

**MARIN COUNTY PLANNING COMMISSION HEARING MINUTES**

**October 25, 2004**

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

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

*Commissioners Absent:* None

*Staff Present:* Alex Hinds, Director, Community Development Agency  
Brian Crawford, Deputy Director of Planning Services  
Tom Lai, Principal Planner  
Ben Berto, Principal Planner  
Tim Haddad, Environmental Coordinator  
Neal Osborne, Planner  
Eric Steger, Department of Public Works, Senior Engineer  
Jessica Woods, Recording Secretary

*Minutes Approved on:* **November 15, 2004**

Convened at 11:00 a.m.  
Adjourned at 12:35 p.m.  
Reconvened at 1:30 a.m.  
Readjourned at 6:11 p.m.

1. ROUTINE TRANSACTIONS

- a. Incorporate Staff Reports into Minutes

*M/s, Holland/Julin, and passed unanimously of those present, to incorporate the staff reports into the Minutes. Motion passed 6/0 (Commissioner Thompson absent).*

- b. Continuances – None

- c. Approval of Minutes – October 11, 2004.

*M/s, Greenberg/Holland, and passed unanimously, to approve the Minutes of October 11, 2004 as amended. Motion passed 7/0.*

2. COMMUNICATIONS

The Commission acknowledged several pieces of correspondence for their review.

3. DIRECTOR'S ORAL REPORT

- a. Update on Board of Supervisors Actions

Commission Actions Appealed: Smith Appeal of Commission's conditional approval of Armstrong Garden Center; San Rafael Rock Quarry Appeal of Commission's decision on legal nonconforming office buildings; and Kent Woodlands Property Owners Association appeal of Commission's conditional approval of Lamar Design Review.

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

Brian Crawford, Deputy Director, reported that Dan Hillmer and he met with the Design Review Boards in Strawberry and Kentfield to discuss planning area design guidelines that are not adequately included in the Countywide Guidelines. Staff pointed out that second story additions are of real concern in Strawberry because of their potential impact on significant views, such as San Francisco Bay. Also, the Strawberry DRB is very interested in providing expanded notice in regard to their Design Review Board meetings to provide the County with early public input.

4. OPEN TIME FOR PUBLIC EXPRESSION (LIMITED TO THREE MINUTES PER SPEAKER) - None

5. FUTURE AGENDA DISCUSSION ITEMS, FIELD TRIPS

Update on Planning Commission Actions

November 15<sup>th</sup>

- Moritz Coastal Permit, Use Permit, Design Review
- Gobar Design Review
- Church of Nativity/Cingular Use Permit/Design Review Appeal
- Antonioli Lot Line Adjustment/Precise Development Plan

November 29<sup>th</sup>

- Development Code Technical Amendments
- Oakview Master Plan
- Proaps and Tong Design Review Clearances
- Canon Variance

December 6<sup>th</sup> - Possible special meeting date

December 13<sup>th</sup>

- Single-Family Residential Design Guidelines
- Las Crumbres Master Plan/Tentative Map Land Division

Public hearing to consider a Coastal Permit proposal to construct a 1,302 square foot, two-story, single-family residence with an attached 382 square foot garage with a combined floor and garage area of 1,684 square feet on a 7,823 square foot lot. The project would result in a Floor Area Ratio of 17%. The second floor level would be 459 square feet with a 2½:12 slope hipped roof. The garage would have a flat roof to minimize view impacts to neighboring properties. The subject property is located at the northeast corner of Hawthorne Road and Ocean Parkway, inland of Ocean Parkway on the bluff adjacent to the Pacific Ocean. An existing septic system on the property would be utilized for the proposed residence. The single-family residence would have a maximum height of 22.7 feet above grade and the following property line setbacks: 27 feet front (southeast), 26 feet side (northeast), 20 feet side (southwest), and 25 feet rear (northwest). The proposal includes a 6-foot tall wood fence around the rear yard and portions of the side yards. In comparison to the previous proposal, the revised proposal would have 384 square feet less combined floor and garage area, 291 square feet less second floor area, 2 feet lower roof height, and the lap pool has been eliminated. The subject property is located at 216 Ocean Parkway, Bolinas, and is further identified as Assessor's Parcel 191-191-08.

(This item was continued from the hearings of July 26, 2004 and August 9, 2004.)

Neal Osborne, Planner, summarized the staff report and recommended that the Commission review the additional correspondence and policy analysis and approve the Salwen Coastal Permit with revised conditions as stated in the revised Resolution.

Commissioner Holland had questions about the size of the previous development on the property, the amount of total footprint of the proposed development, and the size of the proposed porches and their exclusion from the floor area calculations.

In response to Commissioner Holland's question regarding Finding III and its reference to the previously proposed swimming pool, Deputy Director Crawford agreed to delete the swimming pool language from the finding.

Commissioner Holland believed Condition 15 should be clarified with respect to the number and location of power poles that should be removed along Ocean Parkway.

In response to Commissioner Holland's question about paving, Eric Steger, Department of Public Works, responded that it is standard practice to require paving the driveway from a paved street to the property line.

Commissioner Holland then noted a few minor corrections to the Resolution for staff's review.

In response to Chairman Berland's question about an independent geotechnical study being conducted, Planner Osborne responded that a peer review was discussed at the last meeting, but it was not part of the Planning Commission's motion. Chairman Berland noted that the hearing minutes indicated that the Commission desired an independent geologist to conduct a study. Also, he requested that there be additional information about the earthquake concern, which he did not view in the material. Planner Osborne responded that there is a paragraph in the staff report memorandum that discussed the earthquake hazard issue.

In response to Commissioner Dickenson's question about whether the porch is consistent in terms of what qualifies for encroachment into the yard areas, Deputy Director Crawford responded in the affirmative.

The hearing was opened to the public.

Ellen Salwen, applicant, thanked the Commission for continuing her application in order to provide all the necessary information. She pointed out that the previous house had the same porch in front as well as the fence. She then reserved time to address public comments. She further noted that the project architect and contractor are present to answer any questions of the Commission.

In response to Commissioner Holland's question about the porch square-footage, Alex Hinds, Agency Director, announced that the project architect calculated the net porch area to be 450 square feet. Deputy Director Crawford noted that there is a considerable distance between the front property line and the improved portion Ocean Parkway, which reduces the potential for negative effects on the streetscape resulting from the proposed encroachment of the porch.

Commissioner Holland requested that in the future the Commission be provided with information about the footprint of all structures.

Chairman Berland believed the bulk and mass are similar and in his opinion, a covered porch is relevant to the evaluation of the project.

David Kimball, Bolinas resident, thanked Ms. Salwen for the proposed changes to the project, which the neighbors support and greatly appreciate.

Lisa Herbert, Bolinas resident, agreed with the changes and believed the changes help substantiate the Community Plan and she also expressed her gratitude for maintaining her view. Also, after reviewing story poles and drawings she requested that a similarly pitched roofline be placed over the entire residence including the garage.

Commissioner Dickenson assumed that the flat roof was done on behalf of the applicant's request. Ms. Salwen responded in the affirmative. She noted that she took to heart a written request from Bob Hunter, but she did not desire a flat roof and agreed it would be an improvement to the design if the flat roof was modified, but asked the Commission not to delay the process in relation to the roof modification.

Jack Byars, architect, agreed that the flat roof could be modified, but he could not indicate the end result in terms of the roofline. He believed the roof slope would be the same as what appears on the left side of the residence as shown in the architectural drawing.

Commissioner Greenberg recommended changing the roofline so that it did not exceed the slope on the opposite side of the house. Mr. Byars agreed that changing the roof design is feasible.

Commissioner Dickenson stated that garage plate height is 9.5 feet, so it could be dropped to 8 feet. Mr. Byars responded that 9.5 feet is desired in order to have a consistent porch eave line around the house. Commissioner Thompson agreed with Mr. Byars.

Commissioner Barner recommended modifying the language on flat roofs in terms of future projects because they are not completely flat to achieve positive drainage away from the center of the roof.

Bob Hunter, Bolinas resident, noted that his letter responded to the roof extension because the original plans had the wrap around porch and he objected to what he thought was an unnecessary porch structure impacting his view, which had been removed. He noted that he had no objection to a flat roof and if there was a choice, he preferred a pitched roof without a substantial overhang or porch.

Chairman Berland asked the applicant to discuss the geotechnical findings that note varying bluff retreat rates of ¼ foot/year to 1 foot/year and in regard to cumulative negative effects on the Mesa. Ms. Salwen understands the concerns about the inconsistencies, but pointed out that Vincent Howes is highly respected and is the geologist hired by the Bolinas Community Public Utility District to investigate issues of stability. In terms of this project, she went down the path of receiving the 40-year and 100-year report on slope stability with the understanding that if they satisfied that issue she could then expand, but this is no longer an expansion project, and therefore, the report should not be necessary for a replacement project with no net increase in floor area.

Chairman Berland asked Mr. Giacomini his opinion on this matter in the case the Commission finds that there is not adequate evidence to support a finding that there would be no adverse effects on the bluff. Mr. Giacomini responded that the applicant is right, she was reaching on her first application in regard to the expansion, but the conclusion that could be reached by the Commission is that this replacement house is an exact replica in terms of impact and would not increase

the jeopardy to the bluff, so the extra hurdle is not needed because there is no expansion. Chairman Berland clarified that in Mr. Giacomini's view the waiver included in LU-1.3 is not relevant at all to this application. Mr. Giacomini responded in the affirmative.

Deputy Director Crawford noted that the issue revolves around the programs of the Bolinas Gridded Mesa Plan and according solely to the limited scope of the overall policy objective, development within the bluff erosion zones should not be allowed. However, the programs that implement the policy in question identify certain circumstances under which construction could be allowed, whether a minor expansion of the existing floor area or reconstruction of the house. The policy should be reviewed within the context of these programs for a proper application. Staff noted that there are different interpretations regarding the relationship between the policy and programs that are briefly summarized in the staff memorandum provided to the Commission. Staff further added that the reconstruction of the house should be based upon the geotechnical investigation that demonstrates that there would not be any geotechnical hazards resulting from that particular program, and in staff's view the report conducted by Vincent Howes satisfied that program objective.

Ms. Salwen indicated that her architect has questions about the aesthetic of the appearance and desired to make sure that it is not a condition to change the roofline of the garage and requested that it be left to their discretion in terms of how the design would appear.

Deputy Director Crawford reminded the Commission that this project is limited to a Coastal Permit and does not include design review. Under the 17 findings for the Coastal Permit, 16 clearly have no relationship to visual impacts insofar as whether a roof should be pitched or flat. One of the findings does pertain to protection of visual resources; however, that particular finding is based on a provision in the Coastal Act that endeavors to protect coastal views from Highway 1 and other significant public viewing places. In Marin County staff has been more expansive in applying that finding to private views or views from surrounding neighbors along the coastline. Staff added that if the Commission is considering mandating changes to conditions that relate to the roof, they should keep in mind that such changes should be done for protection of visual resources rather than simply design aesthetics, which would be the proper subject for a design review application. However, that particular application has not been required for this project because of the zoning that applies in this area of the County and the fact that the home is well below the threshold for triggering design review under the County's so called "*Big and Tall Ordinance.*"

Agency Director Hinds agreed with Deputy Director Crawford's comments, but noted that the Commission could add a provision that indicated that alternatively a pitched roof with the same height may be substituted for flat roof as a design option rather than a requirement.

The public hearing was closed.

Commissioner Barner believed the applicant has responded with a plan that reflects the Commission's concerns and the big element is the reduction of height and removal of the lap pool. He further noted that he is supportive of staff's recommendation with some corrections to the resolution.

