

MARIN COUNTY PLANNING COMMISSION HEARING MINUTES

April 19, 2004

Marin County Civic Center, Room #328 - San Rafael, California

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

Commissioners Absent: Ray Buddie

Staff Present: Alex Hinds, Director, Community Development Agency
Michele Rodriguez, Principal Planner
Dan Dawson, Senior Planner
Jim Martin, Biology Consultant
Stacy Carlson, Agriculture Commissioner
Ellie Rilla, Director, UC Cooperative
Alexandra Morales/Jessica Woods, Planning Commission Secretary

Minutes Approved on: **August 16, 2004**

Convened at 1:00 p.m.
Adjourned at 6:40 p.m.
Reconvened at 7:15 p.m.
Adjourned at 9:15 p.m.

1. ROUTINE TRANSACTIONS:

- a. Continuances- None
- b. Minutes - None

2. COMMUNICATIONS

The Commission acknowledged additional correspondence received regarding the Countywide Plan Update.

3. DIRECTOR'S ORAL REPORT

- a. Update on Board of Supervisors Actions

April 20th, 2004 – Ghazi Design Review Appeal; amended contract for Redwoods EIR

May 4th, 2004 – Planning Commission's decision on Strawberry Ordinance; Sea Drift expanded contract for a Negative Declaration for replacement of an existing retaining wall

- b. Report on On-Going/Pending Development Projects

Tom Lai, Principal Planner, spoke about the field trip that the Commission attended last Friday, April 16, 2004, regarding the grading noted next to Black John's Slough.

Brian Crawford passed out the Draft Single Family Residential Guidelines that will be discussed in a future Planning Commission meeting.

Alex Hinds, discussed the added special meeting dates. Commission Berland will not be able to attend May 17th & 24th. May 24th special hearing will be an option that may come off of the special hearing meetings.

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

None.

5. FUTURE AGENDA DISCUSSION ITEMS, FIELD TRIPS

None

6. DRAFT MARIN COUNTYWIDE PLAN

Public hearing on the Draft Countywide Plan.

Agency Director Hinds recommended that the Commission review the administrative draft; conduct a public hearing; and continue the discussion from the public hearing on Monday, April 12th, 2004 at 5:00 p.m.

Jim Martin, Biology Consultant, addressed the Sierra Club's letter dated April 5, 2004 and the Marin Audubon Society letter dated April 7, 2004 for the Commission consideration as follows:

- Page 2-9, Sidebar – Recommended maintaining the reference that there are three criteria used not just one in identifying and delineating wetlands.
- Page 2-12, First bullet- Regarding special status species, Biology Consultant Martin agreed to summarize some of the deficiencies in the Natural Diversity database.
- Page 2-13, BIO-1.1 – Agreed to reference cumulative impacts.
- Page 2-14, BIO-1.6 – Agreed with the intent, but it is not realistic. Biology Consultant Martin recommended addressing the issues by including working with landscapers and nurseries to develop a system of monitoring.
- Incorporate both the EAC's and Sierra Club's recommended language regarding removal of invasive exotics.
- Page 2-15, BIO-1.8 – Biology Consultant Martin believed the Sierra Club's recommendation is cumbersome. Staff agreed to discuss the matter with the Agriculture Commissioner.
- Page 2-15, new policy BIO-1.9 – Agreed with Sierra Club's recommendation re: control of non-native animals
- Page 2-16, BIO-1.b – Agreed with Sierra Club's recommendation.
- Page 2-17, BIO-1.c – Agreed with Sierra Club's recommendation.
- Page 2-17, BIO-1.d – Biology Consultant Martin indicated that this program was to allow for re-evaluation of the County Ordinance with an emphasis on the woodland habitat and recommended developing a related program regarding education and outreach that parallels that policy, but separate the two and leave the tree woodland issue as a separate policy.
- Page 2-17, BIO-1.e – Biology Consultant Martin believed enforcement would be an issue in regard to the term, "*prohibiting*" and recommended listing coordinating agencies.
- Page 2-18, BIO-2.2 – Agreed to include the word "*proximity*," but believed the term would require a definition in the glossary. The Commission agreed with the following recommendation: "*Require the assessment to be conducted by a qualified professional to determine the presence or absence of any sensitive resources, which could be affected by development.*"
- BIO-2.3 – Agreed with a minimum on-site replacement ratio of 2:1 and off-site replacement at a 4:1 ratio. The 2:1 ratio is consistent with the FCA minimum with the suggested minimum for wetlands, but believed it would be a good idea to have a higher minimum ratio when discouraging off-site mitigation.
- BIO-3.1 – Biology Consultant Martin pointed out that with the City-Centered Corridor there is an attempt to balance development, habitat and resource protection, and the Commission should discuss the standards.
- BIO-3.2 and BIO-3.2b – Biology Consultant Martin recommended continuing to use minimum standards and provide for greater flexibility as opposed to the suggested language provided by the Sierra Club, which should be discussed by the Commission. The Commission concurred with the 2:1 ratio and a more general statement. The Commission felt five-acres is too great in relation to the City-Centered Corridor and Commissioner Dickenson proposed two-acres. The majority of the Commission agreed with the two-acres as proposed.

