

**MARIN COUNTY PLANNING COMMISSION HEARING MINUTES**

**June 13, 2005**

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

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

*Commissioners Absent:* None

*Staff Present:* Alex Hinds, Agency Director  
Brian Crawford, Deputy Director of Planning Services  
Larisa Roznowski, Assistant Planner  
Eric Steger, Department of Public Works, Senior Engineer  
Sam Ruark, Green Building Coordinator  
Ben Berto, Principal Planner  
Barbara Collins, Housing Strategist  
Jessica Woods, Recording Secretary

*Minutes Approved on:* July 11, 2005

Convened at 1:05 p.m.  
Adjourned at 3:24 p.m.

1. INITIAL TRANSACTIONS

- a. Incorporate Staff Reports into Minutes

*M/s, Greenberg/Holland, and passed unanimously, to incorporate the staff reports into the minutes.  
Motion passed 7/0.*

- b. Continuances – None

- c. Approval of Minutes – May 23, 2005

*M/s, Holland/Barner, to approve the Minutes of May 23, 2005 as amended. Motion passed 6/0  
(Commissioner Berland abstained).*

2. COMMUNICATIONS – The Commission and staff noted several pieces of correspondence for their review.

Alex Hinds, Agency Director, announced that Green Building Coordinator Sam Ruark would be leaving Marin County and moving to North Carolina. The Commission and staff thanked Mr. Ruark for all his efforts in Marin County and wished him well.

Agency Director Hinds noted that Marin Horizon would be forwarded to the Board of Supervisors on the 28<sup>th</sup> of June.

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

*Commissioner Greenberg recused herself from the next agenda item in order to avoid the appearance of a conflict.*

4. MINOR DESIGN REVIEW APPEAL: RIES (WEINER)

LR

Public hearing to consider an appeal filed by Ian K. Boyd, attorney for Michael and Janet Weiner, of the Community Development Agency's conditional approval of the Ries Minor Design Review application. The application includes the proposed construction of 933 square feet of upper and lower level additions, 52 square feet of which is a garage addition, to an existing one-story 2,501 square foot single-family residence in the Paradise Cay subdivision in Tiburon. As proposed, the 3,434 square foot residence on the 11,576 square foot lot area would result in a floor area ratio (FAR) of 29.6 percent. The residence would attain a maximum height of 21 feet above grade and the addition would maintain the following setbacks from corresponding property lines: 102 feet, 6 inches from the eastern rear property line, 39 feet, 6 inches from the southern side property line, 19 feet, 10 inches from the western front property line, and 6 foot, 1 inch from the northern side property line. The appellant sets forth the following bases of appeal: (1) the proposed addition will substantially interfere with the use and enjoyment of the appellant's property, including light, air, privacy and views, specifically resulting from unencumbered views of the appellant's front yard and a violation of privacy; (2) the proposed addition will result in the elimination of significant sun and light exposure, views, vistas, and privacy to the appellant's property, specifically significant decrease of sunlight on the appellant's property; and (3) the proposed addition will exacerbate noise that currently emanates from the applicant's residence. The property is located at **115 St. Thomas Way in Tiburon**, and is further identified as **Assessor's Parcel 038-215-03**.

Larisa Roznowski, Assistant Planner, summarized the staff report and recommended that the Commission review the administrative record, conduct a public hearing, and adopt the attached Resolution: 1) deny the Weiner Appeal; and 2) sustain the Community Development Agency's conditional approval of the Ries Minor Design Review.

Commissioner Dickenson recommended changing the references to the floor area ratio to 42.6%, which excludes the underwater portion of the lot rather than 29.6%. Assistant Planner Roznowski agreed.

Commissioner Holland pointed out several typos for staff's consideration in regard to the Resolution.

The hearing was opened to the public.

Michael Ries, owner, provided several photographs to the Commission for their consideration depicting the following: view from the front of the house; view taken from down the street; west elevation showing height of window; south elevation; 111 St. Thomas Way; private front yard of 111 St. Thomas Way; view of south part of their house; view of his backyard; and view of existing back deck. Also, he noted that there are several letters of support from the surrounding neighbors.

