

**MARIN COUNTY PLANNING COMMISSION HEARING MINUTES**

**July 6, 2004**

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

*Commissioners Present:* Allen Berland, Chairman  
Steven Thompson, Vice Chairman  
Hank Barner  
Don Dickenson  
Wade Holland  
Randy Greenberg  
Jo Julin

*Commissioners Absent:* None

*Staff Present:* Alex Hinds, Director, Community Development Agency  
Brian Crawford, Deputy Director, Planning Services  
Michele Rodriguez, Principal Planner  
Dan Dawson, Senior Planner  
Eric Steger, Public Works Director  
Tom Lai, Principal Planner  
Fed Vogler, GIS Program Manager  
Jessica Woods, Recording Secretary

*Minutes Approved on:* **July 2004**

Convened at 1:06 p.m.  
Adjourned at 6:15 p.m.  
Reconvened at 6:52 p.m.  
Adjourned at 8:52 p.m.

1. ROUTINE TRANSACTIONS:

- a. ***M/s, Holland/Greenberg, and passed unanimously of those present, to incorporate the staff reports into the Minutes. Motion passed 6/0 (Commissioner Julin absent).***
- b. Continuances: None
- c. Minutes: June 21, 2004

***M/s, Holland/Barner, and passed unanimously, to incorporate the staff report into the Minutes as amended. Motion passed 7/0.***

2. COMMUNICATIONS - The Commission acknowledge several pieces of correspondence for their review.

Brian Crawford, Deputy Director, provided the Commission with an overview of the enforcement procedures for residential home construction drafted by staff that was circulated to the Commission for their review that attempted to address the types of projects that have the greatest potential to be problematic from a code compliance standpoint and to resolve code violations at certain stages of the construction process. Staff included an implementation schedule that is intended to minimize the cost and delays that may result from a property owner or contractor having to comply with the inspection verification procedures and steps. He then explained that the procedures address three areas of construction including the following: setbacks, height and floor area.

In response to Commissioner Holland's concern, Deputy Director Crawford agreed to remove the "up to" language from third sentence on page 2 of the draft procedures and state, "*within one-foot of the minimum setback.*"

In response to Chairman Berland's concern about the use of the word "*verification*" due to the fact that there is no penalty or consequences, Deputy Director Crawford responded that the memorandum only addressed the mechanics of verifying compliance with setbacks, height and FAR. In conjunction, the County recently increased their penalty fees submitted with an application from two to four times the regular application fee required for planning. Staff also noted that the County has a code enforcement hearing process, whereby the County can seek civil penalties for violations that are not resolved adequately. Staff also pointed out that verification for setbacks, building height and FAR has been occurring on a project-by-project basis and staff has not experienced a significant problem with licensed professionals intentionally providing incorrect information to the County.

In response to Commissioner Barner's comments, Deputy Director Crawford pointed out that substantial conformance provides some flexibility in the conceptual plans that are submitted and approved at the design review stage and the actual working drawings prepared subsequent to the discretionary permit process, and if there are some deviations from the strict application it would be up to staff to make judgments about whether or not that change would trigger a need for an amendment or abatement of part of the structure.

Alex Hinds, Agency Director, added that if professionals are violating their code of ethics or not meeting their professional standards that could be brought to the attention of the licensing board and individuals could be prosecuted for unfair labor practices through the District Attorney's office.

Chairman Berland provided staff a form of verification for their consideration because he felt the inspection procedures should be enhanced.

Commissioner Thompson believed the document addressed his concerns.

Commissioner Greenberg expressed concern that staff is opting out the larger properties. She believed that with a very large property, shifting a building a few feet could have consequences. She felt it would make

enforcement easier if addressed across the board, and if adopted it should be applied to all. Commissioner Holland and Commissioner Dickenson disagreed.

Commissioner Dickenson believed commonsense should be used. Commissioner Holland suspected the problem is with the contractor and all the field engineering and the only manner to address that is through the building inspector.

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

Leo Isotalo, San Rafael resident, requested that the Commission include language in its forth coming Countywide Plan that would deal with this San Rafael Rock Quarry situation, which is a nuisance and detrimental to the surrounding residents. He respectfully requested that the Commission address this issue on behalf of the surrounding neighbors.

