

MARIN COUNTY PLANNING COMMISSION HEARING MINUTES

August 8, 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
Eric Steger, Public Works, Senior Engineer
David Zaltsman, Deputy County Counsel
James Raives, Senior Open Space Planner
Leonard Charles, EIR Consultant
Thomas Lai, Principal Planner
Debbi Poiani, Senior Code Enforcement Specialist
Anna Camaraota, Assistant Planner
Jessica Woods, Recording Secretary

Minutes Approved on: August 22, 2005

Convened at 11:03 a.m.

Adjourned at 5:07 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 – None

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)

Joseph Fields, Marin resident, expressed concern for the Open Space Management Plan in regard to private lands. Alex Hinds, Agency Director, recommended that Mr. Fields review the plan for a better understanding. Staff then announced that the release date of the Countywide Plan would be August 19, 2005, at which time the CEQA process would start. The Notice of Preparation would be issued on the 22nd of August and there would be a scoping session in October or November.

Tim Haddad, Environmental Coordinator, discussed ground rules for field trip meetings in regard to the Redwood Landfill EIR and Lawson's Landing. Staff explained that if there is a quorum of the Commission it would be considered a special meeting under the Brown Act, and the meeting must be properly noticed so that members of the public or others with knowledge of the site or special expertise have the opportunity to attend and address the Commission at a time set either at the beginning or during the meeting. The Commission must be careful how business is conducted in regard to field trips. The purpose of the field trip is for the Commission to tour the project site. Staff and the EIR consultant will be present to answer the Commission's questions, but a dialogue with the public or "outside experts" or caucus among individual commissioners is not appropriate and should be avoided. The Commission's questions and concerns raised during the field trip will be recorded in a brief summary of issues, and the summary together with answers will be included in the Final EIR Response to Comments. Staff further pointed out that field trips were not scoped into the contract work, but staff would work on having a consultant attend the field trips.

Commissioner Dickenson indicated that he visited the Redwood Landfill and did not need to visit the site again. Commissioners Greenberg, Holland, and Ginalski desired to visit the Redwood Landfill. Commissioner Greenberg asked staff to e-mail the three Commissioners the potential dates for the field trip. Brian Crawford, Deputy Director, responded in the affirmative.

4. DIRECTOR'S REPORT

Board Meetings

August 9, 2005

- First Reading of Noise Ordinance

August 16, 2005

- Second Reading of Noise Ordinance
- Consider Marin Horizon School Appeal
- Certificate for Green Business Awards Program

August 30, 2005

- Single-Family Residential Design Guidelines Review Appeal
- Coastal Commission Appeal of Moritz Approvals
- Contract Amendment for Initial Study of a Storage Facility

5. FUTURE AGENDA DISCUSSION ITEMS, FIELD TRIPS

August 22, 2005

- Easton Point Appeal
- GIS Presentation
- Luncheon in Honor of Former Planning Commissioner Allen Berland

September 12, 2005 – Scheduled at 11:00 a.m.

- Lawson's Landing DEIR
- Freedman Land Division in San Anselmo
- Design Review in Strawberry

6. FINAL ENVIRONMENTAL IMPACT REPORT: CASCADE CANYON/WHITE'S HILL OPEN SPACE MANAGEMENT PLAN TH/JR

The Plan identifies several actions to implement its goals of managing resources and uses of the preserves. Specifically, it provides for the management of biological resources, recreational use, water quality, trails, and fire hazards on the preserves. The Cascade Canyon Preserve is located in the unincorporated county **west of the Town of Fairfax and the White Hill Open Space Preserve** abuts the north edge of the Cascade Canyon Preserve.

Tim Haddad, Environmental Coordinator, summarized the staff report and recommended that the Commission review and consider the Final EIR and administrative record, and then move to approve the attached Resolution recommending that the District's Board of Directors certify the Cascade Canyon and White Hill Open Space Preserves Management Plan Final EIR as adequate and complete pursuant to CEQA, the State EIR Guidelines, and the Marin County Environmental Review Guidelines and Procedures.

James Raives, Senior Open Space Planner, summarized the Cascade Canyon and White Hill Open Space Preserves Management Plan for the Commission's consideration. He explained that the primary goal is to protect and enhance the Preserves' biological, geologic, hydrologic, and scenic values. The secondary goals are to maintain and enhance use of the Preserves, reduce the threat of wildfire, and minimize impacts on the surrounding community. Also, the plan identified nine management programs to implement its goals, which he discussed for the Commission's review. He then provided a modified Resolution, a mitigated monitoring and reporting program, and a draft response to Martha Ture's letter for the Commission's consideration.