Jared Polsky, architect, pointed out that this house is to the north of Dr. Wiener's home and it clearly is not shadowing the Weiner's property as seen from the photographs. Also, he did have some communication with Dr. Wiener's daughter in October of last fall and he thought this matter was resolved, so he was surprised this appeal is occurring. He further reiterated that the Neighborhood Association and neighbors other than Dr. Wiener and his wife are fully supportive of this project.

The public hearing was closed.

Commissioner Holland noted that the appellant references concern about constant noise emanating from the Ries property and asked staff to explain. Assistant Planner Roznowski responded that Mr. Wiener mentioned that it was noise associated from children in the house.

Commissioner Julin supported staff's recommendation and believed this is a case where the facts speak for themselves. Commissioner Barner supported staff's recommendation as well. Commissioner Dickenson felt this appeal made no sense in regard to impacts and is prepared to support staff's recommendation and deny the appeal. He then reiterated that for planning purposes 46.2% should be used in regard to the floor area ratio rather than the 29.6%. Commissioner Berland concurred and saw no basis for this appeal. He felt the house is very well designed for the neighborhood and believed this is a frivolous appeal. Commissioner Holland noted his support for staff's recommendation. Also, he believed this appeal comes very close to bordering on abuse of the appeal process. Chairman Thompson wished there was an internal process to stop these frivolous appeals. Agency Director Hinds responded that there is a requirement to allow appeals, although staff will be reviewing the appeal process over the next several months. Commissioner Julin pointed out that this is the first case that she has ever experienced during her time serving on the Commission, so it is not typical.

Chairman Thompson asked for a motion.

**M/s, Julin/Dickenson, to deny the appeal and sustain the Ries Minor Design Review Approval.**

Commissioner Dickenson discussed page 1 of PC Attachment 1 under the first "Whereas" and added the following: "(7,427 square feet of effective lot area) and result in a floor area ratio of 46.2%." Also, staff should make an identical change to F1 on page 3 of PC Attachment 1 as well. Assistant Planner Roznowski agreed.

Commissioner Barner commented on Condition 5 on page 6 and desired more structure in regard to lighting and safety purposes. Chairman Thompson recommended finding a better structure such as Mill Valley that stated, "any exterior lighting shall remain on the site." Assistant Planner Roznowski agreed to explore other language.

Commissioner Barner expressed concern for Condition 9 and desired the language to be more direct. Agency Director Hinds suggested stating, "Construction involving modifications that do not substantially comply with the approval may be halted until proper authorization for the modifications are obtained by the applicant." The Commission agreed.

Assistant Planner Roznowski recommended deleting Condition 13 in its entirety. She explained that DPW made an error; they thought that part of the work was proposed while in actuality it exists. The Commission agreed.

Chairman Thompson discussed Condition 17 in regard to the statement about the Fire Protection District, which in his view is very general and should state, "The new structure shall have installed throughout an automatic sprinkler system." Ben Berto, Principal Planner, agreed to clarify that language with the Fire District in regard to their requirements, which he believed is 50% of the area existing.

Commissioner Berland suggested changing Commissioner Dickenson's recommended change with his consent in regard to page 1 of PC Attachment 1 by adding after "46.2%" the following: "of effective lot area." Commissioner Dickenson agreed.

Commissioner Julin and Commissioner Dickenson agreed with the amendments.

**Motion passed 6/0/1 (Commissioner Greenberg recused herself).**

MARIN COUNTY PLANNING COMMISSION

RESOLUTION NO.PC05-010

A RESOLUTION DENYING THE WEINER APPEAL AND SUSTAINING THE  
COMMUNITY DEVELOPMENT AGENCY’S APPROVAL OF THE RIES MINOR DESIGN REVIEW  
05-14  
115 ST. THOMAS WAY, TIBURON  
ASSESSOR’S PARCEL 038-215-03