Deputy Director Crawford discussed flexibility for SCA's and noted that it could be considered for new and existing development. He explained the two general categories as follows: 1) where a property is fully subject to a stream buffer area; or 2) when strictly applying the stream conservation setback requirement may result in greater environmental impacts. He then discussed the 100-foot buffer issue and pointed out that there is a standard currently established in the County's Local Coastal Program that requires 100-foot wetland buffer without an

exception and it is staff's understanding that it is consistent with the way the Coastal Commission staff has administered the Coastal Act policies, which are expressly stated in the Coastal Act and in the Coastal Zone.

Biology Consultant Martin requested additional time to review the letters in order to respond in greater depth. He suggested providing a memorandum in regard to specific comments and how to address those comments that include draft language for the Commission's consideration. The Commission and staff agreed.

Agency Director Hinds stated that removal of existing native riparian vegetation should not be allowed within the SCA's. However, the issue of regulating the types of crops or setbacks of crops is an issue that the Commission would benefit to hear from both the agricultural community as well as the biology community before making a determination.

In response to Commissioner Barner's comments, Agency Director Hinds responded that staff's general rule was to not weaken any of the existing biological protections, but to strengthen them with the added caveat that a better method must be established to achieve protection implemented on small lots in the City-Centered Corridor.

Baylands

Agency Director Hinds asked the Commission if they desired to have a Baylands Corridor, and if so, should it include a 300-foot minimum setback for associated uplands as recommended by some environmental organizations and studies.

Commissioner Julin agreed to have a Baylands Corridor. Commissioner Barner concurred.

Commissioner Holland favored the Baylands Corridor, but felt the north portion should go all the way to Highway 101, and if needed to pull back for developed properties.

Chairman Berland also favored a Baylands Corridor if there was a substantial difference from the Baylands Conservation Zone, and if there was equal treatment of baylands south of San Pedro Point, but expressed concern regarding the constraints of expanding the Bayfront Conservation Zone.

Commissioner Thompson believed they are renaming an ordinance that was based on a policy back in the 1980s about Bayfront Conservation Districts. He added that the purpose has not changed, but expressed concern for removal of public access to bayfront areas. He further felt flexibility should be created on a case-by-case basis.

Commissioner Dickenson supported the inclusion of a Baylands Corridor in the new Countywide Plan. He pointed out that the Bayfront Conservation Zone and the Baylands Corridor are different. He believed 300 feet in the northern County is not enough and recommended using Highway 101 as a barrier. He indicated that the term "buffer" is very inappropriate because it is the ecosystem that supports the very species dependent on that ecosystem, which included upland areas. He further added that China Camp and other public islands such as Deer Island should be included in the Baylands Corridor.

Agency Director Hinds agreed that the location of the 300 feet and its environmental constraints buffer could be assessed during the environmental review period.

The hearing was opened to the public on the Baylands Corridor.

Nona Dennis, representing Community Marin, felt the field trip on Friday, April 16th, 2004 in regard to the Baylands Corridor was extremely useful and commended staff and the Commission for the discussion, maps and documentation. She provided the Commission with material that summarized their comments, suggestions and support for the Baylands Corridor. She also provided a reiteration of their concern about how the Baylands Corridor applies to the St. Vincent/Silveira site in particular, and the 300-foot buffer did not include important adjacent uplands. She then provided the Commission with a recommended policy that would address all the constraints as well as selected portions from the proposed addition of a Baylands Protection Corridor to the Countywide Plan that was developed in the early 1990s.

Barbara, Salzman, representing Marin Audubon Society, supported the establishment of the Baylands Corridor as discussed at the field trip with inclusion of public lands, the recently purchased lands and other adjacent lands, so that the intent of providing an ecosystem and a corridor is clearly reflected on the map.

Margaret Zegart, Mill Valley resident, expressed concern for the City-Centered Corridor and asked the Commission to protect the shoreline, which is essential for recreation and habitat. She then discussed specific policies and provided her comments and suggestions for the Commission's consideration.

Frances Nunez, Santa Venetia resident, recommended including the Corte Madera Creek in the Baylands Corridor. She also expressed concern that the boundaries of the proposed Baylands Corridor would significantly impact already developed residential properties, particularly those with existing docks. She further pointed out that not all uplands have the same habitat value.

Commissioner Dickenson reiterated that none of the private properties along Las Gallinas Creek would be included in the Baylands Corridor nor would there be a baylands buffer. However, said properties would be subject to wetlands setback buffer requirements.

Priscilla Bull, Kentfield resident, stated that if a property owner could demonstrate that a particular development would not negatively impact the resources of this area, then development could be permitted. She explained that the burden would be on the property owner to demonstrate that it would not negatively impact the resources of the area.

