District regarding parking and safety issues. He discussed the parking decks and setbacks and whether access could actually function. He stated that the house is a very modest size house and had no objection to the house itself, but the lower part of the property is very steep. He further noted that he could not support the findings related to public health and safety issues and the impacts to the use and enjoyment of adjacent properties

Commissioner Buddie agreed that this is a very modest sized home. He believed more could have been done with the design and issues, but he would defer to staff's decision and support the application and deny the appeal.

Commissioner Barner echoed Commissioner Dickenson's points and directed staff to conduct additional research on the issues raised

Commissioner Julin supported staff's recommendation. She also asked staff to clarify as to whether this is a legal lot of record.

Chair Herbertson believed the CEQA finding is adequate as well as the house size for this particular lot.

Staff suggested continuing this matter to the hearing of September 22, 2003 in order to address the issues raised by Commissioner Dickenson. He recommended that imposing a requirement that the property owner would have to file the single holding form prior to issuance of the building permit, depending on whether or not the single holding form analysis determined whether the project site is a legal lot of record. Should the single holding form determine that the lot was not legally created, the building permit would not be issued. However, the property owner would have the option of correcting the legality before pursuing the project again.

In response to Chair Herbertson, staff stated that issues involving the Fire Department could be addressed in a short amount of time. However, in staff's opinion, the legality of the lot might be more difficult to resolve. He commented on the UBC requirements and believed that would be the easiest issue to respond because it would come from in-house staff and the Department of Public Works.

Agency Director Hinds suggested continuing the matter for a couple of weeks. Whatever issues are not resolved by then could be addressed through the conditions of approval prior to issuance of a building permit.

M/s Buddie/Barner seconded, and passed unanimously to continue this item to the September 22, 2003, meeting to allow staff to obtain additional information regarding the issues raised below. Motion passed 6/0 (Commissioner Thompson not present).

- Legality of land trade.
- Ultimate disposition of the power telecommunication lines.
- Public safety issues in terms of fire access and turnarounds.
- Adequacy of the design function of the parking decks, setbacks and access to front door.
- Trees removal with respect to the septic system

7. APPROVAL OF MINUTES

M/s Julin/Berland, and passed unanimously of those present, to approve the Minutes of July 14, 2003 with minor modifications. Motion passed 6/0 (Commissioner Thompson not present).

M/s Julin/Barner, and passed unanimously, to approve the Minutes of August 18, 2003 as modified. Motion passed 6/0 (Commissioner Thompson not present)..

8. UPDATE ON BOARD OF SUPERVISORS ACTIONS

August 19, 2003: Ross Valley Homes grant accepted.

September 16, 2003: Second Unit Ordinance Recommendation and Fee Amendment to lower permit fees for residential second units

September 30, 2003: Tobias Variance Appeal and Construction and Demolition Ordinance

October 14, 2003: Hicks Mountain Ranch Master Plan and Qualls Design Review Appeal

9. FUTURE AGENDA DISCUSSION ITEMS, FIELD TRIPS

September 22, 2003:

Strawberry Village Design Review Use Permit
Continuance -Redwood Landfill
Continuance - Youssefirad Appeal

October 6, 2003:

Countywide Plan Scenarios
Variance Appeal – Robinson
Appeal - Paul Land Division
Strawberry View Control Ordinance

October 20, 2003:

Oak View Master Plan Tentative Map
Marin City Church of God Rezoning and Subdivision
Notice of Violation appealed by St. Vincent property owners

November 3, 2003

Cascade – EIR (Parks)
Ricardo/Fitzgerald COC/DR
Rezoning to the Development Code

November 17, 2003:

San Quentin Vision Plan
Strawberry Control Ordinance (Alternative date)

Mr. Crawford pointed out that they have had some interest on a lot located on Miller Avenue and they might receive a pre-application request for a mix use project on that lot for the lower elevations for retail and affordable housing. He also stated that staff had been investigating the Pecker Plant that would be used to generate power during periods of energy shortage and the Board requested a report on that matter, and once the investigation is completed staff would report back findings.

Agency Director Hinds announced that the County received another \$50,000 from the Department of Energy for the "Solar Program" and they also received another \$100,000 trying to move some septic systems away from Tamales Bay.