Commissioner Greenberg was very pleased that the applicant came back in such a timely fashion and addressed all the Commission's concerns. She is also prepared to approve the Resolution with the addition of the following language in order to provide flexibility: "*that the roof over the garage may be built as submitted [pursuant to Exhibit A] or may be redesigned with a slope and height not to exceed the pitched roof on the opposite side of the house and the overhang must not exceed 30 inches or require a Variance from yard requirements. A revised roof design must be submitted for review and approval by the Community Development Director.*"

Commissioner Dickenson agreed with the revisions and is prepared to approve the application. He further noted that the Resolution would require additional work, which he would discuss when appropriate.

Commissioner Thompson agreed with the revisions as well and recommended stating, "*that the garage not exceed the dimensions front to back of the upper story roof.*"

Commissioner Holland is prepared to move forward and supported the condition of flexibility to design an appropriate roof.

Commissioner Julin supported staff's recommendations.

Chairman Berland believed it is a well-designed project and noted his support as well. He expressed concern for the findings in regard to the geological conditions on the bluff, but he would take staff's view that the most recent report is the operative one and is satisfactory.

Commissioner Barner noted the following changes to the resolution as follows: Page 1 under Finding III, the reference to the swimming pool language should be deleted; Page 2 under Program LU-1.1, the third line from the bottom should reflect total floor area; Page 5 under Finding VI (IX).15 the following should be inserted, "*Bolinas Ridge*;" Page 7 under Conditions 7 and 8, add the phrase "*penalty of perjury*;" Page 9 under Condition 22 (21).G, delete "*wood stove*."

Commissioner Dickenson suggested the following modifications: Finding I on page 1 that the original application be described in terms of the larger size and lap pool; Finding II read, "*WHEREAS the Marin County Planning Commission held a duly noticed public hearing on July 26, 2004, to consider the merits of the project, and hear testimony in favor of and in opposition to the project and at the conclusions of the hearing voted to deny the application*;" new Finding III to state, "*WHEREAS at the August 9<sup>th</sup> 2004 Planning Commission meeting the applicant representative requested that the Commission rescind the denial to allow them to prepare revised plans to address the concerns expressed by the Commission and the Commission voted to do so*;" new Finding IV should read, "*WHEREAS the applicant submitted revised plans and insert Finding I language describing the revised project*;" new Finding V should read, "*WHEREAS the Marin County Planning Commission held a duly noticed public hearing on October 25, 2004 to consider the merits of the revised project, and to hear testimony in favor of and in opposition to the project*;" Finding III would become Finding VI and read, "*WHEREAS the Marin County Planning Commission finds that the proposed revised project is Categorically Exempt from the requirements of the California Environmental Quality Act, per Section 15303, Class 3(a) because the construction of a new single-family residence with an attached garage would not result in significant environmental impacts*;" Finding IV would become Finding VII and read, "*WHEREAS the Marin County Planning Commission finds that the proposed revised project is consistent with the Marin Countywide Plan*." He also noted that Finding I indicated that the garage would have a flat roof to minimize visual impacts on the neighboring properties, but agreed to provide the applicant with flexibility.

Commissioner Thompson recommended changing the way they talk about pavements under page 9 in regard to Item 20.b and instead of using the term "*pave*" or "*pavements*" he believed they should refer to the Bay Area Storm Water Book that provides quite a number of methods that are pervious.

Commissioner Holland modified page 7 under Item 15 in regard to the second sentence to read, "*utility pole or poles adjacent to the project on Ocean Parkway should be removed*."

Commissioner Greenberg agreed that the upper story was the more appropriate comparison in terms of height and slope and recommended using Commissioner Thompson's suggested language as follows: "*that dimensions of the roof should not exceed the height of the other side*."

Commissioner Barner agreed with the suggested condition, but standard wording of approval by the Director should be included. Staff agreed to add the appropriate language and include as approved by the Director.

Chairman Berland asked for a motion.

**M/s, Greenberg/Holland, to approve the Resolution as revised. Motion passed 7/0.**

*Chairman Berland announced at 12:35 p.m. that the Commission would take a short recess and then reconvene with the next agenda item.*

MARIN COUNTY PLANNING COMMISSION

RESOLUTION NO. PC04-022

A RESOLUTION APPROVING  
THE SALWEN COASTAL PERMIT

ASSESSOR'S PARCEL 191-191-08

216 OCEAN PARKWAY, BOLINAS

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**SECTION 1: FINDINGS**

- I. WHEREAS Jack Byars, Architect submitted a Coastal Permit application on behalf of Ellen Salwen, proposing to construct a 1,777 square foot, two-story, single-family residence with an attached 291 square foot garage on a 7,823 square foot lot. Including the 26 square foot window seat, and 106 square feet of vaulted ceiling space in the living room, the “visually apparent” floor area would be 1,897 square feet. The subject property is located at the corner of Hawthorne Road and Ocean Parkway, the first public road on the bluff adjacent to the Pacific Ocean. The residence would redevelop the property that previously had a single-family residence and detached studio that were destroyed by fire in December 2002. An existing septic system on the property would be utilized for the proposed residence. The project would result in a Floor Area Ratio (FAR) of 23% and a “visually apparent” FAR of 25%. The single-family residence would have a maximum height of 24.75 feet above grade and the following property line setbacks: 25 feet front (southeast), 24 feet side (northeast), 23 feet side (southwest), and 24 feet rear (northwest). The proposal includes the following additional structures/improvements: (1) a lap pool; (2) a 6-foot tall wood fence; and (3) a tool storage area within a 6-foot tall, 120 square foot, wood fence enclosure. The 10-foot by 40-foot lap pool would be located in the southern corner of the property with the 40-foot length of the pool along the Hawthorne Road frontage. The pool would have property line setbacks of 0.5 feet from Ocean Parkway and Hawthorne Road. The 6-foot tall wood fence would be located around the pool, along Hawthorne Road, along the rear property line, and partially along the northeast side property line, and then would connect to the side of the residence to enclose the side and rear yard areas. The subject property is identified as 216 Ocean Parkway, Bolinas and Assessor’s Parcel 191-191-08.
  
- II. WHEREAS the Marin County Planning Commission held a duly noticed public hearing on July 26, 2004, to consider the merits of the project, and hear testimony in favor of, and in opposition to, the project, and at the conclusion of the hearing, voted to deny the application.
  
- III. WHEREAS at the August 9, 2004 Planning Commission meeting, the applicant’s representative requested that the Commission rescind the denial to allow them to prepare revised plans to address the concerns expressed by the Commission, and the Commission voted to do so.
  
- IV. WHEREAS the applicant submitted revised plans proposing to construct a 1,302 square foot, two-story, single-family residence with an attached 382 square foot garage with a combined floor and garage area of 1,684 square feet on a 7,823 square foot lot. The project would result in a Floor Area Ratio of 17%. The second floor level would contain 459 square feet, with a 2½:12 slope hipped roof. The garage would have a flat roof to minimize view impacts to neighboring properties. The single-family residence would have a maximum height of 22.7 feet above grade and the following property line setbacks: 27 feet front (southeast), 26 feet side (northeast), 20 feet side (southwest), and 25 feet rear (northwest). The proposal includes a 6-foot tall wood fence around the rear yard and portions of the side yards.

- V. WHEREAS the Marin County Planning Commission held a duly noticed public hearing on October 25, 2004 to consider the merits of the revised project, and to hear testimony in favor of, and in opposition to the project.
- VI. WHEREAS the Marin County Planning Commission finds that the revised project is Categorically Exempt from the requirements of the California Environmental Quality Act, per Section 15303, Class 3(a) because the construction of a new single-family residence with an attached garage would not result in significant environmental impacts.
- VII. WHEREAS the Marin County Planning Commission finds that the revised project is consistent with the Marin Countywide Plan because it would:
1. Comply with Marin County standards for flood control, geotechnical engineering, and seismic safety, and include improvements to protect lives and property from hazard.
  2. Result in development that conforms to the governing standards related to building height, size and location.
  3. Comply with governing development standards related to roadway construction, parking, grading, drainage, flood control, and utility improvements as verified by the Department of Public Works.
  4. Not cause significant adverse impacts on water supply, fire protection, waste disposal, schools, traffic and circulation, or other services.
  5. Provide consistency with the land use designation of Coastal Single Family, two units to four units per one acre (C-SF5).
- VIII. WHEREAS the Marin County Planning Commission finds that the revised project is generally consistent with the Bolinas Community Plan and the Bolinas Gridded Mesa Plan policies because it would comply with current zoning policies in the Bolinas area to protect visual resources and maintain a consistent community character. The project would not have adverse impacts on the bluff, local streams, native vegetation, or important public views in the Bolinas Area. The project would be consistent with the Bolinas Gridded Mesa Plan Policy LU-1, and Programs LU-1.1 and LU-1.3 that state:

*Policy LU-1*

“There shall be no residential development or substantial construction near the bluffs.”

*Program LU-1-1*

“Establish a Bluff Erosion Zone along the Bolinas Bay side of the Mesa. The extent of this Zone shall be based on a 100-year life expectancy for a residential unit. The Zone shall extend from Overlook Drive to Duxbury Point and shall include all land from the edge of the bluff to line 245 feet inland. This edge shall be re-examined and adjusted as necessary every five years. No new construction and no new residential additions amounting to greater than 10 percent of the existing total floor area or 120 square feet (whichever is greater) shall be permitted in this zone on a one-time basis. Replacement construction will be permitted provided that it conforms to current building and environmental health codes and the waiver provisions of Program LU-1.3 below.”

*Program LU-1.3*

“The restrictions imposed by LU-1.1 and 1.2 can be waived on an individual basis if a site specific engineering report prepared by licensed engineer can show that hazardous conditions do not exist on that site or that the site-related constraints can be adequately overcome and that construction on that specific site will not contribute to the cumulative negative effects, specifically groundwater mounding, nitrate accumulation and bluff erosion on the Mesa. Any construction (new construction or additions) within either bluff erosion zone will require that permit issuing agencies (e.g. the County, BCPUD) be held harmless for any loss due to erosion.”

In accordance with the Bolinas Gridded Mesa Plan Policy LU-1 and Programs LU-1.1 and LU-1.3, the reconstruction of the pre-existing floor area of the fire-destroyed structures on the project site is acceptable because the project would result in residential development with 1,684 square feet of total area that would replace the 1,686 square foot fire-destroyed residential development. The proposal would not increase the floor area of the pre-existing development destroyed by fire, would comply with current building and environmental health codes, and would therefore comply with the Gridded Mesa Plan policies that allow replacement construction. In accordance with these policies, the project submittal includes a geotechnical report that evidences the project will not result in hazardous conditions or cumulative negative effects, specifically groundwater mounding, nitrate accumulation and bluff erosion in the Bolinas Gridded Mesa Plan's Bluff Erosion Zone. The County Department of Public Works engineering staff and the County Environmental Health Services Division staff have determined the project will not result in hazardous conditions and will conform to current building and environmental health codes under their jurisdiction. Conditions of approval and the required Building Permit process will require the project to conform to all current building and environmental health codes. In 1994, the County authorized a 22% expansion to the 936 square foot residence and 440 square foot garage for the legalization of an as-built 300 square foot detached studio, exhausting any future additional expansion potential. The Planning Commission finds that the evidence in the Salem Howes Associates geotechnical report is sufficient to find that no significant hazards would result from reconstruction of the same size project. The project therefore does qualify for reconstruction of the same size residence under the Bolinas Gridded Mesa Plan Policy LU-1, and Programs LU-1.1 and LU-1.3.

IX. WHEREAS, the Marin County Planning Commission finds that the revised project is consistent with the **MANDATORY FINDINGS FOR COASTAL PERMIT** (Section 22.56.130 of the Marin County Code) for the reasons specified below:

**1. Water Supply:**

The Bolinas Community Public Utility District currently provides water service to the property and construction of the new residence would not result in significant demand on the existing water supply. However, the decision on the Expanded Water Use Permit has been deferred pending a decision on the Coastal Permit.

