

**MARIN COUNTY PLANNING COMMISSION HEARING MINUTES**

**July 11, 2005**

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

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

*Commissioners Absent:* None

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

*Minutes Approved on:* July 28, 2005

Convened at 1:04 p.m.  
Adjourned at 4:06 p.m.

1. INITIAL TRANSACTIONS

- a. Incorporate Staff Reports into Minutes

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

- b. Continuances – None

- c. Approval of Minutes – June 13, 2005

*M/s, Holland/Julin, to approve the minutes of June 13, 2005, as amended. Motion passed 6/0 (Commissioner Ginalski abstained).*

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

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

Bob Abeling, Indian Valley resident, Novato, provided the Commission with a City Council Resolution establishing a Master Trails Plan Advisory Committee to assist in preparation of the Master Trails Plan. He pointed out that nowhere in that Resolution did it give the Trails Committee the authority to go into County properties and add possible trails on maps on the website. He desired a letter to the City of Novato that the Trails Committee focus only on properties located within the City limits of Novato. He believed it is the purview of the County of Marin to review the trails systems through the Marin County Open Space District. He asked the Commission to request from the City of Novato that all proposed trails and uses on private properties for the unincorporated areas of Novato for either trails or access points be removed from any maps or documents.

Jim Hill, Bradley Avenue resident, Novato, provided the Commission with a packet that included a form letter that he received after he responded to the Trails Committee with an e-mail for their consideration. He pointed out that as a private property owner greatly impacted, he was not notified about certain trails being designated. He further requested that the proposed trails not within the City's limits be removed from the website.

Alex Hinds, Agency Director, appreciated the concerns of the citizens and noted that staff would discuss the matter with the Parks Department.

Mike Marovich, former General Director, St. Vincent's School for Boys, indicated that it was reported to St. Vincent's that at the last Planning Commission meeting it was communicated that the St. Vincent's property had been sold, which implied that the need for St. Vincent's to advance the balance of the 800-acre land endowment would be eliminated, which he pointed out is not accurate. He added that it is true that St. Vincent's has been in discussions with many individuals in regard to the use of their property. He explained that the old campus represents the chapel, auditorium, and old dormitories. They currently have a pre-development application with the County that is being processed and they hope to hear back from staff at the end of the month in order to formalize that pre-application. He indicated that St. Vincent's goals remain the same in terms of its full 800-acre land endowment, which is to generate a reasonable economic return from that land endowment to do the following: 1) build a new campus for the boys; 2) create a financial endowment to sustain that work into the future; 3) renovate and reuse the old campus to preserve for another 150 years the tradition and care for the boys; and 4) to create a use for the land that balances and focuses on the broader economic, environmental and social recreational needs of the community.

Roger Roberts, representing MCL, discussed Lawson's Landing and, in regard to the EIR, he requested that the review period be extended beyond the 45-day period.

4. DIRECTOR'S REPORT

Tim Haddad, Environmental Coordinator, indicated that staff tried to be very accommodating to the community and it is staff's expectation and recommendation to extend the review period for the Lawson's DEIR longer than anticipated to make it approximately 55 days. Staff explained that the review period would start next week and end

on September 12, 2005, then staff would hold a public hearing before the Commission on September 12, 2005, to allow the Commission to take oral and written testimony on the draft EIR at that time, and then the review period would close later that day. Also, State CEQA guidelines provide that an environmental impact report review period should not be less than 30 days nor longer than 60 days except in unusual circumstances, and an EIR should be completed and certified within one year of the application being accepted or deemed complete. The time requirements under case law are directory and not mandatory, which means that the County should try to make a good faith effort to adhere to the legal adopted timelines set by CEQA. Staff only emphasize that it should be unusual circumstances in order to extend the review period, but staff has become very liberal in that regard. Unusual circumstances would be unusually technical aspects to a project or major unusually complex components of a project that require additional time for public to review. Although this may not strictly qualify, because it overlaps a holiday it could be extended, which would be adequate for those to review and comment. Staff further hoped that the County would not routinely extend these review periods significantly.

Commissioner Greenberg expressed concern for the public review period ending on September 12, 2005, because she believed the public should have a few more days to comment after the public hearing to provide comments based on what is heard at the meeting. Environmental Coordinator Haddad agreed to extend the hearing to the end of the week of September 12, 2005, in order for the public to be able to submit additional comments after the hearing.

Brian Crawford, Deputy Director, noted that the Board approved the Single-Family Residential Design Guidelines last week with a few minor changes to the document that will return to the Board for adoption on July 19<sup>th</sup>.