Commissioner Greenberg desired to review the material provided during the lunch break in order to make a decision on this matter. The Commission and staff agreed.

The hearing was opened to the public.

Linda Novy, Fairfax resident, appreciated the changes made to the DEIR by staff, but expressed concern for the Split Rock Trail being designated as a legal trail versus the trail that runs above the waterfall. She felt by legalizing the Split Rock Trail there will continue to be illegal bike use. Also, there is no recommendation for bridges over a couple of the creek crossings and she believed the bridges are important and should be addressed in this plan.

Leonard Charles, EIR Consultant, indicated that bridges were considered in the EIR but not recommended due to adverse environmental effects, and the recommendation provided in the plan provides an environmentally preferable method to address the crossings. Open Space Planner Raives noted that the EIR considered bridge alternatives, which involved more significant environmental impacts. Also, in regard to the Split Rock Trail, staff felt that the trail is a better alternative because the waterfall trail has potentially significant impacts. Staff added that the plan calls for some modifications to the Split Rock Trail to solve some of the problems with erosion.

Environmental Coordinator Haddad noted that page 28 of the Final EIR includes recommendations to coordinate with MMWD regarding maintenance and use of the Split Rock Trail in regard to providing fencing and a stile at the north end of this trail to block bicycle use.

Commissioner Barner desired a definition of "voice control" in terms of response times in regard to dogs. He also felt some consideration should be given to address cat impacts on wildlife. Consultant Charles

responded that the Open Space District's policy is that dogs can be on a fire road up to 20 feet away from the owner, and the only way to have complete control is to require that all dogs be leashed.

Chairman Thompson reviewed the Final EIR and asked staff for the standard for bio-diversity. Consultant Charles responded that there is not a definition included, but the basic idea is to maintain the bio-diversity that exists and address potential impacts from additional use.

Commissioner Greenberg expressed concern for the number of discrepancies in regard to parking places and the definition of fire reduction related to private land abutting the reserve, and believed it should be made explicit so there is no misunderstanding in regard to fire issues.

Commissioner Ginalski asked staff if this document is complete and adequate and should be recommended for certification by the District. Environmental Coordinator Haddad responded that there are some questions that have been raised and the Commission did receive some recent information, but staff and the consultant's view is that the issues raised are not detrimental to the recommendation that the EIR is adequate. All questions and concerns would be made part of the record to the Final EIR that would address issues to enhance the EIR. Also, staff would provide more detailed and clarifying answers to the questions by the Commission today after the short recess.

Commissioner Barner noted that the purpose of the EIR is not to answer every conceivable question, but rather to provide information for decision-makers to make an informed decision, and it is that basis on which the Commission is expected to take a vote. Environmental Coordinator Haddad concurred.

Commissioner Julin commended staff on the very well written staff report and has no difficulty recommending certification of the Final EIR and believed the document before the Commission is more than adequate.

Commissioner Holland discussed the traffic mitigation in regard to trimming of the trees and believed the mitigation must include a maintenance element. Also, in regard to page 11 of the Final EIR and on page 149 of the Response to Comments section in terms of "*first rains of the year*," he suggested adding the word "*typically*" and deleting the word, "*any*" to state, "*these rains typically provide sufficient moisture in standing vegetation to retard the ability of fire escaping the burn pile.*" He then discussed page 167 of the Response to Comments section in regard to the statement that parking on White Hill is allowed unless the County bans parking, and asked staff to address that matter because parking in that area is needed.

The public hearing was closed.

Chairman Thompson announced at 12:31 p.m. that the Commission would take a lunch recess and then reconvene at 1:15 p.m. to finalize action on Cascade Canyon/White Hill Open Space Management Plan.

Open Space Planner Raives stated that the Split Rock Trail was reviewed, but from an environmental perspective, the problems with Split Rock are easier to fix versus the Cascade Waterfall Trail, which is adjacent to the stream that would involve impacts to vegetation and creeks, so the Split Rock Trail is the environmentally superior alternative. In regard to fuel reduction by adjacent landowners, the District allows fuel reduction on District land by adjacent neighbors as required by the Fire Department. Also, cats were not an issue discussed during the public meetings for developing the plan and it did not emerge as an issue, so that is why the plan did not address the issues of cats. Also, in regard to the definition of "voice control," the District has a policy that rangers in the field use. He explained that an owner can call the dog twice, the dog has 15 seconds to respond and the dog must be no more than 20 feet away. In terms of disabled access, this is an issue for the District and it is being addressed. Recently they

implemented a barrier reduction for ADA accessibility as well as adopted a new policy for disabled access.

