

**MARIN COUNTY PLANNING COMMISSION HEARING MINUTES
MAY 3, 2004
Marin County Civic Center, Room #328 - San Rafael, California**

Commissioners Present: Hank Barner
Allan Berland
Don Dickenson
Randy Greenberg
Wade Holland
Jo Julin
Steve Thompson

Commissioners Absent:

Staff Present: Alex Hinds, Agency Director
Brian C. Crawford, Deputy Director of Planning Services
Dan Dawson, Senior Planner
Alexandra Morales, Planning Commission Secretary

Minutes Approved on: **May 17, 2004**

Convened at 1:30 p.m.
Adjourned at 6:30 p.m.
Reconvened at 7:00: p.m.
Readjourned at 9:00 p.m.

1 ROUTINE TRANSACTIONS

a. Incorporate Staff Reports into Minutes

M/s Julin/Holland, and passed unanimously, to incorporate the staff reports into the Minutes. Motion passed 7/0.

b. Continuances

M/s Julin/Holland, and passed unanimously, to continue Item #6 – Tweed Design Review Appeal as requested by the applicant/appellant. The Commission acknowledged the fact that no one was present to comment on this matter. Motion passed 7/0.

c. Approval of Minutes

M/s Barner/Holland, to approve the Minutes of March 29, 2004 with minor modifications. Motion passed 6/0/1 (Commissioner Greenberg abstained).

M/s Barner/Holland, to approve the Minutes of March 30, 2004 with minor modifications. Motion passed 6/0/1 (Commissioner Greenberg abstained).

2. COMMUNICATIONS

The Commission welcomed new Commissioner Randy Greenberg, representing the Third District. The Commission then acknowledged additional correspondence received regarding the Countywide Plan Update from Marin League of Women Voters (5/3/04), Margaret Zegart (4/23/04), Kathleen Phelps (4/28/04), 1992 Glossary, Neil Sorensen (4/23/04), and Marin Council on Aging (4/28/04).

3. DIRECTOR'S ORAL REPORT

a. Update on Board of Supervisors Actions

April 27, 2004 – Ghazi Variance Appeal

May 4, 2004 – Precautionary Principles; Discontinuation of any further work on the Strawberry View Ordinance

May 25, 2004 – Ghazi Variance Appeal

b. Report on On-Going/Pending Development Projects

The Residential Hillside Development Guidelines is nearly ready for public distribution and a workshop has been tentatively scheduled for July 12, 2004.

The Local Coastal Program update is underway and expected to be completed this summer.

A list of technical corrections and minor edits for the Development Code is being prepared and is expected to be completed in June or July of this year.

A contract for the Marin Horizon School expanded Initial Study has been awarded and is expected to be presented to the Commission in mid to late summer.

The developers for the Oakview project are in the process of negotiating with the City of San Rafael regarding dedication of land for a new highway interchange. It is anticipated that an amendment to the EIR will be prepared.

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

Commissioner Barner expressed safety concerns regarding “vanishing pools” and asked staff to research this matter.

5. FUTURE AGENDA DISCUSSION ITEMS, FIELD TRIPS

Alex Hinds, Agency Director, noted the revised Planning Commission hearing schedule stating that public hearings on the Countywide Plan will be held every Monday through the months of May and June, with the exception of May 31, 2004.

May 17, 2004 – Countywide Plan hearing

May 24, 2004 - Countywide Plan hearing

June 7, 2004 - Countywide Plan hearing

June 14, 2004 - Countywide Plan hearing

June 21, 2004 – Technical corrections to the Development Code, Countywide Plan hearing

June 28, 2004 - Countywide Plan hearing

July 12, 2004 – Residential Hillside Development Guidelines

6. DESIGN REVIEW APPEAL: TWEED

Hearing to consider the Tweed Appeal of the Tweed Design Review application seeking approval to legalize an approximately 3-foot high (34-inch high), 55-foot long concrete retaining wall that has been constructed along the lagoon shoreline in the Bel Marin Keys subdivision. The wall extends into a dedicated side yard easement located on the neighboring property to the east, further identified as 176 Del Oro Lagoon (Assessor's Parcel 157-550-11). Also included in the proposal is the construction of the following: (1) a 4-foot high plexiglass fence on top of the aforementioned shoreline retaining wall, for a combined height of 7 feet; (2) a 6-foot high fence extending from the garage of the applicant's residence for a length of 18 feet, to the easement boundary and running to the corner of the residence located on the neighboring property at 176 Del Oro Lagoon; and (3) a 4 foot high fence running from the corner of the retaining wall for a length of 50 feet along the eastern boundary of the aforementioned easement on the neighboring property. The subject property is located at **170 Del Oro Lagoon, Novato** and is further identified as **Assessor's Parcel 157-550-10**.