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SECTION I: FINDINGS

- I. WHEREAS Jared Polsky, on behalf of the property owners, Michael and Maria Ries, is requesting Minor Design Review approval to construct 933 square feet of upper and lower level additions, 52 square feet of which is a garage addition, to an existing one-story 2,501 square foot single-family residence in the Paradise Cay subdivision in Tiburon. The project proposal involves rebuilding and expanding the existing detached garage on the north side of the property to an attached garage, adding a second story area on the north side of the residence, and making other interior wall reconfigurations. As proposed, the 3,434 square foot residence on the 11,576 square-foot lot area (7,427 square feet of effective lot area) and would result in a floor area ratio (FAR) of 46.2 percent of effective lot area. The residence would attain a maximum height of 21 feet above grade and the addition would maintain the following setbacks from corresponding property lines: 102 feet, 6 inches from the eastern rear property line, 39 feet, 6 inches from the southern side property line, 19 feet, 10 inches from the western front property line, and 6 foot, 1 inch from the northern side property line. The addition would be finished to match the existing residence with asphalt shingle composition roofing, light blue cedar sidewall shingles, off-white wood trim, and aluminum clad windows. The property is located at 115 St. Thomas Way in Tiburon, and is further identified as Assessor's Parcel 038-215-03.
  
- II. WHEREAS on April 14, 2005, the Community Development Agency issued a conditional approval of the Ries Minor Design Review granting authorization for the construction of 933 square feet of upper and lower level additions, 52 square feet of which is a garage addition, to an existing one-story 2,501 square foot single-family residence in the Paradise Cay subdivision in Tiburon. The approval includes standard conditions. However, because the project was found to be consistent with the required findings for Design Review, no substantial modifications to the project were required.
  
- III. WHEREAS, a timely appeal of the Community Development Agency’s approval of the Ries Minor Design Review has been filed by Michael and Janet Weiner asserting the following issues: (1) the proposed addition will substantially interfere with the use and enjoyment of the appellant’s property, including light, air, privacy and views, specifically resulting from unencumbered views of the appellant’s front yard and a violation of privacy; (2) the proposed addition will result in the elimination of significant sun and light exposure, views, vistas, and privacy to the appellant’s property, specifically resulting in a significant decrease of sunlight on the appellant’s property; and (3) the proposed addition will exacerbate noise that currently emanates from the applicant’s residence.
  
- IV. WHEREAS the Marin County Planning Commission held a duly noticed public hearing on June 13, 2005, to consider the merits of the project and appeal, and hear testimony in favor of, and in opposition to, the project.

- V. WHEREAS the Marin County Planning Commission finds that this project is Categorically Exempt from the requirements of the California Environmental Quality Act pursuant to Section 15301, Class 1 of the CEQA Guidelines because construction of the single-family residence would not result in any potentially significant impacts to the environment.
- VI. WHEREAS the Marin County Planning Commission finds that the proposed project is consistent with the Marin Countywide Plan for the following reasons:
- A. The project is consistent with the Countywide Plan.
  - B. The project is consistent with the Countywide Plan's Bayfront Conservation Area policies.
  - C. The project would comply with Marin County standards for flood control, geotechnical engineering, and seismic safety, and include improvements to protect lives and property from hazard.
  - D. The project would 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.
  - E. The project would not cause significant adverse impacts on water supply, fire protection, waste disposal, schools, traffic and circulation, or other services.
  - F. The project would minimize soil disturbance and maximize retention of natural vegetation.
- VII. WHEREAS the Marin County Planning Commission finds that the proposed project, is consistent with all of the mandatory findings to approve the Ries Minor Design Review application (Section 22.42.060 of the Marin County Code) as specified below.
- A. The proposed development will properly and adequately perform or satisfy its functional requirements without being unsightly or creating incompatibility/disharmony with its locale and surrounding neighborhood;**