Consultant Charles pointed out that the accurate number of parking spaces is 89 to 95. In terms of trimming the trees, he agreed to change the monitoring program to indicate that it would be an ongoing responsibility. Also, staff agreed to change the “*first rains*” language as suggested by Commissioner Holland and to delete the reference to the county banning parking.

Open Space Planner Raives clarified that the implementation of actions in the management plan depends on funding. If the EIR identified a mitigation measure that goes with the particular action, it will be a part of the project and would not be dependent on funding. Staff explained that actions are dependent on funding, but mitigation is not. Staff pointed out that the recovery plan has not been adopted and the Department of Fish and Game has a management plan for steelhead trout that addresses general fish management issues and constraints on several watersheds and the Corte Madera watershed was not listed. Also, there is no requirement in CEQA to incorporate other management plans into their plans. Staff pointed out that the management plan does not identify modifications to the stream, but provides for erosion control measures. Also, impacts are addressed from increased use in the EIR. Staff evaluated the environmental impacts from the management plan and followed CEQA requirements. In terms of inconsistency with the Endangered Species Act, it requires staff to either avoid taking of endangered species or to receive a permit pursuant to Section 10 of the Act and staff’s intent is to avoid any impact to endangered species.

Commissioner Julin recommended that the Commission recommend that the FEIR be certified. She stated that all testimony, written and oral, can be an addendum to the Board. Commissioner Barner concurred.

Commissioner Dickenson was pleased to view the additional information and is satisfied with the FEIR.

Chairman Thompson asked for a motion.

M/s Julin/Holland that the Commission adopt the Resolution submitted by staff, with the addendum to comments and responses heard today, recommending that the Marin County Open Space District Board of Directors certify the Cascade Canyon and White Hill Open Space Preserves Final EIR.

Chairman Thompson conducted a roll call vote with all Commissioners in favor.

Motion passed 7/0.

MARIN COUNTY PLANNING COMMISSION
RESOLUTION NO. PC05-011

A RESOLUTION RECOMMENDING THAT
THE MARIN COUNTY OPEN SPACE DISTRICT BOARD OF DIRECTORS CERTIFY
THE CASCADE CANYON AND WHITE HILL OPEN SPACE PRESERVES
FINAL ENVIRONMENTAL IMPACT REPORT

- I. WHEREAS, in September 2000, the Marin County Open Space District (District) completed a draft plan to manage the 497-acre Cascade Canyon Open Space Preserve, which is located north and west of the Town of Fairfax, and the 390-acre White Hill Open Space Preserve, which abuts the northern boundary of the Cascade Canyon Preserve. The plan's primary goal is to protect and enhance the biological, geologic, hydrologic, and scenic values of the Preserves. Its secondary goals are to improve public use of the Preserves, reduce the threat of wildfire, and minimize impacts to the surrounding community. The plan implements these goals through nine programs that manage biological resources, wildfire threats, trails, public use, and signs and information. The plan also includes programs for enforcing District codes and monitoring the implementation of the plan; and
- II. WHEREAS, on May 18, 2004, the District sent the Draft EIR, "Notice of Completion," and notice of public hearing on the Draft EIR to members of the Planning Commission, Board of Supervisors, State Clearinghouse, state and local agencies, special districts, surrounding property owners, and other parties. The District published the "Notice of Completion" and notice of public hearing in a newspaper of general circulation to begin the 45-day public review and comment period on the adequacy of the Draft EIR. The public review and comment period ended on July 9, 2004; and
- III. WHEREAS, on June 21, 2004, the Marin County Planning Commission conducted a public hearing to receive testimony on the adequacy of the Draft EIR. Interested parties presented oral and written comments at the hearing. Following the close of the public hearing, the Commission directed the District to prepare a Final EIR and "Response to Comments" after the close of the comment period; and
- IV. WHEREAS, on June 23, 2004, the former Marin County Parks, Open Space, and Cultural Commission conducted a public hearing and receive oral and written testimony; and
- V. WHEREAS, on July 9, 2004, the public review and comment period on the Draft EIR closed, and written comments were received on the Draft EIR until 4:00 p.m. on that date; and
- VI. WHEREAS, on July 21, 2005, the District distributed the Final EIR, Response to Comments, a notice of distribution of the Final EIR, and notice of a public meeting before the Planning Commission to members of the Planning Commission, Board of Supervisors, State Clearinghouse, state and local agencies, EIR commentors, and other interested parties. The District published the notice of distribution of the Final EIR and notice of the public meeting

before the Planning Commission in a newspaper of general circulation to begin a 10-day public review and comment period on the Final EIR ending on August 1, 2005; and