#### **Board Meetings**

- **July 19<sup>th</sup>** - Design Guidelines Changes; First Reading of Noise Ordinance
- **July 26<sup>th</sup>** - San Rafael Rock Quarry Contract Proposal for Initial Studies
- **August 9<sup>th</sup>** - Second Reading of Noise Ordinance

#### **5. FUTURE AGENDA DISCUSSION ITEMS, FIELD TRIPS**

##### **July 25, 2005**

- No meeting because the Board is using the room for budget hearings.

##### **July 28, 2005** – Tentatively Scheduled Special Meeting

- Martha Company's Appeal of Master Plan, Precise Development Plan

##### **August 8, 2005**

- Appeal of Deputy Zoning Administrator's denial on a new single-family home in Inverness

##### **August 22, 2005**

- Las Cumbres Master Plan, Tentative Map, Negative Declaration

##### **September 12, 2005**

- Lawson's Landing DEIR (public comment)

6. DESIGN REVIEW: VLAHOS

NO

Public hearing to consider the Vlahos Design Review proposing to construct a 7,470 square foot residence and attached garage, a 691 square foot detached second unit, and various site amenities on a vacant lot that is adjacent to the Town of Tiburon's La Cresta Open Space. The second unit will be reviewed as a separate ministerial project after completion of the discretionary Design Review application process. The maximum height of the residence would be 37 feet above finished grade and the exterior walls would have the following minimum property line setbacks: 75 feet front (south), 26 feet side (east), 83 feet side (west), and 32 feet rear (north). The maximum height of the second unit would be 18 feet above grade and would have the following minimum property line setbacks: 10.5 feet front (south), 15 feet side (east), 100 feet side (west), and 100 feet rear (north). The total floor area would be 7,621 square feet with a 17.2% floor area ratio on the 44,261 square foot lot. The proposal includes 1,325 cubic yards of excavation and 4,450 cubic yards of fill. The proposal would result in 82% site disturbance (36,294 square feet). The subject property is located at **28 Eagle Rock Road, Mill Valley (Strawberry)**, and is further identified as **Assessor's Parcel 034-012-19**.

Neal Osborne, Planner, summarized the staff report and recommended that the Commission review the administrative record, conduct a public hearing, and adopt the attached Resolution denying the Vlahos Design Review.

Commissioner Julin appreciated the staff report identifying the total building area. She then asked staff when the application was deemed complete. Planner Osborne responded that the application was deemed complete on May 4, 2005. Staff noted that the County's zoning procedures prescribe a 60-day period for acting on a Design Review application. However, that 60-day deadline was extended to this hearing at the applicant's request. Commissioner Julin discussed the MMWD's letter indicating that there is no water service to the property and she desired to view a map to show the location of the water main that serves the neighborhood to understand how large or small the project would be to extend that water service to the site. Planner Osborne believed it is located on Eagle Rock Road. Staff could not state precisely the location of the water main.

Commissioner Julin asked staff about removal of trees without a permit and whether a penalty was assigned. Planner Osborne responded that Eucalyptus trees are not part of the Tree Protection Ordinance, which only protects native trees. Deputy Director Crawford explained that the Tree Protection Ordinance is limited to native trees and the removal of one or more requires a tree removal permit and if they are non-native species a permit is not necessary.

Commissioner Barner asked staff what percentage of this site has been disturbed. Planner Osborne believed approximately 25%, but staff did not know exactly. Also, staff noted that a stop-work order was posted. However, the Commission responded that they did not see the work order posted on July 9<sup>th</sup> or July 10<sup>th</sup>.

Commissioner Barner asked staff if Eagle Rock Road is a county-maintained road. Eric Steger, Public Works Senior Engineer, responded that most of Eagle Rock is a county-maintained road. Lee Jourve, 30 Eagle Rock Road resident, expressed concerns for the traffic on Eagle Rock Road, as well as a tremendous amount of earth being moved because she worried about the stability of the hill.

The hearing was opened to the public.

Gary Giacomini, attorney, representing applicant, noted that the Water District has a condition that the applicant pay for the extension, which is 100 feet. He pointed out that this is a rare application having the standard approvals by the Sanitation District and Water District as well as Marin Open Space District, Fire District and Strawberry Design Review Board. Also, there are no adverse comments about this

development from the neighborhood because residents are not impacted, and any letters received are in support for the project. He pointed out that staff received a letter from the Town of Tiburon and the Town established floor area ratio guidelines to provide a community yardstick for appropriate residential size and scale. This property would be limited to a 6,443 square foot home. He discussed his letter, which is attached to the staff report, which resulted in the applicant making very serious proposals for consideration by staff and now before the Commission as follows: 1) drop whatever is necessary to meet the Town of Tiburon's guidelines; 2) remove 10 feet from the height, which has been staff's concern; 3) cut grading in half; and 4) use darker colors as staff indicated. He then suggested that the reason there is no opposition from the neighborhood is that they are satisfied with the project or cannot view the development.