The proposed addition would conform with property development standards applicable to the BFC-RSP-5.8 zoning district including principally-permitted structures, uses, and maximum building height conditions. The addition would attain a maximum height of 21 feet above grade where 30 feet is allowed for primary structures. The project would result in minimal adverse physical and visual impacts because it would be constructed of building materials and colors that match the existing residence, would compliment the surrounding natural and built environment, and would be consistent with the surrounding community character.
  - B. The proposed development will not impair, or substantially interfere with the development, use, or enjoyment of other property in the vicinity, including, but not limited to, light, air, privacy and views, or the orderly development of the neighborhood as a whole, including public lands and rights-of-way;**

The project would comply with all development standards applicable to the governing zoning district and be of comparable height, size, and scale with other structures existing in the surrounding community. The project would not impact light, air, privacy, and views of surrounding residences because the addition has varying roof lines that minimize impacts to the neighbor to the north, has minimal fenestration on the northern side which maintains privacy to the neighbor to the north, is blocked visually by the existing southern wing of the residence, which maintains the privacy and views to the neighbor to the south, is adequately sited back (39 feet, 6 inches) from the southern side property line so that there are no light, air, view, or noise impacts to the neighbor to the south, and has existing mature landscaping and fencing that would provide adequate visual screening and privacy buffering between the proposed addition and adjoining residences.

- C. The proposed development will not directly, or cumulatively, impair, inhibit, or limit further investment or improvements in the vicinity, on the same or other properties, including public lands and rights-of-way;**

The project will not limit or inhibit the use or enjoyment of other properties on the vicinity because the improvements are consistent with the uses permitted by the governing zoning district. The proposed development would not encroach into any rights-of-way, conservation easements, or public lands.

- D. The proposed development will be properly and adequately landscaped with maximum retention of trees and other natural features and will conserve non-renewable energy and natural resources;**

The project will involve no removal of trees or significant landscaping. It is primarily sited within the footprint of the existing residence and garage.

- E. The proposed development will be in compliance with the design and locational characteristics listed in Chapter 22.16 (Planned District Development Standards);**

Proposed building materials and colors match the existing residence, would compliment the surrounding natural and built environment, and would be consistent with the surrounding community character. Minimal grading would occur because most of the improvements will occur within the footprint of the existing residence and garage, and the site is flat.

- F. The proposed development will minimize or eliminate adverse physical or visual effects which might otherwise result from unplanned or inappropriate development, design, or placement. Adverse effects include those produced by the design and location characteristics of the following:**

- 1. The area, heights, mass, materials, and scale of structures;**

The size of the proposed addition is proportionately scaled to the 11,576 square foot lot (7,427 square feet of effective lot area) and would result in a FAR of 46.2 percent of effective lot area. The addition would be articulated and would have windows that are screened from view from the adjoining neighboring residences. Building colors and materials would match the existing residence and blend with the natural and built environment. The lower plate heights and sloping roof minimize the mass of the

addition. Finally, height, mass and scale would be consistent with the surrounding community character.

**2. Drainage systems and appurtenant structures;**

The proposed addition poses no adverse physical impacts to drainage systems and appurtenant structures.

**3. Cut and fill or the reforming of the natural terrain, and appurtenant structures (e.g., retaining walls and bulkheads);**

The proposed addition would be built primarily within footprint of existing structures and would have no potential impact on natural terrain or appurtenant structures.

**4. Areas, paths, and rights-of-way for the containment, movement or general circulation of animals, conveyances, persons, vehicles, and watercraft; and**

The proposed addition would have no impact on movement or general circulation of animals, conveyances, persons, vehicles, and watercraft.

**5. Will not result in the elimination of significant sun and light exposure, views, vistas, and privacy to adjacent properties.**

Please see the response to Findings A and B.

**G. The project design includes features which foster energy and natural resource conservation while maintaining the character of the community.**

As a condition of approval, the applicant shall submit a signed Statement of Conformance demonstrating that the project qualifies for a "Certified" or better rating under the Marin Green Home: Remodeling Home Green Building Residential Design Guidelines. The Building Permit shall include specifications demonstrating compliance with all construction-related measures that are used to meet the "Certified" or better rating.