M/s Holland/Julin, and passed unanimously, to continue this matter as requested by the applicant/appellant. Motion passed 7/0.

Public hearing on the Draft Countywide Plan.

Public hearing on the Draft Countywide Plan.

Alex Hinds, Agency Director, summarized the key unresolved policy issues of the Draft Countywide Plan as listed on the staff report dated April 26, 2004. The Commission then discussed those issues in the following manner:

- ***Definition of Sustainability***

Commissioner Dickenson commented on the importance of coming up with a specific definition since that was the foundation of the entire Plan. He also found that the graphic representation of sustainability should be reflective of the written representation. After discussing this matter, the Commission agreed to defer this matter to later in the process.

- ***Reorganization of the Plan***

Commissioner Julin noted that in addition to renaming the “Natural Systems Element” to “Resource Management Element”, it was also agreed that sections would be reorganized in alphabetical order. The rest of the Commissioners concurred, further noting that since this element was renamed, retaining the Mineral Resources section in this element would be appropriate.

- ***Flexibility for smaller, already developed parcels within the City Centered and Inland Rural Corridors regarding resource protection setbacks***

Commissioner Dickenson asked whether “resource protection setbacks” referred to streamside conservation areas and wetlands, or also the baylands setbacks. Agency Director Hinds explained that it had to do with streamside conservation areas and that the intent was to require 100-foot setback on properties of two acres or more, and 50-foot setbacks from riparian areas on smaller parcels outside of the coastal area.

Commissioner Thompson did not support the proposed calculating mechanism because properties of 3/4 of an acre or less would be severely constrained. Therefore he would support setting a threshold for exemptions from the 50-foot setback requirements for parcels that are half an acre or less. While Commissioner Greenberg agreed with the concept, she did not support granting exemptions by default based on parcel size.

Commissioner Dickenson supported establishing a threshold at two acres or less for exemptions on undeveloped lots and at half-an-acre or less for already developed lots. Commissioner Barner concurred, particularly because this would avoid any legal ramifications.

Commissioner Julin supported the concept, but suggested that projects be reviewed on a case-by-case basis.

After taking a straw vote, the majority of the Commission agreed that the proposed lot size thresholds would apply to both the City Centered and Inland Rural Corridors as follows: 1) 100-foot setback on properties of two acres or more within the City Centered Corridor; 2) 50-foot setback in the City Centered Corridor on lots less than two acres with exemptions for lots of half an acre or less; and 3) 100-foot setbacks for properties within the Inland Rural Corridor, with exemptions for lots of half an acre or less. Commissioner Barner did not support all points as stated.

- *Should open space acquisition be deferred in light of the need for ongoing management of existing properties?*

Commissioner Dickenson noted that much of the open space lands acquisition was opportunistic, the Open Space District should be the determining body of when and how it is done. The District should concentrate on acquiring land as it becomes available and dealing with maintenance later. Commissioner Thompson concurred further stating that while it is appropriate for the Countywide Plan to address open space issues, it should not dictate to the Parks and Open Space District with regards to acquisition and maintenance. Commissioner Julin did not agree.

Commissioner Barner agreed with the concept of land acquisition, but noted that acquisition entailed stewardship of the land.

- *How far should countywide Plan policies attempt to mediate trail conflicts between user groups?*

After discussing this matter, it was the sense of the Commission that conflicts between different trail user groups and designation of types of trails should be deferred to the Open Space District.

The hearing was opened to public comment.

Harriott Manoly, Santa Venetia resident, stated that while the Santa Venetia community was concerned regarding the proposed recommendations regarding baylands, streamside conservation, and tidal wetlands, she advised against a blanket exemption of the area because it would not be in the best environmental interest of those properties.