Jerry Kler, representing Vlahos, provided the Commission with a packet of letters of support for their review that included letters from Mary Lee Jouvre, Peter Blake, and Jim Vlahos. Also, he provided a PowerPoint presentation for the Commission's consideration that included the following:

- Aerial view of site from above Highway 101 looking northeast
- Aerial view of site from Strawberry looking southeast
- Aerial view of site from above Highway 101 looking north
- Architectural Site Analysis
  - Existing Site Topography
  - Proposed Site Plan
  - Proposed Landscape Plan
  - Landscaping Planting List
  - Ridgeline Analysis by ILS Associates, Inc
  - Section through hillside, showing proposed residence
  - Proposed Floor Plans
  - Project Data
- Site Topography
  - View from ridgeline trail looking southeast at existing structures
  - View from ridgeline looking northwest
  - View from the southwest corner of site looking at proposed residence
  - Aerial view from 50' above driveway entrance looking southwest at proposed residence
- Comparison of existing areas of residence, garages, and developed lots on Eagle Rock Road - including FAR
- Photomontage of proposed residence in aerial view of site

Mr. Kler pointed out that Mr. Vlahos has invested around \$200,000 to date on water, fire protection, and sewage on this site, which in his view is a major commitment to invest in the community.

Commissioner Barner expressed concern for the second unit. Mr. Kler responded that the second unit will function as a place for Mr. Vlahos' parents, but he could not predict the future use.

Commissioner Barner stated that, should the second unit be used as a rental unit, the occupants of the second unit must maneuver around terraces and the pool and he did not believe it could function as a second unit due to access problems. Mr. Kler responded that if the use changed, then they would have to come back before the Commission.

Mr. Kler stated that there is a tendency to begin the process of having houses conform to a certain size and, if that is the case, then at the start of the process, no matter what the zoning states, it can become more of a defacto statement to an applicant. He added that if they rely on the law, then personal opinions do not mesh, and as they rush towards diversity and accommodating different lifestyles they are moving

to conformity in the size of residences and if that is a policy, then that is fine, but Mr. Vlahos has special needs and hopes the Commission will view this application in that manner.

Irv Schwartz, Civil Engineer, provided a ridgeline analysis he prepared in September of 2004. He then responded to some questions and noted that the turnaround on the site is dictated by the Fire District and the configuration and location of that turnaround somewhat dictated the location of the house. The turnaround is to provide parking and to have enough space to turn around a fire apparatus at the end of this driveway. In regard to water, they worked with both the Fire Department and Water District to develop a solution. The water main currently ends where the island ends just before the driveway and the properties beyond that point extend their water service from the end of that water main. The actual extension of the water main is 100 or so feet up Eagle Rock Drive to where the driveway intersects Eagle Rock Drive. He explained that the Water District has in their Fire Flow Program a proposal to upgrade the size of the water main for the entire length of Eagle Rock Road about 11 years from now, but since Mr. Vlahos is developing in that area, the Fire District indicated that they need the fire flow now, which is part of the cost that was mentioned. Also, the amount of grading could be reduced, but to reduce the grading they would need to increase the amount of retaining walls to support the driveway and turnaround, but it appeared to be a better design to have more grading and then plant the slope rather than have retaining walls at the bottom of the driveway and turnaround. He added that Eagle Rock Road is a county-maintained road just past this driveway and appropriate agencies could enforce parking and access violations. He then discussed geotechnical issues and all grading, retaining walls, and foundation work will be performed under the direction and recommendations of a geotechnical engineer, so there will not be any soil stability problems or issues. He further discussed the ridgeline issue and pointed out that while it would be great to place the house lower on the site, but as he explained before the constraints imposed by the Fire Department in providing for a turnaround at the end of the driveway cause the house to be located in its general area.

Commissioner Barner noted confusion because most of the discussion today is based on the original proposal, and he questioned the effect of Mr. Giacomini's letter that indicated that the applicant is willing to reduce the height by 10 feet. Mr. Kler responded that the proposal put forth was based on the idea of receiving staff approval for the project before submittal of the revised plans, which did not occur, so they are back to the original proposal before the Commission.