**H. The design, location, size, and operating characteristics of the proposed use are consistent with the Countywide Plan and applicable zoning district regulations, are compatible with the existing and future land uses in the vicinity, and will not be detrimental to the public interest, health, safety, convenience, or welfare of the County.**

The project is consistent with the Countywide Plan and the BFC-RSP-5.8 zoning district. The structures have been designed to be compatible with the natural environment and will not be detrimental to the surrounding properties. The project has also been recommended for approval by the Paradise Cay Homeowners Association, Architectural Review Committee.

VIII. WHEREAS the Marin County Planning Commission finds that the bases for the Weiner appeal cannot be sustained and that the Community Development Agency acted appropriately in issuing the Ries Minor Design Review due to the following factors:



1. *The proposed addition will substantially interfere with the use and enjoyment of the appellant's property, including light, air, privacy and views, specifically resulting from unencumbered views of the appellant's front yard and a violation of privacy.*

Response to Appeal:

The proposed addition would not impact light, air, privacy, and views of the appellant's property to the south because the addition is located on the north side of the subject property 39 feet, 6 inches from the shared southern side property line, and existing mature landscaping and fencing would provide adequate visual screening and privacy buffering between the proposed addition and adjoining residences. Staff conducted a site visit and made the determination that the windows that would face south towards the appellant's property (windows from proposed bedroom #4, bathroom, and office) would look only into the subject property's courtyard. The windows would be visually blocked from the appellant's property, except for the front tip of the front yard, by the existing southern wing of the residence. For these reasons, no violation of privacy would result to the appellant's residence or the majority of the front yard.

2. *The proposed addition will result in the elimination of significant sun and light exposure, views, vistas, and privacy to the appellant's property, specifically, resulting in a significant decrease of sunlight on the appellant's property.*

Response to Appeal:

For the same reasons as described in the Response to Appeal in #1 above, the proposed addition would not result in the elimination of significant sun and light exposure, views, vistas, and privacy to the appellant's property, or specifically, resulting in a significant decrease of sunlight on the appellant's property. The applicant's property is north of the appellant's property. The peak roof ridge line of the proposed addition has an elevation of 21 feet above existing grade while the existing roof ridge line of the existing southern wing of the subject residence, located approximately 18 feet closer to the appellant's property, has an elevation of 17 feet, 5 inches above grade. The area of the proposed addition at the northern wing of the residence would be only 3 feet, 7 inches taller than the intervening south wing, and would be situated 39.5 feet from the common property line at the appellant's lot. The proposed addition is adequately sited from the appellant to the south, so that no loss of sunlight to the appellant's property would occur.

3. *The proposed addition will exacerbate noise that currently emanates from the applicant's residence.*

Response to Appeal:

The project would not limit or inhibit the use or enjoyment of other properties on the vicinity because the proposed addition and use of the single-family residence is consistent with the single-family principally permitted use governed by the BFC-RSP-5.8 (Bayfront Conservation Area, Residential, Single-Family Planned District, 5.8 units per acre) zoning district.

## **SECTION II: PROJECT APPROVAL**

NOW, THEREFORE, BE IT RESOLVED that the Marin County Planning Commission hereby denies the Weiner appeal and sustains the Community Development Agency's conditional approval of the Ries Minor Design Review subject to the following conditions:

Community Development Agency – Planning Division

1. Plans submitted for a Building Permit shall substantially conform to plans identified as “Exhibit A,” entitled, “Ries Residence,” consisting of 11 sheets prepared by Polsky Architects, received December 9, 2004, with revisions dated January 18, 2005, and on file with the Marin County Community Development Agency, except as modified by the conditions listed herein.
2. Approved exterior building materials and colors shall substantially conform to the color/materials sample board which is identified as “Exhibit B,” prepared by Polsky Architects, received September 14, 2004, and on file with the Marin County Community Development Agency including:
  - a. Siding: light blue cedar sidewall shingles to match existing
  - b. Roof: asphalt shingle composition roofing to match existing
  - c. Trim: off-white wood trim to match existing

All flashing, metal work, and trim shall be treated or painted an appropriately subdued, non-reflective color.