**2. Septic System Standards:**

The Marin County Environmental Health Services Division staff determined the project to be feasible and acceptable as presented with conditions. A required septic system inspection report from a qualified professional was submitted documenting the condition of the system. Any necessary repairs would be required before issuance of a Building Permit and construction of the residence. Building Permit plans must provide assurance that all components of the septic system are protected from vehicular traffic during construction. Additional conditions of approval will require an Operating Permit to monitor the safe functioning of the system. With the implementation of the recommended conditions of approval, the project would comply with all septic system standards.

**3. Grading and Excavation:**

A very small amount of grading would occur for the construction of the residence and fence. The amount of excavation would be less than 25 cubic yards. This amount of grading is not considered excessive and would be monitored for compliance with Best Management Practices by the Department of Public Works during the Building Permit Review process.

**4. Archaeological Resources:**

Review of the Marin County Archaeological Sites Inventory indicates that the subject property is located in an area of high archaeological sensitivity. Conditions of project approval would require that in the event that cultural resources are discovered during site preparation or construction of this project, all work shall

immediately be stopped and the services of a qualified consulting archaeologist shall be engaged to assess the value of the resource and to develop appropriate mitigation measures to meet Local Coastal Program requirements.

**5. Coastal Access:**

The site is located inland of Ocean Parkway and the project would not affect public access to the beach.

**6. Housing:**

The proposed project would result in the construction of a single-family residence and accessory structures, and would not affect affordable housing stock in the Bolinas area.

**7. Stream Conservation Protection:**

This project site is not situated in an area subject to the streamside conservation policies as identified on the National Resources Map for Unit I of the Local Coastal Program.

**8. Dune Protection:**

This finding is not applicable because the project site is not located in a dune protection area as identified by the Natural Resources Map for Unit I of the Local Coastal Program.

**9. Wildlife Habitat:**

The Natural Resources Map for Unit I of the Local Coastal Program indicates that the subject property is not located in an area of sensitive wildlife resources. A review of the California Natural Diversity Database (NDDDB), prepared by the California Department of Fish and Game, indicates that the unlisted Ricksecker's Water Scavenger Beetle (Hydrochara rickseckeri) and the Monarch Butterfly (Danaus plexippus) potentially exist within the vicinity of the subject property. The limited developments on the property and no tree removal would not result in significant impacts to Ricksecker's Water Scavenger Beetle or Monarch Butterfly habitat area. No significant or adverse impacts to the biological resources of the property would result from the project.

**10. Protection of Native Plant Communities:**

The Natural Resources Map for Unit I of the Local Coastal Program indicates that the subject property is not located in an area containing rare plants. A review of the NDDDB, prepared by the California Department of Fish and Game, indicates that the subject property is not located in the habitat area for rare plant species. No significant or adverse impacts to the biological resources of the property would result from the project.

**11. Shoreline Protection:**

This project site is located in the Bluff Erosion Zone and E. Vincent Howes, geotechnical engineer, prepared an analysis of the retreat rate for the bluff adjacent to the subject property and determined no significant hazards would result from the project. The projected ¼-foot per year erosion rate would not affect the subject property approximately 55 feet away from the edge of the bluff, within the next 100-years. Additionally, the retreat rate would not affect the subject property within the next 100-years as required by the Bolinas Gridded Mesa Plan Land Use Policy LU-1 and Program LU-1.3. No bluff stability impacts would result from the project within the next 100-years and the project would not contribute to cumulative environmental effects, including ground water mounding, nitrate accumulation, and bluff erosion. Shoreline protection improvements would not be required during the life expectancy of the residence.

**12. Geologic Hazards:**

The project site is not located in an area of geologic hazards as indicated on Geologic Hazards Map for Unit I of the Local Coastal Program and is not located within the delineated boundaries of the San Andreas Fault zone as identified on the Earthquake (Alquist-Priolo) Special Studies Zone Map. The project site is approximately 1.5-miles west of the Earthquake (Alquist-Priolo) Special Studies Zone delineated along the San Andreas Fault Zone.

The project site is located within the Bluff Erosion Zone identified in the Bolinas Gridded Mesa Plan. Pursuant to the geotechnical studies and reports completed by E. Vincent Howes, geotechnical engineer, no bluff stability impacts would result from the project within the next 100-years and the project would not contribute to cumulative environmental effects, including ground water mounding, nitrate accumulation, and bluff erosion. Shoreline protection improvements would not be required during the life expectancy of the residence.

**13. Public Works Projects:**

This proposed project would not affect any public works projects.

**14. Land Division Standards:**

No land division or property line adjustment is proposed as part of this project.

**15. Visual Resources:**

The height, scale, and design of the proposed development would be compatible with the established character of the surrounding community. The project would have minor view impacts for the adjacent residences. Views of the Pacific Ocean and Duxbury Reef, and the Bolinas Ridge would be partially blocked, but substantial panoramic views will be retained. Public views will not be affected by the project, consistent with the Local Coastal Program findings.

**16. Recreation/Visitor Facilities:**

The proposed project would not provide commercial or recreational facilities, and the Coastal Village Commercial Residential (C-VCR) zoning, that has regulations that require a mixture of residential and commercial uses, does not apply to the project site.

**17. Historic Resource Preservation:**

The vacant property does not contain historically significant resources and the project site is not located within the designated historic preservation boundaries for Bolinas as identified in the Marin County Historic Study for the Local Coastal Program.

**SECTION 2: CONDITIONS OF PROJECT APPROVAL**

NOW, THEREFORE, BE IT RESOLVED that the Marin County Planning Commission hereby approves the Salwen Coastal Permit subject to the following conditions:

Marin County Community Development Agency, Planning Division

1. The Salwen Coastal Permit (CP 04-12) is approved pursuant to Marin County Code Chapters 22.56, 22.57, and 22.32 to construct a 1,302 square foot, two-story, single-family residence with an attached 382 square foot garage with a combined floor and garage area of 1,684 square feet on a 7,823 square foot lot. The project would result in a

Floor Area Ratio of 17%. The second floor level would contain 459 square feet, with a 2½:12 slope hipped roof. The garage would have a flat roof to minimize view impacts to neighboring properties. The single-family residence would have a maximum height of 22.7 feet above grade and the following property line setbacks: 27 feet front (southeast), 26 feet side (northeast), 20 feet side (southwest), and 25 feet rear (northwest). The proposal includes a 6-foot tall wood fence around the rear yard and portions of the side yards. The subject property is identified as 216 Ocean Parkway, Bolinas and Assessor's Parcel 191-191-08.

2. Except as modified herein, plans submitted for Building Permits shall substantially conform to plans on file in the Marin County Community Development Agency, Planning Division identified as Exhibit A, "Salwen Residence," prepared by Dommer and Byars, consisting of 6 pages received September 30, 2004, Exhibit B, "Material Board", and Exhibit C, "Wall Mounted Downlight and Porch Recessed Ceiling Downlight".
3. The applicant shall recycle, salvage, or reuse components of the debris from the construction aspect of the project. The inclusion of Green Building materials and techniques for the construction of the project is strongly recommended. Please contact Sam Ruark, Assistant Sustainability Planner at telephone (415) 507-2659 or e-mail [sruark@co.marin.ca.us](mailto:sruark@co.marin.ca.us) for technical assistance
4. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall revise the Site Plan or other first sheet of the office and job site copies of the Building Permit plans to list these Coastal Permit Conditions of Approval as notes.
5. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall revise the Plans to an appropriate scale such as ¼-inch per one foot for the architectural plans, and 1/8-inch per one foot for the Site Plan on sheets of paper 24-inches by 36-inches. The applicant shall submit these revised plans to the Director for review and approval. These revised plans shall include any revisions required by conditions of approval and shall supersede Exhibit A in the file, and shall subsequently be identified as Exhibit A after the Director's approval.
6. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall record a Waiver of Public Liability holding the County of Marin, other governmental agencies, and the public harmless because of loss experienced by geologic actions. The Waiver of Public Liability shall be submitted to the Director for review and approval before recordation.
7. BEFORE FOUNDATION INSPECTION, the applicant shall submit a letter and plot plan, signed under the penalty of perjury and stamped by a licensed land surveyor or qualified civil engineer showing the property boundaries, building corners, and setbacks to the property lines and verifying their conformance to "Exhibit A."
8. BEFORE FRAMING INSPECTION, the applicant shall submit a letter signed under the penalty of perjury from a licensed land surveyor or qualified civil engineer verifying that the roof ridge elevation of the structure complies with the approved height based on a benchmark identified on the plans.
9. Exterior lighting shall be permitted for safety purposes only, must consist of energy efficient, low lumen output, and low wattage fixtures, and must be directed downward and hooded to prevent glare for neighboring properties and light pollution in the night sky.
10. Construction activity is only permitted between the hours of 7:00 a.m. and 5:00 p.m., Monday through Friday, and 9:00 a.m. and 4:00 p.m. on Saturday. No construction activity shall be permitted on Sunday or Holidays. At the applicant's request, the Director may administratively authorize minor modifications to these hours of construction.
11. During construction, the applicant shall take all appropriate measures, including watering of disturbed areas and covering the beds of trucks hauling fill to or spoils from the site, to prevent dust from grading and fill activity from depositing on surrounding properties.
12. All soils disturbed by development of the project shall be mulched and/or reseeded with native non-pyrophytic groundcover plants to control erosion.

13. The applicant shall be responsible for ensuring that all construction vehicles, equipment and materials are stored off the street so that pedestrian and vehicles can pass safely at all times.
14. The applicant shall be responsible for ensuring that the number of construction vehicles shall be limited to the minimum number necessary to complete the project.
15. All utility connections and extensions serving the project shall be installed underground. If feasible, the adjacent utility pole or poles on Ocean Parkway shall be removed.
16. All roofing, siding, flashing, metal work and trim shall be an appropriately subdued, nonreflective color.
17. If archaeological resources are discovered during grading, trenching, or other construction activities all work at the site shall stop immediately, and the project sponsor shall inform the Marin County Environmental Coordinator of the discovery. A registered archaeologist, chosen by the County and paid for by the project sponsor, shall assess the site and shall submit a written report to the Marin County Community Development Agency Director advancing appropriate mitigations to protect the resources discovered. No work at the site may recommence without approval of the Director. All future development of the site must be consistent with findings and recommendations of the archaeological report as approved by the Director.
18. BEFORE FINAL INSPECTION, the applicant shall satisfy all pertinent conditions of approval, remove all construction debris and materials, and install all proposed landscaping with a drip irrigation system to serve it. The applicant shall call for a Community Development Agency, Planning Division inspection of the project and landscaping at least five working days before the anticipated completion of the project. Failure to pass inspection will result in withholding of the occupancy certificate and imposition of hourly fees for subsequent re-inspections.
19. Any changes or additions to the project shall be submitted to the Community Development Agency, Planning Division for review and approval before the contemplated modifications may be initiated.

Marin County Department of Public Works, Land Use and Water Resources Division

20. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant must provide pertinent design information, or submit the required items, as specified below.
  - a. The site plan shall show topography (or pad/spot elevations), site grading, and drainage.
  - b. The plans shall be reviewed and approved by the soils engineer. Certification shall be by the engineer's signature and stamp on site plan or by signed and stamped letter.
  - c. The first 30 feet of driveway, or to the property line, off of Ocean Parkway shall be paved, e.g. AC, paver blocks, or other porous pavements as approved by Department of Public Works.
  - d. An Encroachment Permit is required for work within the road right-of-way (Ocean Parkway).
  - e. Submit an Erosion and Siltation Control Plan if grading or site disturbance is to occur between October 15 and April 15.
  - f. Enter into a recorded agreement between the County and property owner stating that the County will be held harmless for any loss due to erosion as a result of construction within the Bluff Erosion Zone (Program LU-1.3).
21. Before construction, it is recommended that the subject property corners be marked in the field (there's an existing record of survey on AP 191-192-15, which can be used as reference points).