In response to Commissioner Dickenson, Agency Director Hinds stated that based on the elevation of the Oxford Valley property, it appears that it should be designated as Ridge and Upland Greenbelt. Staff further noted that based on advanced technology since the last Countywide Plan Update in 1994, maps will be more accurate.

Giselle Downard, Santa Venetia resident, opposed exclusion of Gallinas Creek from the baylands buffer zone and/or SCA requirements based on the following: 1) much of the opposition was the result of misunderstanding; 2) density is not an indicator of breeding success of clapper rails; 3) existing sediment pollution and surface runoff are a threat to endangered species; and 3) there is no baseline information to determine the magnitude of impacts to remaining tidal marshes in the area.

Kathleen Phelps, Santa Venetia Neighborhood Association, commented in support of a mechanism that protects property rights without impacting existing resources. She also stated that in addition to buffer zones along Gallinas Creek, that impacts from development on upland ridges on the lower areas be considered.

Frances Nunez, Santa Venetia Neighborhood Association, noted her letter dated May 3, 2004 which points out that there was no language regarding stream width and flow increase and setbacks on Page 2-67, Trend on Sea Level Rise. Therefore, she suggested that missing language be included prior to obtaining public input on the Built Environment Element. Other comments made were as follows: 1) sediment runoff from Leona Drive is a continuous problem and expense to downhill properties; 2) definition of a creek should be provided; 3) Gallinas waterways are not defined as a creek; and 4) increased buffer zones and setbacks are not necessary along Gallinas Creek since there are existing 25-foot setbacks requirements.

Margaret Zegart, Mill Valley resident, cautioned about the SCA exemptions to be granted on smaller lots.

Gordon Bennett, Sierra Club, stated that this group is concerned with the development of new trails without funding in place for maintenance, and not with the acquisition of land.

Barbara Salzman, Marin Audubon Society, made the following comments: 1) open space acquisition should be deferred to the Open Space District who has proven to be good stewards of their lands; 2) Page 2-87, Why Is This Important – in addition to retaining essential wildlife movement corridors, it is also important to retain wildlife habitat for wildlife; 3) Page 2-90, Program OS-3.b – mention existing important habitat values and delete reference to “active recreation”; 4) reevaluate the need for additional trails and acknowledge the fact that they are intrusive; and 5) a blanket exemption of the Santa Venetia area from SCA requirements is not ideal.

Cela O’Connor, Bolinas resident, summarized her letter dated May 3, 2004, basically commenting in support of identifying appropriate agricultural accessory activities in SCAs. She also cited BIO-4.7 and BIO-4.2 as examples of inconsistencies which needed to be addressed. She concluded by noting a newspaper article regarding impacts of pesticide spraying on salmonids and humans.

Priscilla Bull, Community Marin, summarized their letter dated May 3, 2004, reiterating their recommendations and proposing alternate language for the definition and policies contained in the draft Plan regarding the Baylands Corridor.

The hearing was closed to public comment.

After taking into consideration all information presented, the Commission expressed individual comments and concerns.

Commissioner Berland confirmed the fact that the “Natural Systems Element” would be renamed as “Resource Management Element”. The Commission concurred.

Baylands Corridor Boundaries

Commissioner Berland stated that there was not enough information to define the boundaries of the Baylands Corridor. In his opinion the County should find out how much additional housing is needed before setting boundaries. Therefore, this matter should be deferred. Commissioner Thompson agreed further stating that boundaries for the Baylands Corridor can not be identified without a definition of baylands in place.

Commissioner Dickenson agreed that prior to determining whether the boundaries should be expanded, the Commission must decide what they are talking about in terms of a corridor; and what it is they are trying to protect in order to develop some consistency.

In response to Chairman Berland, Agency Director Hinds explained the difference between the Bayfront Conservation Zone and the Baylands Corridor stating that the Baylands Corridor is a land use designation that discourages new intensive development in those areas and it informs individuals that it is considered to be an environmentally sensitive type of property and that expectations should be lower; this applies equally to the Bayfront Conservation Zone and the Baylands Corridor. Staff believed it is a good idea to have a Baylands Corridor because the big picture is easier to understand.