3. 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 conditions of approval as notes.
4. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall submit a signed Statement of Conformance demonstrating that the project qualifies for a “Certified” or better rating under the Marin Green Home: Remodeling Home Green Building Residential Design Guidelines. The Building Permit shall include specifications demonstrating compliance with all construction-related measures that are used to meet the “Certified” or better rating.
5. Exterior lighting visible from off site shall be permitted for safety purposes only, shall consist of low-wattage fixtures, and shall be directed downward and shielded from adjacent properties.
6. All construction activities shall comply with the following standards:
  - a. Except for such non-noise generating activities, including but not limited to, painting, sanding, and sweeping, 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 shall be permitted on Sundays or the following holidays (New Year’s Day, Martin Luther King Day, Presidents’ Day, Memorial Day, Independence Day, Labor Day, Veteran’s Day, Thanksgiving, Christmas). If the holiday falls on a weekend, the prohibition on noise-generating construction activities shall apply to the ensuing weekday during which the holiday is observed. At the applicant's request, the Community Development Agency staff may administratively authorize minor modifications to these hours of construction.
  - b. It shall be the responsibility of the applicant to ensure that all construction materials and equipment are stored on-site (or secured at an approved off-site location) and that all contractor vehicles are parked in such a manner as to permit safe passage for vehicular, pedestrian, and bicycle traffic at all times.

7. All utility connections and extensions (including but not limited to electric, communication, and cable television lines) serving the development shall be undergrounded from the nearest overhead pole from the property, where feasible as determined by the Community Development Agency staff.
8. The applicant/owner hereby agrees to defend, indemnify, and hold harmless the County of Marin and its agents, officers, attorneys, or employees from any claim, action, or proceeding, against the County or its agents, officers, attorneys, or employees, to attack, set aside, void, or annul an approval of (description of project being approved), for which action is brought within the applicable statute of limitations. This indemnification shall include, but not be limited to, damages, fees, and/or costs awarded against the County, if any, and the cost of suit, attorney's fees, and other costs, liabilities, and expenses incurred in connection with such proceedings, whether incurred by the applicant/owner, the County, and/or the parties initiating or bringing such proceeding.
9. Any changes or additions to the project shall be submitted to the Community Development Agency in writing for review and approval before the contemplated modifications may be initiated. Construction involving modifications that do not substantially comply with the approval may be halted until proper authorization for the modifications are obtained by the applicant.
10. BEFORE FINAL INSPECTION, the applicant shall submit a signed Statement of Completion confirming that the project has been constructed in compliance with all of the measures that were used to meet the "Certified" or better rating under the Marin Green Home: New Home Green Building Residential Design Guidelines.

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

11. The subject property is partially in Flood Zone V1, elevation 6'. Show and label on plans FEMA FIRM Flood Hazard Boundary, as it is shown on FEMA FIRM Map # 465.
12. Revise sheet A0.0 to correctly show location and label public utility easement on site plan.
13. Provide a detailed drainage plan for the project.
14. The plans shall have foundations designed to accommodate raising and/or leveling of the structure.
15. An encroachment permit shall be required for construction within the road right-of-way and is subject to final review and approval by the Road Commissioner.

Tiburon Fire Protection District

16. The new structure shall have installed throughout an automatic fire sprinkler system in accordance with NFPA std. 13-4. The system design, installation, and final testing shall be approved by the District Fire Marshall. UFC 1003.
17. Approved smoke alarms shall be installed to provide protection to all sleeping areas. UBC 310
18. Approved spark arrestors shall be installed on chimneys. UFC 1109

19. Provide a “green belt” by cutting and clearing all combustible vegetation within 30 feet of the structure. UFC 1103

Marin Municipal Water District

20. All landscape and irrigation plans must be designed in accordance with the most current District landscape requirements (Ordinance 385). Prior to providing water service for new landscape areas, or improved or modified landscape areas, the District must review and approve the project’s working drawings for planting and irrigation systems.