Bolinas Fire Protection District

22. BEFORE ISSUANCE OF A BUILDING PERMIT AND COMMENCEMENT OF CONSTRUCTION, the applicant shall meet with a Fire District representative for site-specific design requirements concerning defensible space and fuel modification and management plans. Also the applicant must provide pertinent design information, or submit the required items, as specified below.
- a. Street address to be posted where readily visible from Ocean Parkway. Sign to be of 3-inch minimum letters with 3/8-inch stroke and with background of contrasting color.
  - b. Residential fire sprinklers to be installed per Marin County requirements.
  - c. Provide smoke detectors per UBC/UFC.
  - d. Class A roof per Marin County requirements.
  - e. LPG tank to be secured to concrete foundation or by other methods to withstand failure of cylinder and associated plumbing which may cause propane release during a seismic event or land movement. Provide fifteen feet defensible space around propane tank. Maintain thirty feet separation from all structures if possible.
  - f. Provide main electrical disconnect accessible to Fire Department.
  - g. Construction and inspections per UBC and Marin County Codes. Notify Bolinas Fire Department for inspection at close-in, final, and before covering fireplace or chimneys.

Marin County Community Development Agency, Environmental Health Services (EHS)

23. Building Plans must provide assurance that all components of the septic system are protected from vehicular traffic during construction.
24. A Registered Civil Engineer (R.C.E.) has inspected the existing condition of the septic system and submitted his report dated October 18, 2004 to EHS. The following required repairs and re-inspections will be tied to the Building Permit:
- a. A control panel specified by the R.C.E. will be installed by a licensed contractor and inspected by a County Building Inspector.
  - b. A water tightness test will be required for the existing septic tank and pump chamber.
  - c. A hydraulic load test and squirt test will be conducted by the R.C.E. Pump run-time and dose volume will also be verified and fine-tuned, if necessary, by the R.C.E.
  - d. The cover soil of the mound system is to be re-compacted to repair gopher damage.
  - e. An effluent filter will be installed.
  - f. Any other necessary repairs to the septic system will be completed. Contact EHS to determine if additional necessary repairs require a permit.
  - g. EHS staff must inspect all of the above. A construction inspection fee will be charged for the EHS inspection.
25. The alternative septic system serving the residence shall be placed on Operating Permit. Obtain the necessary application from EHS.

Planning Commission

26. The roof over the garage may be built as submitted pursuant to Exhibit A, or may be redesigned with a slope and height not to exceed that on the opposite side of the house. The overhang must not exceed 30 inches nor create the need for a Variance from the setback requirements of the governing zoning district. The redesigned portion of the plan must be submitted to, and approved by, the Agency Director.

**SECTION 3: VESTING AND APPEAL RIGHTS**

NOW, THEREFORE BE IT FURTHER RESOLVED that the applicant must vest this Salwen Coastal Permit approval with the issuance of Building Permits and substantial completion of the approved work before October 25, 2006 or all rights granted in this approval shall lapse unless the applicant applies for an extension at least 10 days before the expiration date above, and the Director approves it.

NOW, THEREFORE BE IT FURTHER RESOLVED that this decision is final unless appealed to the Board of Supervisors. A Petition for Appeal and a \$700.00 filing fee must be submitted in the Community Development Agency - Planning Division, Room 308, Civic Center, San Rafael, no later than 4:00 p.m., November 1, 2004.

**SECTION 4: VOTE**

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the County of Marin, State of California, on the 25th day of October, 2004, by the following vote to wit:

AYES: Berland, Thompson, Barner, Dickenson, Greenberg, Holland, Julin

NOES:

ABSENT:

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ALLAN BERLAND, CHAIRMAN  
MARIN COUNTY PLANNING COMMISSION

Attest:

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Jessica Woods  
Recording Secretary

Public hearing to receive public testimony for the Sorokko property Environmental Assessment. Prior to filing an application for undeveloped, agricultural or redevelopment lands located within the combining Bayfront Conservation zoning district, an Environmental Assessment (EA) is required to be prepared pursuant to Marin County Code Chapter 22.14.060.C. The EA provides an assessment of site resources and environmental and policy constraints that affect development suitability. The EA is not an environmental document required by the California Environmental Quality Act (CEQA), but may be used in subsequent environmental documents required by CEQA for a future development application on the property. The use of an EA is intended to provide the highest degree of environmental protection while permitting reasonable development in or adjacent to sensitive land and water areas consistent with other goals, objectives, and policies expressed or contained within the Marin Countywide Plan. The EA is intended to serve as a guide to the County and project applicant for future site planning and project plan review. Written comments on the EA will be accepted until the close of the public comment period on November 4, 2004. The 19-acre Sorokko property is zoned BFC/RSP-0.5 – Bayfront Conservation Zone and Residential Single-Family Planned District. The property is located at **3820 Paradise Drive, Tiburon**, and is further identified as **Assessor's Parcel 039-302-01**.

Tim Haddad, Environmental Planning Coordinator, summarized the staff report and recommended that after a presentation by the EA Consultant of a brief summary of the principal findings of the EA, that the Commission open the public hearing to public comment and at the conclusion of the public testimony, staff recommends that the Commission close the public hearing on the Draft EA; discuss any issues regarding the EA that are of primary concern to the Commissioners and provide direction to staff and the EA Consultant on any additional items which should be discussed in the Final EA; and direct staff and the consultant to proceed with preparation of a Final EA based upon comments received at the this Draft EA hearing and prior to close of the public review and comment period.

In response to Commissioner Greenberg's question about when the public comment period would be closed, Environmental Coordinator Haddad responded that November 4<sup>th</sup> would be the last day for public comments.

Leonard Charles, EA Consultant, provided the Commission with a brief summary regarding the Environmental Assessment (EA) for the Commission's consideration by discussing the following:

- Site Map - Figure 4
- Geotechnical and Hydrological Constraints Map - Figure 13
- Biological and Cultural Diversity Constraints Map - Figure 14
- Visual Resources and Planning/Land Use Constraints Map - Figure 15
- Fire Hazard Constraints Map - Figure 16
- Composite Constraints Map - Figure 17

In response to Commissioner Holland's concern about access to Lot 2, EA Consultant Charles responded that the property owner provided line of sight, which the Traffic Engineer reviewed and in both cases their line of sight was adequate.

In response to Commissioner Dickenson's question about whether the grade of Lot 2 was reviewed regarding the feasibility of a driveway in the location indicated, EA Consultant Charles responded that they did not review that aspect, but they did review the safety at Paradise Drive and that concern must be addressed in the Master Plan.

In response to Commissioner Dickenson's question about the easement locations, EA Consultant Charles responded that the easements were not located by EA. Environmental Coordinator Haddad clarified that EA should review whether there is feasible grade locations for the property. Also, easements might represent a constraint that should be identified along with the other constraints on the property and facilities may or may not be allowed to go into the easements. Commissioner Dickenson noted that in terms of easements, they could be constraints in terms of where improvements on the lots could be legally located.

Commissioner Holland believed policy constraints would cover easements, which should be incorporated.

In response to Commissioner Greenberg's comments, EA Consultant Charles responded that the EA addressed issues related to leach fields, whether the installation could be done and still protect the woodland, and if the tree loss impacts were assessed.

The hearing was opened to the public.

John Roberto, applicant, representing Mr. Sorokko, stated that he read the entire EA and believed it is a very factual document and provides information that must be considered when developing a Master Plan for the property and give special attention in regard to access and impacts on the oak woodland. He explained that a short letter would be submitted in regard to clarification on a couple of points and a few typos found in the report. He further added that he is present today to answer any questions and if there were other questions that the Commission desired answered as part of the EA, they would provide that information to Environmental Consultant Haddad and EA Consultant Charles to be included in the document.

Commissioner Holland asked Mr. Roberto if he read the letter from MCL. Mr. Roberto responded that he had not had a chance to review the MCL letter.

Commissioner Dickenson asked Mr. Roberto if the access locations were designed as part of the Master Plan. Mr. Roberto responded that the access points shown for the purposes of an application are being proposed. He stated that he must work more directly with Mr. Carlyle on how they envisioned providing that access because there are methods to change topography to create grade, but at this time he did not have the answer.

Commissioner Dickenson noted that assumptions were made in terms of visibility based upon specific driveway locations, which appeared in his view to be questionable. Mr. Roberto responded that if questionable they would review.

Sandra Swanson, representing Seafirth Estates, submitted material to the Commission for their consideration outlining the Association's comments, concerns and suggestions. She expressed concern for the cumulative effects in their area. Also, there are a number of developments outlined in the Tiburon General Plan and the Commission cannot consider this development as an isolated incident and they desired to view all the impacts considered such as wastewater treatment and water availability.

The public hearing was closed.

Commissioner Greenberg expressed confusion in regard to the action the Commission must take today. Environmental Coordinator Haddad responded that today the Commission is to conduct a public hearing and direct staff to proceed to the conclusion of the public comment period on this draft EA and then provide a final EA to the Commission for their approval. Commissioner Greenberg asked staff if the Commission would be precluded from addressing matters in the future that were not recognized. Environmental Planning Coordinator Haddad responded that there still could be impacts that lead to CEQA, either a negative declaration or an EIR and the intent of this document is to capture all the physical constraints including all the biological constraints.

Commissioner Greenberg discussed page 6 in regard to degree of mud flow on Paradise Drive, which did not appear to discuss mitigations and recommended fleshing that matter out in more detail. She also believed the issue about access is a major issue that must be addressed despite the measurements about adequate sight distance. Also, multiple access points on this road is an issue that must be addressed in regard to bicycle safety along that road and vehicles moving in and out of steep driveways. She stated that the issue of leach fields and what is required and if there are significant impacts from installation should be discussed. She noted that the document discussed building envelope size and she concurred with the Marin Conservation League that the comparisons are not appropriate. She further stated that the issues raised by Sandra Swanson and the MCL should be addressed during the initial study or EIR process.

Commissioner Holland expanded on the issue of septic and said he had visited the location where the leach fields are proposed, which is a forest and noted tremendous amounts of disruption would be required. He agreed that the installation of the septic should be fleshed out as well as what impact would occur to the oak trees. Overall, he commended the EA Consultant on a job well done.

Commissioner Dickenson found the EA very complete and very informative. He noted that at this point the unidentified species of morning glory is located at the top of the southern landslide and he desired to know whether there is a conflict between the requirement to conduct slide repair and the existence of the morning glory in the landslide itself. Commissioner Holland pointed out that the slide is only partially located on the subject property. EA Consultant Charles responded that these are environmental issues and they must be informed as to how these issues would be repaired because there are constraints due to the fact that they do not own the land that needs repair. Commissioner Dickenson believed a general mapping could show the extent to which slides extend other properties.

Commissioner Barner expressed concern for water and sewer. In terms of water, the EA Consultant identified conditions, one that there may be a moratorium on building, which the applicant has no control over. Also, in regard to sewer, impacts were identified in terms of individual septic systems. He asked if providing a sewer line would entail coming down Paradise Drive and what are the impacts in that regard. EA Consultant Charles responded that there is an existing line just off the south end of the site that is a private line that had been offered as a public line and it is currently being studied. He added that if the line is provided, the connection would be near the manhole, which is between Paradise Drive and the Bay. Commissioner Barner asked EA Consultant Charles if the line might be undersized. EA Consultant Charles responded that there are several unknowns, which must be addressed by the applicant.