Commissioner Holland pointed out that the requirement is that no construction shall occur within 100 feet vertically of a prominent ridgeline.

James Vlahos, applicant, addressed grading and noted that they created compost from the eucalyptus debris. Also, non-indigenous soil was brought into the site from the Safeway development and there were large trucks that delivered boulders and soil. He understands the constraints and that the house is large, and in his view if they simply removed the top story that would resolve the issues. He felt he was misled by the Planning Department and desired a line of communication. He pointed out that he has senior parents and a daughter whom he must house and he needs this house built, so he is willing to work with the Commission and conform to the guidelines.

The public hearing was closed.

Commissioner Dickenson asked staff if the entire property is within the Ridge and Upland Greenbelt Designation. Staff responded in the affirmative.

Commissioner Dickenson believed there is some confusion about the floor area ratio and the house size, and it is his understanding the RMP housing has no floor area ratio. Deputy Director Crawford responded in the affirmative. Staff added that this is a Planned District Zone, and the development standards for this type of zoning district treat floor area in a different fashion than the older conventional zoning districts.

Commissioner Julin commented on the tree removal and importation of fill and boulders and normally that would be part of the design review process and asked staff if it is acceptable to import boulders and fill without a permit. Deputy Director Crawford responded that grading of a certain amount of material, which is 250 cubic yards of soil, would trigger a grading permit. Also, the removal of trees on a specified slope may also trigger the need for a grading permit. However, grading and other work for the purpose of beginning a project prior to receiving design review authorization is not allowed by the County's zoning ordinance.

Commissioner Ginalski found the staff report very well written and informative, which provided him with guidance. Also, as he reviewed the staff report and visited the site, he wondered why the Commission is reviewing this plan at this time. He noted that in February of this year, staff reviewed the plans and made some recommendations with respect to some ideas they felt would assist the applicant with a project that would better work with the site. Also, in March of this year the Commission received a letter from the applicant's attorney indicating that they would be willing to implement some of the proposed changes. Now, four months has passed and the Commission has the same plan before them, and although he is aware and sympathetic toward the applicant in terms of time, he has a problem providing architectural guidance because the Commission has no idea of the impacts. His major concern is giving advisory comments on a project that will require a substantial redesign rather than viewing the actual design and making specific detailed comments in that regard. He further noted that at this time, he is inclined to accept staff's recommendation and deny this application.

Commissioner Greenberg stated that in a multimillion-dollar project, to have a homeowner asking questions at the public information counter and basing designs and decision on that is very naive and professionals must be involved. In her view they are being asked to make a decision on this initial proposal that is a waste of their time and should have never been submitted or appealed. The County rejected the previous application for this site on the basis of excessive size, inconsistency with neighborhood character, unacceptable visual impacts, and excessive grading. This application magnified the problems of that rejected proposal. In regard to Certificate of Compliance, this proposal did not come close to meeting the conditions of the COC. The project did not conform to a number of critical development standards, it is inconsistent with the requirements of the Planned Residential and Upland Greenbelt area, and the proposal is grossly inconsistent with design review mandatory findings. She added that this project is located in a very prominent area and on a steep hillside adjacent to protected open space, which is a very sensitive site that requires an extremely sensitive design. She believed the size, mass, and height of this proposal is not acceptable for this site. She recommended that the application be significantly redesigned and reduced in size or rejected. Also, this proposal is the maximum that Tiburon would allow for this property and it is not an entitlement. She added that even the proposed reduced size is more than double the average size of the closest neighbor. She also recommended that such fencing be set back sufficiently to allow for a natural transition in the landscaping to the natural vegetation. This site is highly landscaped, but it is a square on the hillside, which made no sense to what is next to it and there is no natural transition. She further strongly urged the applicant to rethink his options for this difficult and sensitive site and come back with a plan that is appropriate and approvable.

Commissioner Dickenson agreed with the previous comments and felt the siting and size of this is totally inconsistent with both the Countywide Plan and the zoning that applies to this property. He added that the Planned Residential Zoning has design standards and the property is within the area designated Ridge and Upland Greenbelt in the Countywide Plan. Also, the property is highly visible, not to the immediate neighbors, but from northbound Highway 101 along the Strawberry Shopping Center; visible from northbound Highway 101 approaching Alto Hill; visible from southbound Highway 101 traveling downgrade on Alto Hill; highly visible to the main fire road on Horse Hill Open Space; and highly visible from many homes in the Alto neighborhood, which did not receive notice because they are beyond the

600 foot noticing area. He stated that those most impacted did not receive notice of this hearing, which may explain why concerns were not expressed. He felt both the siting and size of this house is inappropriate for this property, and unless the applicant is interested in a continuance to submit revised plans, he felt the Commission has no option but to follow staff's recommendation and deny this proposal.