#### 4. DRAFT MARIN COUNTYWIDE PLAN

##### Public hearing on the Draft Countywide Plan – Built Environment.

Agency Director Hinds summarized the staff report and recommended that the Commission review the administrative record; conduct a public hearing; and continue the public hearing to Monday, July 12, 2004 at 1:00 p.m. He then provided the Commission with a presentation on the Natural Systems Mineral Resources section that included the following:

- Key Trends and Issues
  - The Bay Area region depends on crushed stone and alluvial deposits for construction.
  - Material likely will still be imported to support construction activity.
  - In some areas Quarry operations have resulted in conflicts with nearby residential and recreational uses.
- Goal: MIN-1: Properly conduct mining
- Polices
- Implementing

In response to Commissioner Dickenson's question, Eric Steger, Department of Public Works, explained that they inspected seven mines in the County, of those seven, four are active, three are commercial and there are a couple of Quarry's that will very soon go from active to idle status.

In response to Commissioner Dickenson's question, Tom Lai, Principal Planner, responded that the designations are made by the State and staff must be consistent with what the State's designation is and as recently as three years ago staff obtained a current map status, but staff could investigate whether the General Plan is consistent with the State's latest list.

In response to Commissioner Dickenson's question about a mineral resource overlay, Principal Planner Lai responded that the intent is to create an overlay to protect existing uses and not change the existing use. Staff explained that the language has not yet been formulated and it is not staff's intent to propose language that would allow the expansion of a non-conforming use.

In response to Commissioner Dickenson's comments on MIN-1.d, Agency Director Hinds responded that it could be expanded to the surrounding properties and full disclosure might be appropriate.

In response to Commissioner Holland's concerns about Lawson's Landing Quarry, Public Works Director Steger provided the Commission with an update regarding a revised cost estimate, issues raised regarding the parcel to the south and north as well as a switching operations and the need for a plant survey.

The hearing was open to the public.

Susan Cole, East San Rafael resident, expressed concern for the truck traffic on San Pedro Road as well as pollution.

Mark Dougherty, San Marino resident, expressed concern for the working hours of the Quarry and the dynamiting occurring, which has been disruptive to the residents.

William McNew, San Marino resident, expressed concern for dust and dirt from Quarry activity and believed the situation must be addressed. He recommended terminating Quarry activity in order to better serve the community.

Amanda Metcalf, President, Point San Pedro Road Coalition, submitted a letter to the Commission for their consideration that outlined their concerns and suggestions regarding Quarry activity. She asked the Commission to aggressively take action on the Quarry.

Veronique Raskin, San Marino resident, explained that she is dealing with a nasty disease for which there is no cure that requires her to avoid stress and pollution and in order to manage her disease she moved to San Rafael for a better quality of life. She explained that the Quarry impacts her quality of life and residence and asked the Commission to address the Quarry and the Dutra Group in order to protect the surrounding neighborhood.

Lilli Dreyer, San Marino resident, expressed concern for damages to her home from Quarry activity. She believed current operations could be monitored in regard to noise, environmental impacts from blasting, truck traffic and safety and urged the Commission to contain the activities and protect South Hill.

Dan Reich, San Marino resident, opposed Quarry activity and provided the Commission with a cartoon in regard to Quarry operations for their consideration.

Marie Fisher Cichy, San Rafael resident, explained the unbearable situation and unpleasant experiences due to living near the San Rafael Rock Quarry. She also expressed concern for damages to her home from Quarry activity. She added that the most distressing part is the adverse impact the Quarry has on her property value.

Lee Markrack, Secretary, Point San Pedro Road Coalition, opposed Quarry activity and explained that truck traffic must be addressed. He discussed the impacts to the South Hill from Quarry operations and asked the Commission to use the best available technology in order to address the concerns of the community.

Margaret Zegart, Mill Valley resident, expressed concern for Quarry operations and believed the document should be reworded to protect the environment and neighboring residents.

The public hearing was closed.

In response to Chairman Berland's concerns about the San Rafael Rock Quarry being a nuisance, Principal Planner Lai responded that on August 23<sup>rd</sup> there would be a public hearing in relation to the Quarry and the Commission would be asked to make a recommendation to the Board of Supervisors.