- VII. WHEREAS, the 10-day comment period on the Final EIR closed on August 1, 2005, and written comments were received on the Final EIR until 4:30 p.m. on that date; and
- VIII. WHEREAS, on August 8, 2005, the Marin County Planning Commission conducted a public meeting to consider a recommendation to the District Board of Directors to certify the Final EIR. The District provided to the Commission a Final EIR, Response to Comments, and a staff report recommending certification of the Final EIR; and
- IX. WHEREAS, the Marin County Planning Commission has reviewed and considered the information in the Draft EIR, Final EIR, Response to Comments, Final EIR Appendices, and EIR administrative record, for adequacy, completeness, and compliance with CEQA, State CEQA Guidelines, and County Environmental Review Procedures.

NOW, THEREFORE, BE IT RESOLVED, that the Marin County Planning Commission makes the following findings:

- 1. Notice of the Planning Commission hearing on the Draft EIR and meeting to certify the Final EIR was given as required by law and the actions were conducted pursuant to State CEQA Guideline Sections 15088, 15088.5, 15089, 15090; and
- 2. All individuals, groups, and agencies desiring to comment were given adequate opportunity to submit oral and written comments on the Draft EIR and to submit written comments on the adequacy of the Final EIR for certification. These opportunities for comment meet or exceed the requirements of CEQA and the County Environmental Review procedures; and
- 3. The Management Plan's Final Environmental Impact Report consists of the Final EIR, appendices (including a draft mitigation monitoring program), and Response to Comments; and
- 4. All comments submitted during the public review and comment period on the Draft EIR, the public hearings on the adequacy of the Draft EIR conducted by the Planning Commission and the former Parks, Open Space, and Cultural Commission, and the public review and comment period on the Final EIR were responded to adequately; and
- 5. The Planning Commission was presented with all of the information in the administrative record, testimony, and EIR documents for the project Final EIR, and the Commission has reviewed and considered this information and the Final EIR; and
- 6. The District has completed the Final EIR in compliance with the intent and requirements of CEQA and the State CEQA Guidelines, and the County EIR process, and reflects the independent judgment of the County of Marin. The Parks and Open Space Commission has considered and will continue to consider the information contained in the Final EIR prior to making recommendation to the District Board of Directors regarding the project or any of the project options or alternatives.

NOW, THEN LET IT BE FURTHER RESOLVED that the Marin County Planning Commission recommends that the Marin County Open Space District Board of Directors certify the Final Environmental Impact Report for the Cascade Canyon and White Hill Open Space Preserves Management Plan as adequate and complete in compliance with CEQA, the State CEQA Guidelines and the County

Environmental Review Procedures, and is adequate and complete for consideration in making a decision on the merits of the project.

PASSED AND ADOPTED at the regular meeting of the Planning Commission of the County of Marin, State of California, on the 8th day of August 2005, by the following vote to-wit:

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

NOES: None

ABSENT: None

STEVE C. THOMPSON, CHAIRPERSON
MARIN COUNTY PLANNING COMMISSION

Attest:

Jessica Woods
Recording Secretary

Public hearing to consider the Bruce Seltzer appeal of the Community Development Agency's Design Review Clearance determination approving the Peter Pappas proposal to install a 10-foot, 9-inch high patio cover in the rear yard of a property which is being developed with a residence, garage, pool house, and swimming pool. The proposed patio cover would span a distance of approximately 65 feet between the pool house and garage and would maintain a minimum setback of 24 feet from the nearest portion of the rear property line that is located to the east. In addition, the applicant proposes to install a wooden screen around two air conditioning units that are located on the roof of the adjoining garage. The following bases for appeal were cited: (1) the patio cover results in an oversized secondary structure that exceeds the originally-approved plan, is contrary to previous County decisions, and would be visible from surrounding properties; (2) no public or community review was provided; (3) construction commenced on the patio cover prior to issuance of a building permit; (4) other structures are not in compliance with the original approvals; and (5) the development has resulted in construction impacts relating to roadway damage, inadequate erosion control, grading impacts, and violation of construction hours. The property is located at **465 Fawn Drive, San Anselmo** and is further identified as **Assessor's Parcel 177-071-07**.