Commissioner Greenberg noted that a private line was installed recently and it was incredibly disruptive, which lasted over a year, but it could be done. She further explained that the issue is that the sewer plant did not have the capacity to serve the area and that is why septic is being proposed, but the Sanitary District might make some decisions that could make a difference.

Environmental Consultant Haddad stated for an Environmental Assessment to adequately guide future development, the question is whether there is enough information in the Environmental Assessment concerning the feasibility and constraints to potential development of a sewer line on the property to serve development regardless of where it might be located on site, or whether an alternative septic disposal system on site is the only feasibility alternative. Staff recommended that the Environmental Assessment provide more information regarding the feasibility and constraints to development of a sewer line on the property.

Commissioner Barner discussed annexation to the sewer district and Town and asked staff the benefit of deferring that matter. Environmental Planning Coordinator Haddad responded that it is a right that they have and it can be requested and if LAFCO agreed, they are entitled to do so.

Commissioner Thompson agreed that this is an excellent document. He then discussed the idea that there is a mudslide on the property line and believed they are obligated to study the other half of that slide with this report. He also agreed that they must review the influence of slides above the site. Also, the idea of these wildlife movement areas should be shown on the constraints map. He further believed this is a very good start.

Commissioner Julin believed this is the most sensitive site she visited and appreciated the testimony today and the letters received from MCL and Seafirth Estates and asked staff to consider including some of the suggested changes and additions in the correspondence. She also expressed concern for Paradise Drive in regard to public safety that must be addressed. She requested a constraints map that dealt with physical constraints only because in her opinion it would be helpful to have a map that illustrated the slides and vegetation because that map would then show the area or areas that could be developed without severely impacting the resources on this site. Also, include the physical impacts of a sewer on this site. She further thanked the community for their input.

Commissioner Holland discussed the MCL letter and pointed out that a number of issues raised were in relation to an EIR not an EA. Also, the small privately owned sewer line serves the property next door. EA Consultant Charles responded that it serves the Rabin home, then travels down Paradise Cove Road and follows the coastline to the plant. Also, one option that the Sanitary District is considering if they accepted the line is that they may extend the line over the Rabin property which is still being discussed.

Commissioner Dickenson asked EA Consultant Charles if the submerged land is in addition to the 19 acres. EA Consultant Charles responded that the submerged land is included in the 19 acres. Commissioner Dickenson recommended clarifying that aspect in more detail. Commissioner Greenberg desired to know how many acres of forest and how many acres of slide area that overlap in order to have a better understanding of how those two constraints relate to one another.

Commissioner Barner expressed concern for page 86 under Mineral Resource Use and Recycling and believed the second sentence should be clarified. EA Consultant Charles agreed.

Environmental Planning Coordinator Haddad discussed the term “*environmental document or environment review*” because staff did not desire to prejudge that an EIR would be needed.

Chairman Berland reiterated that the public hearing is closed and the Commission directed staff to use the comments discussed in order to prepare a Final EA.

8. MASTER PLAN AMENDMENT, COASTAL PERMIT AMENDMENT AND LOCAL COASTAL PROGRAM AMENDMENT: POINT REYES DEVELOPMENT COMPANY TKL

Public hearing to consider a request from the Point Reyes Development Company, LLC, to amend the Point Reyes Affordable Homes approvals in order to eliminate the affordability requirement for the 7 for-sale single-family residences. The request will not affect the 27 rental affordable apartments that were approved as part of the overall development. All aspects of the approved physical development, including the project density, type and location of land uses, building design and location, infrastructure, and environmental mitigations would remain the same. By allowing the residences to be sold at market-rate prices, the applicant has indicated that it would allow the overall project to remain financially viable. The property is located off Giacomini Road and Toby Street, Point Reyes Station, and is further identified as **Assessor's Parcels 119-240-45, -46, -57, -58.**

Tom Lai, Principal Planner, summarized the staff report and recommended that the Commission review the administrative record, conduct a public hearing, and take action on the following:

1. Adopt a resolution recommending that the Board of Supervisors recommend adoption of an amendment to the Local Coastal Program to the California Coastal Commission;
2. Adopt a resolution recommending that the Board of Supervisors adopt an ordinance approving the Point Reyes Development Company Master Plan Amendment; and
3. Adopt a resolution recommending that the Board of Supervisors adopt a resolution approving the Point Reyes Development Company Coastal Permit Amendment.

Barbara Collins, Housing Strategist, provided a brief overview around the funding for this particular project. She stated that in March of 2002 the Board of Supervisors approved a loan in the amount of \$1,660,325 to Ecumenical Association for Housing (EAH) to facilitate acquisition of the site and to fund the project's development. In addition, the County agreed to waive fees up to \$208,284. Funds were secured from the Marin County Foundation totaling \$1.6 million. She added that \$107,000 and \$500,000 from the original loan agreement have been advanced and secured by a Promissory Note. Both advances will be rolled into final loan documents. Repayment of the loan will be made from residual receipts. She also added that in May of 2004 the Board of Supervisors authorized the Board President to execute the Loan Agreement, Promissory Note, Regulatory Agreement and Restrictive Covenants, Property Transfer Agreement, and the Share Infrastructure Agreement. She explained that the Regulatory Agreement stipulates that the 27 rental units all would be restricted to affordable rents for a term of no less than 55 years and the percentage of the total household income would be determined by the Bay Area median income. There is a lot of security that the County has in moving forward that the affordable units would remain affordable. The County is committing CDBG, HOME, In Lieu Housing Trust Fund, Fee Waivers, and the BEGIN Program totaling \$3,217,632. Staff is confident that all the other funding sources have made commitments to ensure that the project would be affordable. She then discussed the following changes in the budget due to the following:

- Cost increases in lumber, steel;
- Prevailing wage regulation;
- Time to execute contracts;
- Fair market value established by the Housing and Urban Development Agency (HUD) for Section 8 units; and
- New requirements as established by HUD

Housing Strategist Collins noted that staff would work toward finding additional money to get those ownership units back down to be more affordable or at least some of the units to be affordable to the local community and recommended that the Commission support this effort.

Commissioner Barner expressed concern for the financial issues and after reviewing the financial data it did not seem very consistent. He asked staff if a financial expert reviewed the situation in order to have some consistent figures. Housing Strategist Collins responded that many individuals reviewed the numbers, but the numbers change because the cost is not fixed. Some items change throughout time, and so it would be difficult to provide exact numbers. The numbers provided are the best estimate developed to match the revenue sources to those costs that are allowable under the restricted revenue sources. Due to the funding sources, the project financing is highly

scrutinized. Commissioner Barner asked staff if the original budget did not provide for increases or unexpected increase. Housing Strategist Collins responded that both the prevailing wage requirement and the loss of Section 8 funds had a significant impact on the overall budget. The County at this point is not recommending or suggesting that they contribute additional funds to the overall budget or getting into that level of detail because there are no recommended changes in the financial aspect of the project.

Commissioner Greenberg shared concerns about the lack of financial data presented and noted that in the report it indicated a \$300,000 shortfall and asked staff to explain. Housing Strategist Collins responded that EAH was recently required by HUD to provide a transportation shuttle van for all the residents in the project in the event the stagecoach service is not continued. Agency Director Hinds pointed out that across the street there is a grocery store, drug store and other amenities that are within walking distance. Housing Strategist Collins noted that in addition to reducing the fair market rents, adequate transportation service was required.

Commissioner Greenberg asked staff to discuss the sequence of events. Housing Strategist Collins responded that if Section 8 comes forward for the site, EAH would begin construction on the apartment units immediately. Commissioner Greenberg believed that if Section 8 funds came through, this entire hearing would be moot. Housing Strategist Collins pointed out that there still is the \$300,000 deficit in relation to the transportation question and a \$150,000 deficit due to the fair market value rent adjustments that are required by HUD.

Commissioner Greenberg asked staff to clarify the duration of the affordability requirements for the apartments. Housing Strategist Collins responded that they would be affordable for a 55-year term after which the owner of the property would have the ability to refinance and rehabilitate the buildings in order to recover their rehabilitation costs. After a 55-year period of time, it is likely that some significant rehabilitation would be needed. She further noted that EAH intends to own this property long-term and it is very likely that EAH would continue to operate at an affordable level beyond 55 years. Commissioner Greenberg expressed concern for whether the language in the Resolution is appropriate.

Commissioner Dickenson asked staff if there is any intent to upgrade the interior of the homes if they are sold at market rate prices. Housing Strategist Collins deferred the response to the applicant.

The hearing was opened to the public.

Lamar Turner, applicant, Senior Project Manager, EAH, noted that after receiving approval from this Commission, the Board and Coastal Commission, they started developing funding sources, one being Section 8. They put the project out to bid and moved into signing construction contracts and had started work on three of the four pieces of the project. The apartments were not started because they were in the middle of establishing the construction contract. Construction on the three contracts occurred in late May with groundbreaking in mid June. He noted that the development has ten project-based Section 8 vouchers and the impact from their loss is great. He then discussed the Section 8 problem, and if that did not occur, he would not be present today. The project as of June 30<sup>th</sup> had a \$1.25 million deficit and to solve that problem they tried to get Section 8 reinstated. Last week HUD signed a waiver that the housing authority requested and it appears that Section 8 is likely to be reinstated, but there are a few hurdles left. In the event that it occurs, it would not solve all the problems because there would be new terms and requirements from HUD. In addition, the contractor was unable to hold the bid prices back in April, so their price increased by \$150,000. He added that an enormous number of people are desperate to have affordable housing. He is aware that those people are very disappointed that in order to save the apartments they must remove some affordable housing units. He must recognize that if they can save the 27 apartments he must have the latitude to sell the market rate homes because the lenders would not provide funds if the spreadsheet did not balance. He further desired the opportunity to respond after public comment.

Commissioner Dickenson asked Mr. Turner where column A came from in regard to the five affordable and two market rate homes. Mr. Turner responded that the conditions of approval indicated that the seven homes are to be sold as affordable. Along the way, they entered into a preliminary agreement with the County that one would be

rental and six affordable and that appeared to be an acceptable method at that time. Then in attempting to balance the budget the only way this set of numbers worked was to sell two of the units at market and five at affordable rates. Agency Director Hinds noted that staff has the latitude to move all units up to moderate prices that would be equally disappointing to people, but still be in compliance with the conditions. Housing Strategist Collins added that conversations have occurred in regard to addressing the gap and deficit and all options have been explored including increasing the for sale units, but no document has been prepared in that regard.

Commissioner Dickenson asked Mr. Turner if there is an intent to upgrade the interiors of the units. Mr. Turner responded that it has not been discussed. He stated that construction funding for the seven for sale homes comes from a different source than the apartments. He further pointed out to the Commission that the two-bedroom units would sell in the \$525,000 to \$550,000 range.

Commissioner Barner discussed the \$1.25 million deficit and if they take the seven homes from affordable to market it would generate revenue of the seven homes that would exceed the deficit. Mr. Turner pointed out that the revenue from seven homes is \$3.8 million.

Commissioner Thompson believed additional study is needed in regard to the calculations due to increased cost for construction materials.

Chairman Berland inquired as to whether Section 8 may be reinstated in whole or in part. Mr. Turner responded that Section 8 is not a subsidy, but rather a guarantee of an income stream and that added income stream allows them to service a debt off of that additional income. The new Section 8 income stream would be lower. In addition, they have other costs that were added in order to have Section 8 reinstated such as a van program.

Commissioner Greenberg asked Mr. Turner on what basis the decision was made to build the houses before the apartments. Mr. Turner responded that when they built the houses they did not anticipate a problem. He pointed out that at that time the project balanced, so it did not matter whether they started the apartments first.