Commissioner Julin agreed with staff's recommendation. She stated that this particular application fails on several counts in regard to site activity such as tree removal and grading that is to be part of the design review process. She is deeply troubled that no penalty is enforced on an applicant that is in violation of the rules. She believed a penalty should be built into the system to discourage such actions. She further added that if the Commission desired to continue this application, she agreed that revised plans must be submitted.

Commissioner Barner empathized with comments that may have been made at the public information counter but since 1991, there has been a clear record of what is required of this project. He expressed concern for the location of the second unit being ministerially approved, but in his view it is a guesthouse. He noted that the comparison of the floor area ratio provided some help that this is a big house on a big lot, but the house regardless of the lot size is very large due to the topography. He also would support staff's recommendation to deny this project.

Commissioner Holland did not favor a continuance and recommended denying the project. Also, requirements for this project were all clearly spelled out in the 1990 document. He then recommended deleting Finding VI C of the Resolution on page 3 of PC Attachment #1.

Mr. Kler recommended continuing this project in order to redesign the project.

Agency Director Hinds noted that the Commission could continue or deny without prejudice. Staff believed most helpful would be clear direction from the Commission in terms of location, site design, and disturbance.

Commissioner Dickenson argued that a continuance is more appropriate because the applicant may not have been receiving a clear message. He recommended redesigning the project in regard to location and size and that Tiburon's maximum is very large. A significant reduction in size is needed and he could not approve more than 5,000 square feet. Also, it must be lower on the hill and he believed staff could work with the Fire Department to find an acceptable turnaround. He further believed the applicant is entitled to come back with a redesigned project.

Mr. Giacomini urged the Commission to continue this matter for three months. He added that they have no intention to appeal this matter at this time. They received a clear message for a substantial redesign. Also, the driving force that is very difficult is the Fire Department's requirement on the roadway and if not for that, the house could be moved down the hill. On behalf of the applicant, he requested a three-month continuance on this matter.

Commissioner Greenberg desired a horizontal structure, but transitional landscaping is needed. Also, darker colors would be appropriate. She believed 5,000 square feet might be too large with a garage and second unit. She further felt the building lines should echo the contours of the hillside and not stand out.

Commissioner Julin stated that the site is highly sensitive and expressed concern for a three-month delay due to the raining season approaching. She desired that the site be stabilized to some degree and believed mitigations are in order. Agency Director Hinds believed that is an excellent idea.

Commissioner Holland agreed with a continuance, but recommended 120 days rather than three months.

Commissioner Ginalski asked staff if the proposed Hillside Design Guidelines would apply to this project. Deputy Director Crawford responded in the affirmative. Staff announced that the Board of Supervisors would likely adopt the new Single Family Residential Design Guidelines on July 19, 2005, which would be applicable to this project.

Chairman Thompson asked for a motion.

**M/s, Dickenson/Greenberg, to continue the Vlahos Design Review hearing for 120 days with the consent of the applicant in order to allow the applicant to redesign the project to respond to the issues raised by the Planning Commission.**

Mr. Giacomini agreed with the continuance.

Deputy Director Crawford recommended continuing the matter to the November 14, 2005, Planning Commission meeting, as the scheduled meeting date closest to the 120-day period. The Commission agreed.

Senior Engineer Steger agreed to work with the applicant in order to help review an erosion control plan with ABAG standards and to make sure their proposal is consistent with County's standards. Staff further believed it would take a couple of weeks to establish those plans.

**Commissioner Dickenson amended his motion to include the following advisory directive: *"that the applicant would work with the Department of Public Works to develop appropriate erosion control measures for the site and that those measures be implemented by October 15<sup>th</sup> of this year."* Commissioner Greenberg agreed with the amendment.**

Agency Director Hinds stated that penalty provisions have been increased in the last few months and it would be in the applicant's best interest to comply with this requirement to avoid fines in the future. Mr. Giacomini agreed.

**Motion passed 7/0.**

Commissioner Julin specifically asked for an oral or written report from staff in regard to a work plan to be presented to this Commission on a specific date. Agency Director Hinds agreed to come back in late August or early September.

*Chairman Thompson adjourned the Planning Commission meeting at 4:05 p.m.*