**SECTION III: VESTING OF RIGHTS**

The applicant must vest this approval by obtaining a Building Permit for the approved work and substantially completing the improvements in accordance with the approved permits by June 13, 2007 for all entitlements, 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 Community Development Agency staff approves it. An extension of up to four years may be granted for cause pursuant to Section 22.56.050.B.3 of the Marin County Code.

The Building Permit approval expires if the building or work authorized is not commenced within one year from the issuance of such permit. A Building Permit is valid for two years during which construction is required to be completed. All permits shall expire by limitation and become null and void if the building or work authorized by such permit is not completed within two years from the date of such permit. Please be advised that if your Building Permit lapses after the vesting date stipulated in the Design Review approval (and no extensions have been granted), the Building Permit and Design Review approvals may become null and void. Should you have difficulty meeting the deadline for completing the work pursuant to a Building Permit, the applicant may apply for an extension to the Design Review at least 10 days before the expiration of the Design Review approval.

**SECTION IV: APPEAL RIGHTS**

NOW, THEREFORE BE IT FURTHER RESOLVED that this decision is final unless appealed to the Marin County 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.** on **June 23, 2005**.

**SECTION V: VOTE**

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the County of Marin, State of California, on the 13<sup>th</sup> day of June, 2005, by the following vote to wit:

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

NOES: None

ABSENT: Greenburg (recused)

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STEVE C. THOMPSON, CHAIRMAN  
MARIN COUNTY PLANNING COMMISSION

Attest:

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Jessica Woods  
Recording Secretary

*Commissioner Greenberg reconvened her position on the Planning Commission for the remainder of the meeting.*

5. DIRECTOR'S REPORT

a. **Discussion of upcoming CDA assessment process**

Agency Director Hinds announced that there is a scheduled conference call with consultants tomorrow in regard to the CDA assessment process, and once staff has a solid proposal they will present that to the Commission, hopefully late July or early August.

b. **Discussion of future affordable housing initiatives**

Barbara Collins, Housing Strategist, provided a PowerPoint presentation to the Commission on Marin County's Housing Element Report that included the following:

- Housing Element period: 1/11/1999 – 6/30/2007
- Adopted by Board on June 3, 2003
- This report covers activities beginning 1/1/99 through 11/04
- Accomplishments
- Second Unit Survey
- Survey Results
- Programs already underway to be completed prior to June 30, 2007
- Remaining Programs to be completed prior to June 30, 2007 (linked to the General Plan process)
- Marin Housing Help Website:  
<http://199.88.77.93/depts/CD/main/housing/index.html>
  1. Technical assistance to non-profit developers
  2. Information on rental assistance and first time homebuyers
- Table 18: Summary of Housing Element Programs and Housing Needs (January 1999 to June 2006)

Commissioner Dickenson believed there is an issue in terms of what ABAG counts as units. Agency Director Hinds pointed out that the Housing Element was adopted before final approval of Oakview, so there are several variations.

Commissioner Dickenson asked staff about the Oakview senior living facility. Housing Strategist Collins responded that a developer has not been identified, so it is unlikely that the units would be produced by June 2006.

Commissioner Berland desired an update on the Point Reyes Affordable units. Housing Strategist Collins responded that EAH sold all of the ownership units and all seven were sold at market rate to address the deficit and gap in financing. They are under construction for the 27 rental units and about to close on their permanent funding sources. They have actions on the Board agenda for next week around subordination and some amendments to the loan agreements so they can close on those loans for their permanent funding sources for the 27 units. They completed their marketing plan and gone through a tenant selection process of which Fair Housing of Marin has been involved to make sure it met all the fair housing guidelines. Also, five agricultural worker families have been identified who they think will qualify for the units. She pointed out that they received quite a range of diversity in those applying. Also, within the next six months those units should be occupied. The 27 units will be affordable for at least the next 55 years or

longer and will be very affordable. Also, there will still be 10 Section 8 units that are project based for that project, which helps the project and community to be able to serve those in Section 8.