Commissioner Dickenson stated that when the project balanced it assumed that two units would be at market rate. Mr. Turner responded in the affirmative.

Commissioner Holland desired clarification from staff in terms of the disappearance of Section 8. Housing Strategist Collins responded that the difference means that a person eligible for Section 8 only pays 30% of their income towards rent and the difference between that person's rent and the fair market rent would be made up and subsidized by Section 8. She added that of the 27 rental units, 10 are covered by Section 8 and of the other 17, a person would pay 30% or 40% of their annual gross income. For the non-Section 8 units, EAH would only receive that amount of income, not the fair market rent amount. Commissioner Holland asked Mr. Turner if there was an option to rent all 27 rental units at an unsubsidized rate that would have the same outcome. Mr. Turner responded that the rents charged must be able to meet all requirements. The ten Section 8 vouchers cannot be used unless a person's income is 50% of the area's median income or below. According to the tax credit spreadsheet he would receive \$500 in income for that unit, but a \$1,000 boost a month because Section 8 would cover the difference. It is that increment multiplied by 10, which is leveraged into the additional debt that could be serviced. He further added that he cannot exceed these rents if he desired to continue receiving financing.

Commissioner Greenberg asked Mr. Turner the contingency of the original agreement. Mr. Turner responded that \$485,000 is the contingency carried currently and the construction contingency is a minimum of 5%.

Betty Pagett, Co-Chair Marin Housing Council, stated that termination of Section 8 on June 22<sup>nd</sup> was completely unexpected. She added that this affected properties in all of Marin County. She stated the timing was terrible for Point Reyes as well as the weather delays. She discussed the budget crisis and an administrative change occurred that lowered all fair market rents that impacted all programs and voucher holders across the County. She pointed out that the States two state Senators are well aware of this situation. She explained that the Housing Authority has

the discretion to set rents, but it is based on HUD and when the number went down several individuals were impacted.

Joe Walsh, Board Chair of EAH, stated that their mission is to build and operate quality affordable housing and the mission is not to build market rate housing and they only build market rate when forced. Hopefully, EAH would not have to sell all seven units at market prices, but in any event, they would still have 75% affordability. He added that no one could have foreseen this outcome, but he shared the Commissioners' unease with the lack of hard numbers and stated that EAH would do everything in their power to make these units affordable.

Mary Murtagh, President, EAH, reiterated that their mission is to build and operate quality affordable housing and the current problem is unprecedented in their history. She noted that she realized the numbers are confusing and it is a very complicated project that has absorbed a tremendous amount of senior staff time and suggested that the Commission trust staff on this matter as they proceed to work forward on this problem. She noted that 75% of the project would be affordable and they would remain affordable for 55 years with guarantees posted. Also, if approved, it is not an end point, but a continuation of a continued effort to bring back affordability. Also, concerns about materials are well founded and the contractor's estimate was \$150,000 dating from June.

Commissioner Dickenson asked Ms. Murtagh if there are other partners in the project. Ms. Murtagh responded that there are no other legal partners.

Commissioner Dickenson asked Ms. Murtagh about the timing as to when the decision would have to be made about selling the homes at affordable or market rate prices. Ms. Murtagh responded that the units would be marketed in January and the final decision would be made at that time.

Commissioner Thompson recommended holding the sales of the housing units on a month-to-month basis in order to explore interim financing sources.

Commissioner Holland asked Ms. Murtagh how specifically would they sell the homes and would there be an opportunity to receive more funds than anticipated. Ms. Murtagh responded that more consideration would need to be made on that issue.

Madelyn Sobel, Pt. Reyes resident, noted that her dream is to own one of these houses and she is present today to know whether those living in West Marin would have the ability to purchase these houses rather than having a bidding war. She believed EAH is doing the best they can. She further asked who would represent West Marin residents if the houses were put on the market.

Patsy White, representing, League of Women Voters, supported approval of selling the homes if necessary. She believed it would be wonderful if the homes are affordable, but some affordability would be provided in the apartments and because of this issue EAH had to scale back their plans. Also, it would be very important that the sale of the houses occurs if HUD did not come through. She further believed it would be important for the Commission to recommend that the Board and Coastal Commission approve the application.

Michael Mery, Pt. Reyes resident, complimented the County as to how the Section 8 housing is organized. All parties regret being present today, but it is extremely unfortunate in every possible way. However, they have the opportunity to retain some affordability on-site with the apartments. He pointed out that if housing cost is considered as a function of income, West Marin has the highest housing cost in the County. If those houses went on the market for \$525,000 to \$550,000 there would be a traffic jam. He urged the Commission to support the change and hoped the Board would support the change as well.

Carlos Porrata, West Marin resident, pointed out that this process has been the most expensive housing project as well as a long complicated process in terms of funding sources. He was very delighted three months ago when construction began, but when HUD pulled the Section 8 sources he was very disappointed. He stated that it is

apparent that to continue to build affordable units, an amendment is required to bring back some of the ownership homes at affordable rates and at least 75% to 80% of the project would be saved. He hoped the end result of the project would be close to 100% affordable, but all parties are well aware that the need for this project is immense. There are small local organizations that have been against this project since its conception and he hoped that energy would be used in a more constructive manner to receive all seven of the for sale homes at affordable prices along with the 27 affordable rental units. He further urged the Commission to approve the changes requested by EAH in order to guarantee the project would stay on track while all involved continue to work towards finding solutions to this unfortunate situation.

Sharon Mooney, West Marin resident, noted that in the seven years, many people had to move to Petaluma, Santa Rosa or Sacramento in order to afford housing. Her children cannot afford to live in West Marin. The numbers, permits, environmental impacts have all been managed by professionals extraordinarily well, and this small revision could allow those waiting for rental units to come true. She asked the Commission to consider that some portion of the homes are sold at some level of affordability.

Phillip Fradkin, Pt. Reyes resident, pointed out a number of realities, including that seven homes have been constructed; the rules were changed mid stream by HUD; two votes were taken on this issue, one that included Point Reyes and one that included the greater West Marin area; this project has always been a close call financially; Point Reyes Village Association opposed this project from the start; delays have been significant; 80% affordability is better than nothing; this is not an ideal situation; and he recommended that the Commission approve staff's recommendation and that it be forwarded to the Board.

Wiebke Buxbaum, Chair, Point Reyes Station Village Association Design Review, desired to find a method to not sell the seven homes at market rate. She provided a letter from the Village Association that indicated that they do not have the confidence that EAH would find the best solution because those trying to make suggestions are always seen as project opponents and that has hindered some of the practical solutions. She heard more positive suggestions from the Commission than from EAH. She added that the reason why the houses are an important part of the project is because they are intended for low-income families. Many of the apartments are one-bedroom apartments and EAH has no control over who would be accepted. She recommended additional guidance not to sell the seven homes at market rate. She is very disturbed about the \$220,000 housing subsidy lost if the houses are sold at market rate. She echoed comments about the nature of the sales program if the houses are sold at market rate and desired a local preference be made for them.

Terry Allen recommended using investors to help balance the financing rather than selling the houses.

Jennifer Huff, representing, Marin Continuum of Housing & Services, works with EAH and is responsible for the transitional housing at Hamilton. She pointed out that it is extremely important to have affordable housing and it can work to have some for sale and some rental and urged the Commission to support the request.

The public hearing was closed.

Commissioner Holland noted that there is a great need for affordable housing in Marin County and this location of West Marin seemed appropriate. He added that all parties have been distressed about the changes to the project, but the reality is that when the homes are constructed, people will perceive the positive aspects of the development. He pointed out that the entire community had a chance on two occasions to vote on this project and on both occasions provided tremendous support for the development. He further desired this project to move forward and approved staff's recommendation.

Chairman Berland added that he hoped the process would not be burdened with conditions of approval. He added that it is unfortunate that they are at this point, but he felt EAH in the last 36 years deserves the County's trust and respect and he has confidence that they would do what is necessary to make as many units affordable as possible. He further favored granting the application with the amendments as described by staff.

Commissioner Thompson discussed the sale of the seven homes and calculated a \$2.4 to \$2.7 million revenue stream, which in his view meant that all seven units did not have to be sold at market prices. He agreed to find a way to approve the potential for those sales, but recommended that the applicant not sell more homes than needed to make the project work financially.

Commissioner Dickenson agreed that this is an unfortunate situation at this point. He agreed with Commissioner Thompson that not all seven homes might have to be sold, but he had no idea how to deal with reinforcing their stated interest of not selling, unless necessary. He further recommended establishing language in that regard, so not all seven homes would be sold at market rate unless it is necessary to do so.

Commissioner Greenberg recommended including Ms. Buxbaum's letter. Also, the stand-alone housing units serve a market that is greatly underserved and it is not acceptable to allow all to be sold at market rate. She recommended limiting that number. She suggested that the residential lot be listed on the market now. She did not understand why a van program is required and felt organized political pressure could remove the van program. She added that if half the houses remain affordable, about \$90,000 would be generated. She expressed concern for retaining affordability, but desired a program and prioritized sale to West Marin residents. She recommended establishing a program to allow first right of refusal to local residents. She also agreed not to rush to judgment. Rushing to sell the 7 homes is not appropriate and would be shortsighted in terms of everyone's mutual goals. She further noted that she could support up to four units being made market rate if there was a program that gave local residents the first opportunity to buy the units and that an organized effort to remove the van program would also yield some money.

Commissioner Julin agreed with Commission Greenberg's proposal and Commissioner Thompson's suggestion, but felt that would fall under the realm of management in terms of implementation. Commissioner Greenberg recommended establishing conditions of approval. Commissioner Thompson believed there is a solution about finding a financial vehicle that would keep it all intact without selling the units at market prices. Agency Director Hinds and complimented the Commission on their problem solving skills, but explained that regulatory and banking requirements must also be taken into consideration. Staff doubts if language could be established that would address every issue. Staff believed there is a certain amount of comfort that EAH's mission is to provide affordable housing, but if the Commission desired adding additional language, staff recommended adding after, *"the applicant shall pursue in good faith any and all opportunities available in order to provide for affordability for part of or all of the seven for sale units for this project subject to the review and approval of the Community Development Agency Director."* Staff agreed with the concept about having people live in the project that already work or live in the area in order to reduce traffic and increase neighborhood acceptance as well as provide much more affordable housing. However but there are other constraints, such as laws requesting equal access to affordable housing that limit the ability to establish an adhoc local preference policy.

Housing Strategist Collins indicated that EAH is in a crisis state and they must find other funding sources to move forward. She further promised that they would do everything in their power to make sure all revenue and other monies raised would be used for the project so market rates units could be affordable for some and hopefully all.

Commissioner Barner expressed concern about the absence of financial data and explained that the Commission has a responsibility that the decisions made are legitimate decisions. Another problem is that this is scheduled to go to the Board of Supervisors on November 9<sup>th</sup>, so a decision must be made today. He reiterated that adequate financial data is not provided and noted his disappointment in that regard. He also expressed concern that large community participation had taken place previously and now amendments are being made without much community input. He agreed that they must be careful not to sell all the units and only sell those that are necessary. He suggested that the seven homes be sold sequentially in order to test the market to see what a residence will sell for on the open market. He further indicated that he would support the project with reluctance because he agreed with the ultimate goal and expressed his concern and regret that the Commission is forced to make a decision without all the necessary information.

Commissioner Holland noted in terms of the amount of emails he received from the West Marin community, he believed West Marin was well informed about this project.

Chairman Berland asked for a motion.