Chairman Berland questioned the need for the proposed change since the Baylands Corridor and the Bayfront Conservation Zone have the same definition. If the Bayfront Conservation Zone was left as is, the County would not be as vulnerable. Agency Director Hinds responded that when staff scoped out the content and direction of the General Plan there was general direction to include a Baylands Corridor. Because there was a difference in opinion as to whether the proposed Baylands Corridor is either too inclusive or exclusive, staff turned to the Commission for direction. During initial meetings, it appeared that the majority of the Commission supported the inclusion of a Baylands Corridor, but that there were issues to be resolved. However, it was noted that proposed revisions to the Bayfront Conservation Zone were minor.

Commissioner Greenberg stated that her guiding principal for the Baylands Corridor would be habitat and ecosystem protection in order to ensure their viability.

Commissioner Thompson expressed concern with relying upon the State of California and ABAG to identify the County's housing needs. In his opinion, the housing statement should be reviewed to better understand other possibilities available.

Commissioner Dickenson noted that the County already has a State certified Housing Element. He stated that in terms of concerns over changing land use regulations, the Commission has already supported expanding the Streamside Conservation Zone. He also added that the reason to review and revise plans is to reflect current circumstances. In his opinion, the Baylands Corridor should be reviewed in a manner to reflect the current thinking and to protect ecosystems.

Chairman Berland stated that boundaries were drawn during the 1994 Countywide Plan Update and was assumed that the EIR had taken those into consideration and not deemed to result in any significant environmental impacts. To indicate that additional information was currently available to recommend changes would be inappropriate. He noted that the ultimate build-out in housing was estimated increase of 14%, but that the buildout of commercial space was estimated at about nine million square feet. He reiterated the fact that additional information regarding how much more housing is needed and where it would be located, as well as how much of that would be mixed housing and commercial was needed.

After taking a straw vote, the majority of the Commission agreed to defer the designation of the Baylands Corridor boundaries until the time when the Built Environment Element was considered.

Agency Director Hinds pointed Community Marin's recommendation to have the Baylands Corridor north of Pt. San Pedro, and that staff recommended following the San Francisco Estuary Institute's line. Furthermore, it was noted that while parcels north of San Pedro Point tend to be larger with less development, parcels to the south are smaller already developed parcels with less opportunity for a contiguous large corridor.

Dan Dawson, Senior Planner, briefly explained to the Commission the boundaries in regard to the Baylands Corridor and the Bayfront Conservation Zone by using several maps. The Commission and audience approached the maps while staff provided an explanation.

After taking a straw vote, the majority of the Commission agreed that the Baylands Corridor should be included in the Countywide Plan.

Agency Director Hinds stated that other issues to consider are as follows: 1) should public lands be included within cities that have a relationship to the corridor; 2) what about upland greenbelt ridgelines, publicly owned lands, and lands adjacent to historic Baylands; and 3) should the Baylands Corridor go all the way to Highway 101 between Novato and San Rafael. Staff's recommendation was that the County follow the historic Baylands in those locations, plus the 300-foot buffer and that the CEQA process be relied upon to extend any additional protections, but not go all the way to Highway 101.

Chairman Berland stated that he supported the Baylands Corridor as staff designated, but expressed concern with the 300-foot buffer due to potential legal ramifications. Therefore, the proposed 300-foot buffer zone should be deleted. Agency Director Hinds noted that the 300-foot buffer zone would only be applied to large, undeveloped parcels. Commissioner Holland suggested removing the word "buffer", and the Commission concurred.

Commissioner Julin appreciated the maps provided, but found that some fine-tuning was needed in order to be used as a basis for discussion. She also supported exploring the possibility of extending the boundary all the way to Highway 101. Agency Director Hinds noted that this possibility could be evaluated in the EIR.

Commissioner Greenberg asked that the consultant review adjacent uplands that have been presented as part of the ecosystem. She also suggested that developed parcels near waterways be redrawn and staff agreed.

Commissioner Dickenson found that some of staff's recommendations addressed his concerns, but noted that some areas needed more consideration, particularly the northern boundary. He concluded by recommending that the corridor include the adjacent upland habitat areas on public land as well.

Commissioner Greenberg also expressed concern regarding the northern boundary and asked staff if a straight line would be more defensible. Agency Director Hinds responded that staff tried to follow the biological basis for this, particularly in the sensitive areas. Staff agreed to explore consistency on the boundaries.

Commissioner Dickenson proposed that they use only the first tier of lots to a public road, not paper streets, and include Santa Venetia. Staff added that lots already surrounded by water and clearly part of the Bay and historic Baylands would be included, as well as those with direct access to water. Commissioner Thompson urged consistency in order to be fair and legally defensible. The Commission concurred.