Commissioner Berland hoped County Counsel could go back and take another look to offer some affordable housing units to employees who the County wishes to attract or retain. Housing Strategist Collins responded that 42 County employees and families are under contract or have purchased a unit at Meadow Park in Novato. Agency Director Hinds added that in his opinion it is about negotiating with HUD and Fair Housing of Marin. Basically, staff continues to believe there are some creative alternatives to ensure fair and equal opportunity in housing as well as address concerns about reducing traffic congestion and giving those that already live and work in the area an opportunity with the housing, but it is an interesting dynamic and it remains difficult. Commissioner Berland urged staff to find ways and means to get the word out to County employees or those the County wishes to be made available.

Housing strategist Collins noted that the Board has a Fair Housing Discrimination Task Force of which two Supervisors are active in every year and Fair Housing is the facilitator of that Committee and Fair Housing actually looked at litigation against the Town of Novato because Novato could not establish that there was not a disparate impact against protected classes of persons. When asked for information as to who was to be eligible, Novato provided photos and last names of Fire Department individuals to allow Fair Housing to determine the ethnicity and race of those persons. At that point, Fair Housing determined that it was so far down the road that they became aware of this preference policy that they would have to work through Legal Aid of Marin to pursue litigation, so instead they decided to have meetings throughout the community to talk to different jurisdictions about having a “no preference policy” and that would be more effective than litigation.

Housing Strategist Collins indicated that the Fireside Motel is moving forward. They are still working with Caltrans on an encroachment permit in front of the Fireside Motel, which is not moving very quickly. They have some folks new to the Department of Public Works (DPW) that came from Caltrans and they are working with them to move forward. Citizen’s is moving forward with the finance aspect of the project. There have been some challenges with relocation, particularly as it relates to who is eligible under relocation benefits according to HUD’s guidelines and who is not. They agreed to offer Section 8 to all those eligible and those deemed questionably eligible. Also, several homes declined Section 8 vouchers and those individuals would be cashed out.

Housing Strategist Collins added that Bolinas Bakery and the three of the Gas Station units are occupied. Marin City Church is under construction as well as Strawberry Shopping Center. Oakview has not yet been funded. Fireside was funded for 50 units, Point Reyes was funded with part of that money and Old Mill Commons funded in Mill Valley. In terms of Ross Hospital, they are in the process of preparing a traffic and parking analysis and are looking at securing an architect. Sand Castle will be constructed. Marinwood will be submitting an application to MCF in the next week. Also, they are working with Gates Cooperative as well to know how many of those houseboats need all new barges and the cost and funds have been set aside from MCF and CDBG Home.

## 6. FUTURE AGENDA DISCUSSION ITEMS, FIELD TRIPS

**June 27, 2005**

- No items scheduled to date

**July 11, 2005**

- Vlahos Design Review
- Eastern Point (Martha Company) Appeal of Notice of Project Status

**July 25, 2005**

- No Items Scheduled to date

**August 8, 2005**

- Las Cumbres Master Plan, Tentative Map, Negative Declaration

Commissioner Berland desired special zoning specifications for projects in West Marin. Agency Director Hinds responded that it is part of the work program, but it is a slow process.

Commissioner Berland recommended developing a program with incentives for ranchers to hold on to their land. Agency Director Hinds responded that the idea is to allow agriculture to remain viable and trying to be more responsive and supportive of existing agriculture operations is one small way and it is an important way to have it less tempting for those to sell.

Chairman Thompson asked staff if there is an entity that focused on agriculture in West Marin that would make a presentation on what is occurring in West Marin in order to better educate the Commission. Commissioner Julin recommended inviting David Strong to a future meeting. Agency Director Hinds agreed to schedule a meeting in possibly late July or early August.

Agency Director Hinds believed the Final EIR for Redwood Landfill should be out next month.

Commissioner Dickenson assumed the hearings for the Countywide Plan would start next year. Agency Director Hinds responded in the affirmative.

Commissioner Dickenson asked staff to discuss the pending transfer of title in regard to St. Vincent's. Agency Director Hinds responded that staff talked with St. Vincent's about their pre-application, but staff has not heard about the institution, but agreed to investigate.

*Chairman Thompson adjourned the Planning Commission meeting at 3:24 p.m.*