**M/s, Holland/Berland, to adopt a Resolution recommending that the Board of Supervisors recommend adoption of an amendment to the Local Coastal Program to the California Coastal Commission. Motion passed 5/2 (Commissioner Greenberg and Commissioner Julin opposed).**

Commissioner Thompson recommended adding additional wording to Condition 3 to state, "*subject to approval by the Community Development Agency.*" Commissioner Dickenson suggested adding an amendment to Condition 3 to read, "*The applicant shall pursue in good faith any and all opportunities that are available, including phased sale of the units, in order to provide for affordability for as many of the seven-unit, for-sale residential component of this project as financially feasible, subject to review and approval by the Community Development Agency Director.*" The Commission agreed.

**M/s, Holland/Berland, to adopt a Resolution recommending that the Board of Supervisors adopt an ordinance approving the Point Reyes Development Company Master Plan Amendment, with the addition to Condition 3 to read, "*The applicant shall pursue in good faith any and all opportunities that are available, including phased sale of the units, in order to provide for affordability for as many of the seven-unit, for-sale residential component of this project as financially feasible, subject to review and approval by the Community Development Agency Director.*" Motion passed 5/2 (Commissioner Greenberg and Commissioner Julin opposed).**

**M/s, Holland/Berland, to adopt a Resolution recommending that the Board of Supervisors adopt a Resolution approving the Point Reyes Development Company Coastal Permit Amendment with the addition to Condition 3 to read, "*The applicant shall pursue in good faith any and all opportunities that are available, including phased sale of the units, in order to provide for affordability for as many of the seven-unit, for-sale residential component of this project as financially feasible, subject to review and approval by the Community Development Agency Director.*" Motion passed 5/2 (Commissioner Greenberg and Commissioner Julin opposed).**

*By order of the Chairman, the Planning Commission meeting was adjourned at 6:11 p.m.*

MARIN COUNTY PLANNING COMMISSION

RESOLUTION PC04-021

A RESOLUTION RECOMMENDING THAT THE BOARD OF SUPERVISORS  
RECOMMEND ADOPTION OF AN AMENDMENT TO THE LOCAL COASTAL PROGRAM  
TO THE CALIFORNIA COASTAL COMMISSION

OFF GIACOMINI ROAD AND TOBY STREET, POINT REYES STATION  
ASSESSOR'S PARCELS 119-240-45, -46, -57, -58

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SECTION I: FINDINGS

- I. WHEREAS the Point Reyes Development Company, LLC submitted an application to amend the Point Reyes Affordable Homes approval in order to eliminate the affordability requirement for the seven for-sale single-family residences. The request will not modify any of the other components of the original project, including the construction of 27 rental affordable apartments and designation of land area for visitor-serving commercial uses, a public parking area with restroom, a single-family residential lot, and wetland conservation. All aspects of the Master Plan, including the project's density, type and location of land uses, building design and location, septic and stormwater infrastructure, and environmental mitigations would remain the same. The applicant and the other project funders have indicated that the 27-unit rental apartment project would remain financially viable only if the residences could be constructed and sold at market-rate prices. The property is located off **Giacomini Road and Toby Street, Point Reyes Station**, and is further identified as **Assessor's Parcels 119-240-45, -46, -57, and -58**.
- II. WHEREAS the Marin County Planning Commission held a duly-noticed special public hearing on October 25, 2004, to consider the merits of the project, and hear testimony in favor of, and in opposition to, the project.
- III. WHEREAS the Marin County Planning Commission finds that no additional environmental review is required pursuant to Section 15162 of the California Environmental Quality Act (CEQA) Guidelines because the proposed project does not involve new information, substantial changes, or new significant environmental impacts that were not previously considered and mitigated in the certified Environmental Impact Report.
- IV. WHEREAS the Marin County Planning Commission finds that the proposed project is consistent with the California Coastal Act and the Local Coastal Program Unit II (LCP) because it involves a minor amendment to a site-specific policy that solely affects the affordable nature of the seven for-sale residences. Section 30514(c) of the Coastal Act provides for minor amendments to a certified Local Coastal Program. In conjunction with the original project, the Local Coastal Program was amended through the addition of New Development and Land Use Policy 8(b). This policy established land use designations for the property that reflected the mixture of residential, commercial, and conservation uses and densities as well as the specific location and type of development for each component of the overall development. The reference in Policy 8(b) to the affordable nature of the residences was included to reflect the applicant's original proposal to designate these units for sale at below market rate prices as a community benefit. The proposed Local Coastal Program amendment involves a minor change to the language contained in Policy 8(b) in order to eliminate the reference to the affordable nature of the seven single-family residences.

The project would not modify any physical component of the previously approved development that may affect or conflict with the protection of coastal resources. The proposed amendment would neither change the Coastal, Multi-family land use designation and maximum residential density nor the allowable residential use of the property, consistent with the requirements of Section 30512(B) of the Coastal Act. The Implementation Plan or coastal zoning for the property would remain unchanged, consistent with the previously approved coastal site development plan. The proposed change would not be inconsistent with either the Coastal Act or LCP because neither the Coastal Act nor LCP contain mandates for the creation of new affordable housing. Instead, the LCP recognizes that there is a need for affordable housing in West Marin and acknowledges the applicability of the County's inclusionary housing policies and ordinances in the coastal zone. The proposed project would comply with the County's residential inclusionary ordinance to the extent that 75% of the residential units would remain affordable to very low and low-income families, where the ordinance requires 20% of new residential development to be affordable. Finally, by allowing the residential component of the project to be sold at market rate prices, the project would remain financially viable and ultimately allow for the development of the other 27 affordable rental apartment units. These apartments would indirectly support visitor-serving and agricultural operations in West Marin by increasing the stock of housing that is available locally for those very low and low-income residents who are most likely to be employed in these businesses.

- V. WHEREAS the Marin County Planning Commission finds that the proposed modification to New Development and Land Use Policy 8(b) would not only eliminate the reference to the affordable nature of the for-sale units, it would require that the seven units be sold at market prices. Recognizing that efforts are made concurrently to pursue reinstatement of the Section 8 vouchers for the project and other measures that could reduce project costs and/or increase sources and amounts of funding, the text for New Development and Land Use Policy should only be amended to provide the ability for the for-sale residences to be sold at affordable and/or market rate prices. The recommended text to Policy 8(b) would read: "Area A shall be developed with a maximum of seven detached affordable and/or market-rate for-sale units ranging in size from approximately 900 to 1,155 square feet." The amended text would not preclude the ability to maintain one or more of the residential units at affordable prices should the project financing conditions change.

## **SECTION II: ACTION**

NOW, THEREFORE BE IT RESOLVED that the Marin County Planning Commission recommends that the Marin County Board of Supervisors recommend adoption of an amendment to the Local Coastal Program, Unit II to the California Coastal Commission to amend and replace New Development and Land Use Policy 8(b) with the following policy.

Development of the 18.59-acre property consisting of Assessor's Parcels 119-240-45, -46, -57, and -58 and consisting of Areas A, B, C, D, E and F as depicted on Exhibit E, shall be subject to the following land use designations, as defined in the Marin Countywide Plan and further incorporated as Appendix G to the Local Coastal Program: The land use designation for Areas A and B shall be C-MF-2 (Coastal, Multiple-family, one to four units per acre maximum residential density). The land use designation for Area C shall be C-SF-4 (Coastal, Single-family Residential, one to two units per acre). The land use designation for Areas D and E shall be C-RS (Coastal, Residential Commercial, one to 20 units per acre maximum residential density, 30% to 50% commercial floor area ratio). The land use designation for Area F shall be C-OS (Coastal, Open Space).

The site shall be subject to an overall single site development plan for the entire 18.59-acre area that consists of Areas A, B, C, D, E, and F. The site development plan shall be subject to the review and approval of the California Coastal Commission as an amendment to the LCP. Any coastal development permit or permits for development of any portion of the site shall be consistent with the approved site development plan. The site development plan shall indicate the kinds, locations, and intensities of uses allowable in accordance with the following requirements.

1. The total number of residential units on the entire 18.6-acre area shall not exceed 36.
2. Area A shall be developed with a maximum of seven detached affordable and/or market-rate for-sale units ranging in size from approximately 900 to 1,155 square feet.
3. Area B shall be developed with a maximum of 27 rental affordable units ranging in size from approximately 1,440 to 1,720 square feet, with a manager's unit/community building of approximately 2,180 square feet.
4. No more than two residential dwelling units may be developed within Area C.
5. A minimum of 12 public parking spaces shall be provided within Area D.
6. A minimum of two acres shall be reserved for a future overnight visitor-serving facility, preferably providing lower cost services to the maximum extent feasible, or an alternative commercial use deemed appropriate by the Coastal Commission within Area E.
7. Future use of the approximate 18.59-acre area depicted on Exhibit E, including all wetlands shall be consistent with the Local Coastal Program, including provisions which mandate a 100-foot minimum buffer as measured landward from the edge of the wetlands.

#### **SECTION IV: VOTE**

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the County of Marin, State of California, on the 25th day of October, 2004, by the following vote to wit:

AYES: Barner, Berland, Dickenson, Holland, Thompson

NOES: Greenberg, Julin

ABSENT:

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ALLAN BERLAND, CHAIRMAN  
MARIN COUNTY PLANNING COMMISSION

Attest:

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Jessica Woods  
Recording Secretary

MARIN COUNTY PLANNING COMMISSION

RESOLUTION PC04-022

A RESOLUTION RECOMMENDING THAT THE BOARD OF SUPERVISORS  
ADOPT AN ORDINANCE APPROVING THE POINT REYES DEVELOPMENT COMPANY  
MASTER PLAN AMENDMENT (MP 05-3)

OFF GIACOMINI ROAD AND TOBY STREET, POINT REYES STATION  
ASSESSOR'S PARCELS 119-240-45, -46, -57, -58

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SECTION I: FINDINGS

- I. WHEREAS the Point Reyes Development Company, LLC submitted an application to amend the Point Reyes Affordable Homes approval in order to eliminate the affordability requirement for the seven for-sale single-family residences. The request will not modify any of the other components of the original project, including the construction of 27 rental affordable apartments and designation of land area for visitor-serving commercial uses, a public parking area with restroom, a single-family residential lot, and wetland conservation. All aspects of the Master Plan, including the project's density, type and location of land uses, building design and location, septic and stormwater infrastructure, and environmental mitigations would remain the same. The applicant and the other project funders have indicated that the 27-unit rental apartment project would remain financially viable only if the residences could be constructed and sold at market-rate prices. The property is located off **Giacomini Road and Toby Street, Point Reyes Station**, and is further identified as **Assessor's Parcels 119-240-45, -46, -57, and -58**.
- II. WHEREAS the Marin County Planning Commission held a duly-noticed special public hearing on October 25, 2004, to consider the merits of the project, and hear testimony in favor of, and in opposition to, the project.
- III. WHEREAS the Marin County Planning Commission finds that no additional environmental review is required pursuant to Section 15162 of the California Environmental Quality Act (CEQA) Guidelines because the proposed project does not involve new information, substantial changes, or new significant environmental impacts that were not previously considered and mitigated in the certified Environmental Impact Report.
- IV. WHEREAS the Marin County Planning Commission finds that the proposed project is consistent with the Marin Countywide Plan (CWP) and Point Reyes Station Community Plan (PRSCP) because it would maintain the same number, type, and size of residences that were previously approved on the property, consistent with the respective CWP and PRSCP land use designations. Overall, the project would provide additional housing and job opportunities and promote the preservation of the viability of Point Reyes Station as a small rural working town by providing a balanced, mix-used development consisting of residential, commercial, and conservation uses within the downtown area for Point Reyes Station. The project would still retain a substantial degree of affordability through construction of the 27 affordable apartment units, which represent 75% of the total number of units. This remains consistent with the PRSCP's policies which identify the property as a suitable site for affordable housing development. Additionally, the project would maintain the character of the surrounding community by utilizing an architectural design that would complement the village's existing buildings in scale, form, and massing and ensure the protection of important resources, such as wetlands, creeks, and special status plant and animal species.

