

MARIN COUNTY PLANNING COMMISSION HEARING MINUTES

July 6, 2004

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

Commissioners Present: Allen Berland, Chairman
Steve 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
Tom Lai, Principal Planner
Fred Vogler, GIS Program Manager
Jessica Woods, Recording Secretary

Minutes Approved on: **August 16, 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 approve the June 21, 2004, Minutes as amended. Motion passed 7/0.

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

3. DIRECTOR'S ORAL REPORT

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. These procedures 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. He then explained that the procedures address three areas of construction including: setbacks, height and floor area.

In response to Commissioner Holland's concern, Deputy Director Crawford agreed to remove the "up to" language from the 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,*" and whether the proposed form of verification could be relied on. Deputy Director Crawford responded that the memorandum addressed the mechanics of verifying compliance with setbacks, height, and FAR. In addition, the County recently increased its penalty fees submitted with an as-built application from two to four times the regular Planning application fee. 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 an example of a verification under penalty of perjury required for legal documents for their consideration because he felt the inspection procedures should be enhanced and a declaration under a penalty of perjury would help show the truthfulness and accuracy of the document.

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 common sense 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.

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

Leo Isotalo, San Rafael resident, requested that the Commission include language in its forthcoming Countywide Plan that would deal with the 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.

5. 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
- Policies
- Implementing

In response to Commissioner Dickenson's question, Eric Steger, Department of Public Works, explained that they inspected seven mines in the County, and of those seven, four are active, three are commercial and there are a couple of quarries 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 the State's designation. Staff obtained a current map status as recently as three years ago, 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, Department of Public Works Senior Engineer Steger provided the Commission with a brief update.

Agency Director Hinds stated that today's hearing was for the Mineral Resources section of the Countywide Plan, although the effectiveness of existing or proposed mineral resource policies could be discussed relative to existing mining operations.

The hearing was opened 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 the Coalition's 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 the value of 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 public nuisance, Principal Planner Lai responded that on August 23rd 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 Senior Engineer Eric Steger responded briefly summarizing 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. About two weeks ago, staff received a request from the Quarry to extend the deadline to September 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 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 this is not the appropriate time to discuss specific Quarry operations and that it should be agendaized and scheduled for a future meeting.

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

Commissioner Julin asked Ms. Metcalf if the Judge issued a deadline. Ms. Metcalf responded that the order provided six months for compliance, with the clarification that the Reclamation Plan would take longer.

Commissioner Greenberg pointed out the legal responsibility to notice discussions at a scheduled hearing. Chairman Berland agreed. He then announced that the Commission would receive a report back from County Counsel on August 23rd 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 23rd. Staff agreed.

Commissioner Thompson discussed the key issues on page 38 under Item “B,” which he believed should be incorporated into 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 address the situation.

Commissioner Dickenson discussed page 2-57 regarding a series of references regarding the Quarry operations. 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 mining operations and existing incompatible uses are not adequately 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 view of the ongoing legal situation, there should be clarifying language that it is not intended to legalize or expand non-conforming uses. Staff agreed.

Commissioner Greenberg excused 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 how the Countywide Plan maps are used. The GIS application is available to the public through the County’s website: www.co.marin.ca.us.

Commissioner Holland announced that he provided Mr. Vogler 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. He further stated that the land use designation for Oakview should indicate that office use is not allowed and that residential use is desired. He believed the LucasFilm area should be targeted for residential to reduce the amount of new job producing space if LucasFilm did not move forward. Agency Director Hinds responded that it would be appropriate to acknowledge the fact that there is already an approved Master Plan. Commissioner Dickenson stated that, if the project is not built, he believed residential uses 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's/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 opened 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 would 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 16th, 2004 when he could 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 opened 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 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 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 Bayland corridor concept helped to identify the importance of historic baylands.

Commissioner Julin recommended reviewing the Baylands Corridor as an entire entity in regard to exemptions.

Senior Planner Dawson explained the difference between the current BFC overlay and the proposed Baylands Corridor that the Nichols 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 Nichols Wright line. Application of the proposed Baylands Corridor is also based on the following:

1. Publicly-owned open spaces (China Camp/State Park) should be 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 – Parcels which are partially or fully submerged are 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.

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 of Tam Junction would be inappropriate for mixed use and should be studied very carefully. Staff agreed.

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 redevelopment should be explored at Tam Junction.

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 child 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 even Lake County in order to have larger yards.

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 could be clustered to fit the topography with multi-family than single-family and in the case of Ross Valley there are transit corridors and opportunities to provide multi-family.

Commissioner Dickenson asked staff to check the multi-family 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 at this time.

The hearing was opened to the public.

Margaret Zegart, Mill Valley resident, believed that 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 affordable housing should be considered 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 KPAB in that regard. Agency Director Hinds pointed out that if they achieved the same interest in reducing the need to drive 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 to identify 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.