Thomas Lai, Principal 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 appeal and sustaining the Community Development Agency's determination on the Design Review Clearance. Staff pointed out that a letter was received from the applicant's attorney, Peter Kleinbrodt, noting that partner Neil Moran, who is handling this matter, will be out of the State on the scheduled date for the hearing and respectfully requesting that the Commission continue this matter to the next Planning Commission hearing presently set for August 22nd, 2005.

Commissioner Dickenson discussed the staff report on page 3, which omits the history of the Planning Commission's denial of the previous application. Also, page 5 of the staff report referred to the garage being reduced in size and in his view it looks to be the same size. Principal Planner Lai responded that the most recent measurements confirmed that the garage has been modified to reflect the approved length and width. Staff added that the pool house is in conformance with the County's approvals.

Commissioner Julin asked staff if there is a time limit for the applicant to apply for a Minor Design Review. Principal Planner Lai responded that it is within the Commission's jurisdiction to determine an appropriate timeframe, and if the applicant did not comply, the matter would be referred to the code enforcement staff for further action.

Commissioner Greenberg stated that in reducing the size of the pool house they now have a larger roof than what was originally approved. Principal Planner Lai responded that while the roof coverage is larger, the interior floor area is the same as that which was originally approved. Commissioner Greenberg then explained in great length that she is very concerned about the patio cover and that the record needs to be clear as to the entire scope of the proposed work, which includes the interior floor and roof, new location and extended length of the retaining walls, and additional grading both above and below the proposed patio cover.

Commissioner Holland referred to reports that the Sheriff was called many times about after hours work and asked staff if those complaints were considered formal complaints. He also asked staff the purpose for including the tennis court analysis. Principal Planner Lai responded that staff overlaid a 60 foot by 120 foot area, based on normal dimensions for a tennis court to show that a court could not fit entirely within the property. In response, Commissioner Holland noted that this would not preclude the installation of a smaller, single-court sized tennis court.

Debbi Poiani, Senior Code Enforcement Specialist, noted that on December 11th 2003, the garage was red tagged by the Building and Safety Inspection Division staff for being 116 square feet larger than was approved, but that a subsequent inspection by Building and Safety Inspection Division staff found it to be in compliance with the approved dimensions. Also, her office has not received documented complaints from the Sheriff's Office of construction-related violations. She noted that one of the neighbors informed her that they had contacted the Sheriff's Office regarding construction hours. She indicated that the Sheriff's Office normally forwards copies of their reports relating to land use complaints and that she had not received any reports.

Commissioner Barner asked staff to contact the Sheriff's office during public testimony to know whether or not complaints were made. Ms. Poiani responded in the affirmative.

The hearing was opened to the public.

The following concerned citizens supported Mr. Seltzer's appeal and urged the Commission to reverse the Community Development Agency's decision and other actions as explained in the letter dated July 29, 2005. The construction and grading should be limited to that which was shown in the original approvals; further expansion of this property should be stopped; the patio cover has greatly impacted the surrounding homes and land due to increased water runoff, there are significant negative visual impacts, the property has been subject to never-ending construction, future use of the area above the patio cover would increase noise; and the Commission should sustain this appeal and order this structure, or any substitute structure that is designed to accommodate human activity to be removed. In addition, the Commission should take whatever steps are necessary to ensure that the roofs of the pool house and garage are not allowed to be used as an activity area as well:

- Reverend Edgar Welty, San Anselmo resident
- Ruth Grizwald, San Anselmo resident
- Shanon Man, San Anselmo resident
- Kim Iaconetti, San Anselmo resident, submitted letter to Commission and staff
- Ann Robinson, San Anselmo resident, recommended defining "play court."
- Glen Keys, San Anselmo resident

Bruce Seltzer, appellant, submitted a letter to the Commission and staff for their consideration, which he read into the record and requested that the Commission adopt all recommendations and suggestions included in several letters submitted by the neighbors and himself.