WHEREAS the Marin County Planning Commission finds that the proposed project is consistent with the overall goals and objectives of the Point Reyes Affordable Homes Master Plan and would not affect or

modify any of the physical parameters for the development, including the project density, type and location of land uses, building design and location, infrastructure, and required environmental mitigations. The overall goals and objectives of the development would still be substantially implemented through ensuring that at least 75% of the residential development remain affordable to very low and low income families, that land would still be set aside for future public-serving uses, including a visitor-serving lodging, parking, and restroom facilities, and that important on-site wetlands and their associated habitat values are protected and enhanced. In order to provide the maximum amount of opportunity for affordable housing, a condition of approval for the Master Plan would require that the applicant pursue in good faith any and all opportunities that are available in order to provide for affordability for part of or all of the seven for-sale residences.

WHEREAS the Marin County Planning Commission finds that the proposed project is consistent with the Local Coastal Program Unit II (LCP) because it involves a minor amendment to a site-specific policy that solely affects the affordable nature of the seven for-sale residences. Because no physical changes are proposed to the overall site development plan, the project would remain consistent with all applicable LCP policies relative to protection of coastal resources, public access, and recreation.

- VII. WHEREAS the Marin County Planning Commission finds that proposed project would not adversely impact the public health, safety, and welfare of residents living and working in the surrounding community and would result in substantial public benefits.

## SECTION II: ACTION

**NOW, THEREFORE BE IT RESOLVED that the Marin County Planning Commission recommends that the Marin County Board of Supervisors adopt an ordinance approving the Point Reyes Development Company Master Plan Amendment (MP 05-3) which would amend the Point Reyes Affordable Homes Master Plan (Ordinance 3339), subject to the following conditions.**

1. Pursuant to Marin County Code Chapters 22.45, the Point Reyes Development Company Master Plan Amendment (MP 05-3) is approved to amend the Point Reyes Affordable Homes Master Plan (Ordinance 3339) to modify Condition of Approval 1(e), which shall be replaced with the following condition:

Pursuant to Marin County Code Chapters 22.45, 22.56, and 20.32, the Point Reyes Affordable Homes Master Plan, Precise Development Plan, Coastal Permit, and Subdivision applications are approved for the following: (1) the construction of 27 affordable rental apartments and seven affordable and/or market-rate for-sale single-family residences; (2) the reservation of land area for future development of a three-bedroom, up to 2,800 square foot market rate single-family residence, a one-bedroom, up to 750 square foot cottage, and a barn; (3) the reservation of land area for future development of a 20-room, up to 17,000 square foot lodge or a similar visitor-serving use; (4) the reservation of land area for future development of a 12-space public parking lot and a restroom structure; and (5) the reservation of land for open space conservation purposes. A Subdivision (Vesting Tentative Map) to divide the property into 13 separate lots of record is conditionally approved. Any modifications to the project that would eliminate the affordable component shall require an amendment to the Master Plan.

2. Condition of Approval 38 from the Point Reyes Affordable Homes Master Plan shall be replaced with the following condition:

Should one or more of the seven for-sale single-family residences that comprise the Papermill Creek Homes be available for sale as affordable units, the applicant shall first submit a Below Market Rate Agreement for review and approval by the Community Development Director. The agreement shall be consistent with Section 22.97.070 of the Marin County Code and applicable law. The agreement shall acknowledge that the project would consist of inclusionary for-sale units to be sold to residents of very low, low, or moderate

income. The agreement shall also contain initial and periodic monitoring provisions to verify compliance with the terms of the agreement.

3. The applicant shall pursue in good faith any and all opportunities that are available, including phased sale of the units, in order to provide for affordability for as many of the seven-unit, for-sale residential component of this project as financially feasible, subject to review and approval by the Community Development Agency Director.
4. With exception to the conditions that are modified herein, all other conditions of project approval for the Point Reyes Affordable Homes Master Plan shall remain valid.

SECTION IV: VOTE

**PASSED AND ADOPTED at a regular meeting of the Planning Commission of the County of Marin, State of California, on the 25th day of October, 2004, by the following vote to wit:**

AYES: Barner, Berland, Dickenson, Holland, Thompson

NOES: Greenberg, Julin

ABSENT:

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ALLAN BERLAND, CHAIRMAN  
MARIN COUNTY PLANNING COMMISSION

Attest:

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Jessica Woods  
Recording Secretary

**MARIN COUNTY PLANNING COMMISSION**

**RESOLUTION PC 04-023**

**A RESOLUTION RECOMMENDING THAT THE BOARD OF SUPERVISORS  
ADOPT A RESOLUTION APPROVING THE POINT REYES DEVELOPMENT COMPANY  
COASTAL PERMIT AMENDMENT (CP 05-12)**

**OFF GIACOMINI ROAD AND TOBY STREET, POINT REYES STATION  
ASSESSOR'S PARCELS 119-240-45, -46, -57, -58**

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**SECTION I: FINDINGS**

- I. WHEREAS the Point Reyes Development Company, LLC submitted an application to amend the Point Reyes Affordable Homes approval in order to eliminate the affordability requirement for the seven for-sale single-family residences. The request will not modify any of the other components of the original project, including the construction of 27 rental affordable apartments and designation of land area for visitor-serving commercial uses, a public parking area with restroom, a single-family residential lot, and wetland conservation. All aspects of the Master Plan, including the project's density, type and location of land uses, building design and location, septic and stormwater infrastructure, and environmental mitigations would remain the same. The applicant and the other project funders have indicated that the 27-unit rental apartment project would remain financially viable only if the residences could be constructed and sold at market-rate prices. The property is located off **Giacomini Road and Toby Street, Point Reyes Station**, and is further identified as **Assessor's Parcels 119-240-45, -46, -57, and -58**.
- II. WHEREAS the Marin County Planning Commission held a duly-noticed special public hearing on October 25, 2004, to consider the merits of the project, and hear testimony in favor of, and in opposition to, the project.
- III. WHEREAS the Marin County Planning Commission finds that no additional environmental review is required pursuant to Section 15162 of the California Environmental Quality Act (CEQA) Guidelines because the proposed project does not involve new information, substantial changes, or new significant environmental impacts that were not previously considered and mitigated in the certified Environmental Impact Report.
- IV. **WHEREAS** the Marin County Planning Commission finds that the proposed project is consistent with the Marin Countywide Plan (CWP) and Point Reyes Station Community Plan (PRSCP) because it would maintain the same number, type, and size of residences that were previously approved on the property, consistent with the respective CWP and PRSCP land use designations. Overall, the project would provide additional housing and job opportunities and promote the preservation of the viability of Point Reyes Station as a small rural working town by providing a balanced, mix-used development consisting of residential, commercial, and conservation uses within the downtown area for Point Reyes Station. The project would still retain a substantial degree of affordability through construction of the 27 affordable apartment units, which represent 75% of the total number of units. This remains consistent with the PRSCP's policies which identify the property as a suitable site for affordable housing development. Additionally, the project would maintain the character of the surrounding community by utilizing an architectural design that would complement the village's existing buildings in scale, form, and massing and ensure the protection of important resources, such as wetlands, creeks, and special status plant and animal species.

- V. WHEREAS the Marin County Planning Commission finds that the proposed project is consistent with the overall goals and objectives of the Point Reyes Affordable Homes Master Plan and would not affect or modify any of the physical parameters for the development, including the project density, type and location of land uses, building design and location, infrastructure, and required environmental mitigations. The overall goals and objectives of the development would still be substantially implemented through ensuring that at least 75% of the residential development remain affordable to very low and low income families, that land would still be set aside for future public-serving uses, including a visitor-serving lodging, parking, and restroom facilities, and that important on-site wetlands and their associated habitat values are protected and enhanced. In order to provide the maximum amount of opportunity for affordable housing, a condition of approval for the Master Plan would require that the applicant pursue in good faith any and all opportunities that are available in order to provide for affordability for part of or all of the seven for-sale residences.
- VI. WHEREAS the Marin County Planning Commission finds that the proposed project is consistent with the Local Coastal Program Unit II (LCP) because it involves a minor amendment to a site-specific policy that solely affects the affordable nature of the seven for-sale residences. Because no physical changes are proposed to the overall site development plan, the project would remain consistent with all applicable LCP policies relative to protection of coastal resources, public access, and recreation.

WHEREAS the Marin County Planning Commission finds that proposed project is consistent with the requirements for a Coastal Permit pursuant to Marin County Code Section 22.56.130 because all of the findings for approval of a Coastal Permit contained in the Point Reyes Affordable Homes Coastal Permit (Resolution 2002-28) remain applicable to the development. The elimination of the affordability requirement for the seven for-sale single-family residences would allow for the construction of the 27 affordable apartment units, which would be, targeted at very low and low income households.

## SECTION II: ACTION

**NOW, THEREFORE BE IT RESOLVED that the Marin County Planning Commission recommends that the Marin County Board of Supervisors adopt a resolution approving the Point Reyes Development Company Coastal Permit Amendment (CP 05-12), subject to the following conditions.**

1. Pursuant to Marin County Code Chapters 22.45, the Point Reyes Development Company Coastal Permit Amendment (CP 05-12) is approved to amend the Point Reyes Affordable Homes Coastal Permit (Resolution 2002-28) to modify Condition of Approval 1(e), which shall be replaced with the following condition:

Pursuant to Marin County Code Chapters 22.45, 22.56, and 20.32, the Point Reyes Affordable Homes Master Plan, Precise Development Plan, Coastal Permit, and Subdivision applications are approved for the following: (1) the construction of 27 affordable rental apartments and seven affordable and/or market-rate for-sale single-family residences; (2) the reservation of land area for future development of a three-bedroom, up to 2,800 square foot market rate single-family residence, a one-bedroom, up to 750 square foot cottage, and a barn; (3) the reservation of land area for future development of a 20-room, up to 17,000 square foot lodge or a similar visitor-serving use; (4) the reservation of land area for future development of a 12-space public parking lot and a restroom structure; and (5) the reservation of land for open space conservation purposes. A Subdivision (Vesting Tentative Map) to divide the property into 13 separate lots of record is conditionally approved. Any modifications to the project that would eliminate the affordable component shall require an amendment to the Master Plan.

2. Condition of Approval 38 from the Point Reyes Affordable Homes Coastal Permit shall be replaced with the following condition:

Should one or more of the seven for-sale single-family residences that comprise the Papermill Creek Homes be available for sale as affordable units, the applicant shall first submit a Below Market Rate Agreement for review and approval by the Community Development Director. The agreement shall be consistent with Section 22.97.070 of the Marin County Code and applicable law. The agreement shall acknowledge that the project would consist of inclusionary for-sale units to be sold to residents of very low, low, or moderate income. The agreement shall also contain initial and periodic monitoring provisions to verify compliance with the terms of the agreement.

3. The applicant shall pursue in good faith any and all opportunities that are available, including phased sale of the units, in order to provide for affordability for as many of the seven-unit, for-sale residential component of this project as financially feasible, subject to review and approval by the Community Development Agency Director.
4. With exception to the conditions that are modified herein, all other conditions of project approval for the Point Reyes Affordable Homes Coastal Permit shall remain valid.

#### **SECTION IV: VOTE**

**PASSED AND ADOPTED at a regular meeting of the Planning Commission of the County of Marin, State of California, on the 25th day of October, 2004, by the following vote to wit:**

AYES: Barner, Berland, Dickenson, Holland, Thompson

NOES: Greenberg, Julin

ABSENT:

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ALLAN BERLAND, CHAIRMAN  
MARIN COUNTY PLANNING COMMISSION

Attest:

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Jessica Woods  
Recording Secretary