The public hearing was closed.

Agriculture and Food

Agency Director Hinds summarized the Key Trends and issues of Agriculture and Food as well as the Plan's strategies for the Commission's consideration.

Stacy Carlson, Agricultural Commissioner, presented statistics comparing the environmental impacts of agriculture and those generated by development in the urban corridor. He then proceeded to make the following comments: 1) all types of farming operations should be encouraged and supported; and 2) ancillary uses on agricultural properties should be encouraged and supported as well. He concluded by addressing issues raised by the Commissioners regarding the need to support and maintain all types of farming; the absence of agricultural businesses in the County; actual cost of locally grown agricultural products; the need for public education in relation to locally grown products; and the need for flexibility regarding the use of herbicides.

Ellie Rilla, Director, UC Cooperative, commented on the need for policies that encourage and support local, family-owned farming operations. She further commented on the need for public education in regard to the benefits of consuming locally grown agricultural products.

Robert Berner, representing Marin Agricultural Land Trust (MALT), submitted his comments in writing highlighting the following: 1) Program AG-1.a (Page 2-126) – limitation of residential building size to 3,000 sq. ft. is inappropriate; 2) Program AG-1.c (Page 2-127) – requiring perpetual conservation easements where residential construction is greater than 3,000 sq. ft. is inappropriate; 3) AG-1.d should include monitoring provisions and 4) AG-1.f should include a functioning Transfer of Development Rights (TDR) Program before designation receiver sites.

The hearing was opened to the public on Agriculture and Food.

Sally Pozzi, concerned resident, requested an extension in order to provide the Farm Bureau's comments.

Michael Merry, concerned resident, recommended defining diversification in the glossary.

Gordon Bennett, representing, Sierra Club, submitted his comments in writing expressing concern that based on current patterns, both existing and proposed programs intended to support and encourage family farms could instead benefit industrial agricultural businesses. He further believed row cropping operations should be subject to environmental protection requirements.

Cela O'Connor, Bolinas resident, submitted her comments in writing, and pointed out that minimum stream flows should have been included in the Plan. She further believed that both agriculturalist and environmentalist should engage in discussion.

Catherine Caulfield, representing Environmental Action Committee (EAC), discussed her letter dated April 8th, 2004, which focused on genetically modified organisms and potential contamination of organic farming.

Margaret Zegart, Mill Valley resident, believed the Plan should emphasize the importance of public education regarding agriculture.

Penny Livingston, concerned resident, recommended keeping the Agriculture and Food section in the Natural Systems Element.

James Stark, representing, St. Vincent's School for Boys, agreed with the concept of bringing agriculture and the environment together.

The public hearing was closed.

Chairman Berland announced at 6:40 p.m. that the Commission would take a 30-minute recess and then reconvene with further discussion.

Staff and Agricultural representatives addressed the following issues raised by the Commission:

- Figures for approximate acreage of fruits and vegetables in 1935;
- Policy AG-1.5 – Discouraging Subdivision of Agricultural Lands;
- Policy AG-1.12 – Expansion of Water Supplies in SCA areas;
- Policy AG1.f – TDR Program;
- Policy AG-1.h – Assess Density in Agricultural Districts; and
- The difference between organic and locally grown.

After a detailed discussion, the Commission agreed on the following:

- Page 2-115, Background – Consider revisions suggested by EAC in their April 8th, 2004 letter.
- Page 2-117, Figure 2-13 – Reprint in color for clarity.
- Map 2-12 – Reprint in color for clarity. The map did not reflect the “*Introductory*” paragraph in terms of agricultural zoning.
- Promoting agriculture that requires extensive water use would not be a good idea.
- Include a definition of “*Agriculture*” in the sidebar.
- Page 2-125, AG-1.6 – Add a “*disclaimer*” for larger properties that an FAR of less than 5% might be imposed.
- Page 2-126, AG-1.12 – Add wording regarding water table decreases to the water table should not affect wildlife species and other animals.
- Page 2-128, AG-1.d – No change.
- Page 2-129, AG-1.g – Be open to the idea of reassessing ARP Zoning in the City-Centered Corridor to uses other than agriculture.
- Page 2-131, AG-1.1 – Add language that there are limits on the concept of “*leasing*.”
- Page 2-131, AG-1.n – Modify title to state, “*Evaluate Water Development*.” Also, rewrite to encourage collection, treatment, reuse of water and add small scale with no degrade to fish and environmental resources.

Agency Director Hinds recommended re-evaluating the procedure at the next meeting as to whether a different system for review of the Plan should be established in order to move forward more efficiently. Staff further asked the Commission to provide direction on the major issues at the next meeting.

Chairman Berland adjourned the Planning Commission meeting at 9:15 p.m. and continued the Countywide Plan discussion on Agriculture and Food to Monday, April 12th, 2004 at 5:00 p.m.