Public Works Director Steger responded that Public Works issued a "Notice of Violation" on the Reclamation Plan and the Quarry waived their right to a hearing and agreed to the order to comply, staff found the Plan was not complete, so staff provided a detailed checklist and the Department of Conservation also agreed the Plan was incomplete. About two weeks ago, staff received a request from the Quarry to extend the deadline to September and the Department of Public Works has provided a response to that and in order to consider that request, Department of Public Works needs a work schedule along with information on consultants that would be used to show that substantial efforts are being made.

Commissioner Dickenson pointed out that there is no incentive for Mr. Dutra to amend the Plan when he is able to continue operations when in violation of the Reclamation Plan. Ms. Metcalf pointed out that the Court stated that it is up to the County to take action to mitigate the nuisances of the Quarry and the Judge simply stated that he would be forced to take action if the County did not and the Judge is looking to the County to take action.

Agency Director Hinds pointed out to the Commission that is not the appropriate time to discuss particular Quarry operations and that should be agendaized and scheduled for a future meeting.

Chairman Berland asked staff to discuss the matter in regard to the Quarry with County Council and report back to the Commission as well as agendaize the discussion for the August 23<sup>rd</sup> meeting. Staff agreed.

Commissioner Julin asked Ms. Metcalf if the Judge issued a deadline. Ms. Metcalf responded that the order was to provide six months for compliance and it is fair to state that the Judge did not indicate a specific deadline beyond the first indication that he desired a response from the County, with the clarification that the Reclamation Plan would take longer, but the Judge directed parties to move forward. She added that County Council has the authority to act and they should explain their obligations under the Judge's ruling.

Commissioner Greenberg pointed out that they have legal responsibility to notice this discussion at a scheduled hearing and recommended returning to the scheduled agenda. Chairman Berland agreed. He then announced that the Commission would receive a report back from County Council on August 23<sup>rd</sup> for further discussion on the Quarry.

Commissioner Barner suggested including the ability to add a provision of issuing “*stop work orders*” for the discussion occurring on August 23<sup>rd</sup>. Staff agreed.

Commissioner Thompson discussed the key issues on page 38 under Item “B,” which he believed should be incorporated in the document, and he also recommended fine-tuning Policies MIN-1a and MIN-1b. Agency Director Hinds responded that Policies MIN-1a and MIN-1b are from the existing Plan that applied to State law.

Commissioner Thompson recommended adding language to protect adjacent properties. Agency Director Hinds agreed to review. Commissioner Greenberg noted that MIN-1.3 would address Commissioner Thompson’s concern regarding adjacent properties. Agency Director Hinds responded that staff would review and develop improved language to best address the situation.

Commissioner Dickenson discussed page 2-57 regarding a series of references that should include when Quarry operations are to be amended. He believed page 2-58 should specifically refer to the San Rafael Rock Quarry. Commissioner Thompson suggested stating, “*in all areas of the County.*” Commissioner Dickenson pointed out that the policies are written from a standpoint of preserving and existing incompatible uses are not addressed. He also pointed out that there are other related impacts such as truck traffic from the Quarry and believed monitoring conditions should be included in the implementing programs as well.

Chairman Berland discussed Policy MIN-1a and in his view of the ongoing legal situation there should be a *special note* that it is not intended to legalize or expand non-conforming uses. Staff agreed.

*Commissioner Greenberg recused herself from the Planning Commission hearing at 3:30 p.m. due to a prior engagement.*

Fred Vogler, GIS Program Manager, provided the Commission with a brief overview of how the mapping applications work in order for the Commission to better understand, which is available to the public through the County’s website: [www.co.marin.ca.us](http://www.co.marin.ca.us).

Commissioner Holland announced that he provided Mr. Vogel with his written comments.

The Commission thanked Mr. Vogler for his presentation.

### ***Planning Area 2- Las Gallinas.***

Commissioner Dickenson commented on page 3-197 regarding the “Background” paragraph and pointed out that Lucas Valley should be included. He discussed page 3-199 and asked staff to explain the need for PA-2.1 and PA-2.3. Senior Planner Dawson agreed to explain the differentiation.

Commissioner Dickenson discussed Marinwood and believed it is missing a sense of what is desired such as a shopping center and the land use designation for Oakview should indicate that office use is not allowed and that residential use is desired. He believed the Lucas Film area should be targeted for residential to reduce the amount of new job producing space if Lucas Film did not move forward. Agency Director Hinds responded that it would be appropriate to acknowledge the fact that there is an approved Master Plan, but staff would investigate whether the Master Plan is vested. Commissioner Dickenson stated that if the project is not built, he believed residential should be pursued. The Commission concurred.