Chairman Berland confirmed that the mineral resources section would remain in the Resources Management Element.

The Commission adjourned at 6:37 p.m. for a 30-minute break and reconvened at 7:07 p.m.

The Commission was asked to review the April 26, 2004 list of unresolved issues provided by staff for completeness. Comments and direction was as follows:

INTRODUCTION

Page xi - No additional changes.

Page 1-2

Commissioner Holland asked staff to clarify what is being moved in regard to the sixth paragraph of the History section.

Chairman Berland asked that the criteria used to determine the Baylands Corridor be explained.

Page 1-3

Commissioner Julin suggested stating that "organizing principles" also be included.

Chairman Berland requested clarification of the "symbol" being used.

Page 1-4

Chairman Berland asked for clarification of the definition of "special needs."

Commissioner Dickenson suggested stating "*foster business that create*" rather than "*support locally owned businesses.*"

Commissioner Julin – Item #8 – replace the statement "*acquire and retain well paying jobs*" with "*acquiring meaningful employment.*"

Pages 1-5 and 1-6 - No additional changes.

Page 1-7

Chairman Berland noted no changes since this section was added back into the Resource Management Element. Agency Director Hinds noted that a suggestion was made to add another layer in the pyramid called “agriculture” above Natural Systems. The Commission agreed.

Pages 1-9 thru 1-16 - No additional changes.

NATURAL SYSTEMS ELEMENT

Page 2-3

Staff noted the need for further clarification. Commissioner Barner asked staff to carefully reconsider the Mineral Resources section. Commissioner Dickenson agreed stating that additional balance in the wording would be beneficial. Staff agreed.

Pages 2-4 and 2-5 – No additional changes.

Biological Resources Section:

Page 2-7

Staff noted the Sierra Club’s recommendations to reorganize and rename areas by using more consistent headings as well as adding additional language. The Commission agreed.

Page 2-10 - No additional changes.

Native Habitat and Biodiversity:

Page 2-13

Commissioner Barner suggested adding language regarding diversity in terms of species and age of replacement plants under BIO-1.3.

Pages 2-14 thru 2-16- No additional changes.

Protection of Sensitive Biological Resources:

Page 2-18 - No additional changes.

Page 2-19

Commissioner Barner asked that language regarding fencing be considered to address his concerns regarding continuity of wildlife corridors. Staff agreed.

Protect and Enhance Wetland Resources:

Page 2-22

Confirm that BIO-3.1 does not apply to Santa Venetia. Staff agreed.

Page 2-23 through 2-25

No additional changes.

Riparian Protection and Restoration:

Page 2-26

Staff suggested moving the last sentence in the last bullet to the first paragraph. The Commission agreed.

Pages 2-27 thru 2-32 - No additional changes.

Page 2-32

Commissioner Dickenson asked that SCA setbacks reflect the Commission's discussion at the beginning of the hearing.

Page 2-35 - No additional changes.

Baylands Preservation and Enhancement:

Page 2-36, BIO-5.3

Commissioner Dickenson asked for further clarification as to whether development of marinas is prohibited. Staff agreed.

Page 2-38 BIO-5.10 and BIO-5.a

Chairman Berland and Commissioner Holland asked that language be clarified in terms of the Baylands Corridor. Staff agreed.

Page 2-39 - No additional changes.

Water Resources:

Page 2-47 - No additional changes.

Page 2-48

Commissioner Holland confirmed that the purpose of this section was to protect upland vegetation as suggested by EAC. The Commission and staff agreed.

Page 2-50 - No additional changes.

Page 2-51

Staff noted that "gray water" would be further reviewed.

Page 2-52

Commissioner Dickenson suggested revising language to clarify that not all matters would affect agriculture. Staff agreed.

Commissioner Berland asked that language be clarified to indicate that adequate water for human needs was as important as for agriculture. Staff agreed.

Page 2-53.

Commissioner Holland recommended that the water section under the Built Environment section be reviewed. Staff agreed.

Mineral Resources:

Page 2-57 through 2-64 - Deferred until discussion on the Built Environment Element takes place.

Atmosphere and Climate:

Page 2-71 - No additional changes.