Commissioner Dickenson commented PA-2.5 on page 3-200 and recommended stating, “*public land should be designated*” rather than “*land shall be designated*” in order to be qualified.

Commissioner Barner discussed the Sanitary District and asked staff if any reuse of recycled water is occurring. Senior Planner Dawson responded in the affirmative. Commissioner Barner requested discussing recycled water in regard to St. Vincent/Silveira when appropriate. Staff responded in the affirmative.

### ***Planning Area 3 – San Rafael Basin***

Senior Planner Dawson summarized Planning Area 3 – San Rafael Basin for the Commission's consideration with the Key Issue as follows: Should the San Rafael Rock Quarry be designated Planned Community in acknowledgement of its potentiality for reuse? The Commission unanimously agreed.

Commissioner Dickenson discussed page 3-210 and noted that there is a marsh in that area that should be referenced in regard to the unincorporated area. He pointed out that PA-3.2 regarding the second sentence would set the timeframe as opposed to setting best management practices, which should be incorporated into the policy. He believed the wording should be stronger that development of the Quarry should be within the City of San Rafael. He believed a statement should be included under PA-3.3 stating, "*should be preserved.*" He discussed Upper Sun Valley in relation to Tam Gross Farm and noted that there is a development application in process that should be developed within the City.

The hearing was open to the public.

Roger Roberts, San Rafael resident, discussed Map 3.3 "*California Land Use Policy Map*" and noted that there is marshland in that area, which should be reflected in the map because currently it is misleading. Commissioner Dickenson agreed and believed there should be a reference to wetlands in relation to the text.

The hearing was closed to the public.

Commissioner Barner discussed page 3-211 in regard to the cemetery, which is designated as planned residential and asked staff if that could be reworded because a reader would assume that development would occur on the cemetery. Staff agreed.

Commissioner Dickenson asked staff if a field trip could be arranged in regard to the Rock Quarry. Agency Director Hinds responded that staff must discuss the site visit with the Quarry and report back to the Commission in that regard.

Commissioner Holland asked staff to arrange the site visit to be conducted after August 16<sup>th</sup>, 2004 in order to attend. Staff agreed. The Commission preferred to conduct a site visit together in order to hear and view the same activity.

Chairman Berland requested that staff discuss Planning Area 6 in order to receive public comment on that area. Staff agreed.

### ***Planning Area 6 – Richardson Bay***

Senior Planner Dawson summarized Planning Area 6 – Richardson Bay Planning Area for the Commission's consideration.

Commissioner Barner asked staff to mention the situation with Tiburon in the Plan. Staff responded in the affirmative. Agency Director Hinds also noted that there was a request to discuss the "Vision" that would be included in the Community Plan.

The hearing was open to the public.

Tirrell Graham, Director, Strawberry Recreation District, provided the Commission with a letter outlining their concerns and suggestions regarding Strawberry for their consideration.

Forrest Morphew, President, Greenwood Beach Road Homeowners Association, expressed concern for tideland lots and desired protection of their tideland lots and opposed being included in the Baylands Corridor.

Margaret Zegart, Mill Valley resident, submitted a letter addressing her issues, which she outlined for the Commission's review.

The public hearing was closed.

Agency Director Hinds pointed out that there was consensus that there is no intent to propose acquisition of small-developed lots, which would be clarified in the language regarding the Baylands Corridor.

Chairman Berland believed the Baylands Corridor is being structured politically and would make it vulnerable to attack. Agency Director Hinds responded that there are different parcels in the south and similar properties should be treated similarly. Staff proposed that the Baylands Corridor be identified from north to south.

Chairman Berland asked why a Baylands Corridor is needed when there is a Bayfront Conservation Zone. Agency Director Hinds responded that the one idea tentatively recommended is to reduce the Baylands Corridor from areas not directly connected to the water. Commissioner Julin recommended reviewing the Baylands Corridor as an entire entity in regard to exemptions.

Senior Planner Dawson explained the deference between the current BFC overlay and the proposed Baylands Corridor that the Nicholas Wright Line basis of the BFC is being superseded by the historic bay shoreline boundary developed by the San Francisco Estuary Institute (SFEI), which further refines the Nicholas Wright line application of the Baylands Corridor that is based on the following:

1. Publicly-owned opened space (China Camp/State Park) entire parcel is included into the Baylands Corridor.
2. Large Parcels – (Greater than five acres) The bay side of the SFEI line, plus a habitat zone of up to 300 feet landward of the SFEI line or to the nearest major physical barrier such as a roadway, whichever is closer to the water, is in the Baylands Corridor.
3. Small Parcels – Any parcel which is partially or fully submerged is included in the Baylands Corridor (this includes the parcels on Vendola Drive facing Santa Margarita Island) Parcels in water-oriented developments with access to the Bay are also included in the Corridor, such as Bel Marin Keys, Paradise Cay, and Strawberry split.

Commissioner Dickenson asked staff if they reviewed limited opportunities at Tam Junction for mixed-use housing. Senior Planner Dawson responded in the affirmative. Staff added that it is covered under the land use issues. Commissioner Dickenson suggested adding language in the "Vision" for Tam Junction.

Chairman Berland suggested a specific note for development for Tam Junction that highlighted mixed-use. Staff agreed.

Commissioner Holland believed parts in Tam Junction would be inappropriate for mixed-use and should be studied very carefully. Staff agreed. Chairman Berland suggested approaching the matter as San Quentin in order to provide direction.

Commissioner Thompson believed the entire area is under a 25-foot height limit, so there are two-story opportunities in Tam Valley. Senior Planner Dawson noted that there are several small parcels that would require assembling property owners to reach an agreement.

Chairman Berland noted that Tam Junction is an embarrassment and redevelopment should be explored.

Commissioner Holland discussed mixed-use in terms of workforce housing and noted that it would not solve all the County's problems because it is not kid friendly and conventional housing is needed as well. Agency Director



Hinds noted that many individuals such as firemen desired to live in Sonoma County or Lake County in order to have five acres, but staff agreed the situation could be improved.

*Commissioner Greenberg reconvened her position on the Planning Commission at 6:15 p.m. and Chairman Berland announced that the Commission would take a dinner break and then reconvene with further discussion on Planning Areas.*

#### ***Planning Area 4 – Upper Ross Valley***

Senior Planner Dawson summarized Planning Area 4 - Upper Ross Valley for the Commission's consideration.

Commissioner Greenberg discussed page 3-213 and asked staff to explain why they are not zoned for single-family housing. Senior Planner Dawson responded that more units would fit with multifamily than single-family and in the case of Ross Valley there are transit corridors and opportunities to provide multifamily.

Commissioner Dickenson asked staff to check the multifamily designation in regard to Map 4.1. Staff agreed.

#### ***Planning Area 5 – Lower Ross Valley***

Senior Planner Dawson summarized Planning Area 5 – Lower Ross Valley for the Commission's consideration excluding discussion related to San Quentin.

Chairman Berland requested that senior housing be encouraged near the old Ross hospital site. He also asked staff to explain the proposed redevelopment for Marin General Hospital. Staff had no response in regard to redevelopment of Marin General Hospital.

The hearing was open to the public.

Margaret Zegart, Mill Valley resident, believed there is a need for low cost student housing in relation to the College of Marin. Agency Director Hinds believed it is a good idea and low-income housing should be in collaboration with College of Marin for student and/or employee housing.

The public hearing was closed.

Commissioner Greenberg asked staff if there should be some consistency with the Community Plan and General Plan. Agency Director Hinds responded in the affirmative. Chairman Berland recommended hearing from CPAC in that regard. Agency Director Hinds pointed out that if they achieved the same interest it might be acceptable to the community whether it is senior, low-income or student housing.

Commissioner Thompson recommended not being site specific. Agency Director recommended stating, "*as identified in the Community Plan.*"

#### **Land Use Maps**

Agency Director Hinds explained that this is a policy update from the existing plan such as changes in names, corrections and public acquisitions changes.

Senior Planner Dawson explained there is a series of maps highlighted identifying the changes, which still needs further staff review and explained that it would be difficult to have a discussion on a change-by-change basis without having the necessary information.

The Commission then discussed Maps 0.0 – 6.5 and made modifications as necessary.

*Chairman Berland adjourned the meeting at 8:52 p.m. and continued the hearing to July 12, 2004 at 1:00 p.m.*