Page 2-73, AIR-2.b

Commissioner Barner expressed concern that air-filtration is not enough for children and elderly and believed the program is only half effective, and, therefore language regarding “creative design” should be included. The Commission agreed.

Page 2-75 - No additional changes.

Open Space:

Page 2-79

Commissioner Dickenson suggested pointing out past Open Space contributions to MALT for acquisition. Staff agreed.

Pages 2-82 and 2-85 - No additional changes.

Page 2-87, OS-3.a

Commissioner Barner suggested that “*wetlands and riparian*” be included. The Commission and staff agreed.

Page 2-90 - No additional changes.

Page 2-91, OS-3.c

Commissioner Barner suggested adding the “*Black Point Woodland Wildlife Preserve.*” The Commission and staff agreed.

Page 2-93, Programs OS-3.e and OS-3.f

Move to the Agriculture section. The Commission and Staff agreed.

Page 2-94

Commissioner Dickenson suggested including the Olompali State Park. The Commission and staff agreed.

Trails:

Page 2-100, Figure 2-10

Commissioner Holland suggested regulating the North Marin Water District open space trail to a footnote and removing the water district. removing the water district.

Page 2-101 - No additional changes.

Page 2-102

Add the Marin County Open Space District Mission Statement. The Commission agreed.

Commissioner Greenberg asked for clarification as to whether the definition of “trails” would include paved bike lanes.

Revise Goal TRL-1.1 to indicate that the public trail network will be expanded for all user groups where appropriate. The Commission agreed

Page 2-103, TRL-1.4

Commissioner Greenberg found this policy to be misleading and asked that trails to be used for alternative public transportation be clearly distinguished. The Commission and Staff agreed.

Page 2-103

Commissioner Barner pointed out that it is important to preserve paper streets as well as open space. Commissioner Greenberg agreed, but stated that when speaking toward the open space benefits, it should be included in the Open Space section. The Commission and staff agreed.

Page 2-104 - No additional changes.

Page 2-105, Programs TRL-1.j and TRL-1.k

Soften language. The Commission agreed.

Page 2-106

Chairman Berland suggested better defining “special needs”. Staff agreed further suggesting that said term be added to the glossary. The Commission agreed.

Page 2-107 - No additional changes.

Page 2-108

Commissioner Holland suggested adding language encouraging coordination between user groups and the County’s Open Space Trails Subcommittee when designating trail types. The Commission and staff agreed.

Page 2-109

Program TRL-2.k should be reworked. The Commission agreed.

Chairman Berland suggested replacing the word “maintain” with “manage” in Program TRL-2.n. The Commission and staff agreed.

Page 2-110, TRL-2100

Commissioner Holland confirmed the recommendation to replace the word “fencing” with “barriers or obstructions”. Commissioner Barner also suggested adding “paper streets” to the list. The Commission and staff agreed.

Agriculture and Food:

Commissioner Julin recommended changing the title to read, “Agricultural Lands.” Since the Commission could not reach consensus, Commissioner Julin suggested deferring discussion to a later date.

Page 2-117 - No additional changes.

Page 2-118

Commissioner Holland suggested correcting the reference from “Map 2.12” to “Figure 2-14”. The Commission and staff concurred.

Page 2-122

The Commission requested that staff add language in regarding low profits. Staff agreed.

MAPS

Page 2-124 - No additional changes.

Page 2-125

Commissioner Dickenson confirmed the recommendation to revise language to read “which many necessitate fewer parcels than specified”. The Commission and staff agreed.

Page 2-126 - No additional changes.

Page 2-129, AG-1.f

Staff suggested adding language stating “Evaluate the potential for TRD Programs and establish additional strategies that would work.” The Commission agreed.

Commissioner Barner expressed concern regarding the limitation of residential development to 3,000 square feet and asked staff to further review this matter. Commissioner Dickenson suggested retaining this limitation when referring to “*permitted non-agricultural land uses.*” The Commission and staff agreed.

Chairman Berland expressed concern for ARP Zoning in relation to the City-Centered Corridor.

Page 2-131

Chairman Berland recommended adding a cautionary note to avoid of the agricultural restrictions for non-agricultural development in order to ensure viable agricultural growth. The Commission and staff agreed.

The Commission adjourned at 9:40 p.m. and continued the hearing to May 10, 2004.