Peter Pappas, applicant, requested that the Commission consider the correspondence from his attorney to continue the matter to August 22nd, 2005. Also, he noted that he had fixed the error that was originally made to the garage structure, and that the current garage is actually smaller than that shown in the approved plan. The overhang adjacent to the garage consists of a covered breezeway with the opening entrance being per the approved plans as confirmed by the building inspector. He is sensitive to all the neighbors' concerns and apologizes that the project has impacted the neighborhood. Furthermore, he has attempted to reach out to Ms. Robinson to assure her that there will not be a sport court. In addition, the patio area will not be enclosed, it is merely a patio covering to have a barbeque and to sit in a shaded area out of the sun. He believed the patio cover would mitigate any noise impacts. The pool house is very durable, if the cement covering is an eyesore, it could be covered or painted. Also, he made an error on Sunday in regard to hours of operation and the Sheriff's office has been called, but they could not find a violation. At this time they are attempting to abide by the rules and regulations and hoped his comments would be taken into consideration.

Commissioner Dickenson asked Mr. Pappas to explain the intended use of the roof. Mr. Pappas responded that the intended use of the roof is to border the perimeter with planter boxes, and that flowering vegetation would fall over the roof in a cascade fashion. Also, Monterey cypress would be planted to provide additional screening and privacy.

Commissioner Dickenson noticed the existing pool with a disappearing edge is not as shown on the plans. Mr. Pappas responded that the pool is constructed per the approved plans and it is actually shorter than what is permitted.

Sophie Pappas, wife of applicant, pointed out that several individuals in the neighborhood believed the residence to be a lovely home. Also, she reiterated that a sports court is not being built, just a patio cover for privacy. She noted that Mr. Seltzer is not impacted nor are the other neighbors because the patio cover is located in the Pappas' backyard. She agreed to add a condition that specifies only a patio cover is to be built to address the issue and ensure the public and Commission of its intended use.

The public hearing was closed.

Principal Planner Lai indicated that the original approval was for a four-car garage and what exists today is per the original plans and further verified by the building inspection staff.. He then provided the Commission with elevations showing the approved breezeway connection to the garage for their review.

Senior Code Enforcement Specialist Ms. Poiani reported that the Sheriff's Office could not access their database at the present time, but that a report would be available in a week.

Agency Director Hinds stated that it would be beneficial for the Commission to have a direct discussion about this project today, given the presence of the applicant, appellant, and public, but recommended that the Commission continue the item before making any final recommendations as requested by the applicant's attorney.

Commissioner Julin discussed the letter received on August 3rd from the attorney and asked staff if a decision could be made today even if a letter was received prior to the hearing. Agency Director Hinds responded that the Commission could make a decision today, but it is fairly standard practice to grant continuances when requested.

Commissioner Barner asked staff if alternative patio covers could be considered such as an umbrella because his main problem is with the bulk and mass. Principal Planner Lai responded in the affirmative and added that another option to consider would be to replace the steel framed structure with a traditional wood framed design with vines for a softer appearance.

Commissioner Holland believed this should have required a Minor Design Review due to the size and type of structure and a Design Review Clearance should not have been granted. He would uphold the appeal. He felt a wood structure would be more appropriate than a steel framed structure. He is not in favor of a continuance because the applicant signed a waiver when he received a building permit and he should have anticipated an appeal. However, he desired a Resolution that would provide findings for sustaining the appeal, and in order for staff to prepare that Resolution it must be continued, which will provide the applicant an opportunity to come back in two weeks with his attorney.

Commissioner Julin concurred with Commissioner Holland's comments. She respectfully disagreed with staff's recommendation. She desired to uphold the appeal and if possible require what has been constructed as a patio cover to be removed, and if not, require that a Minor Design Review application be filed within a reasonable 30 day period; otherwise what is there would be considered a public nuisance.

Commissioner Dickenson agreed that a continuance on this matter is not needed. He thought the Commission was very clear a few years ago that the applicant was legally able to build the house and pool house as permitted. In his view, what is proposed is not appropriate. He then expressed concern for the fact that the neighbors had to file an appeal and pay a fee in order to get back to what the Board and Commission decided two years ago.

Commissioner Barner agreed to continue the application to allow the applicant's attorney an opportunity to address the Commission as requested in the letter, which in his view would not be time lost because staff would need to prepare a modified Resolution anyway.

Agency Director Hinds believed it would be very appropriate for the Commission to provide initial direction, so staff could come back with a modified Resolution.

Commissioner Greenberg favored upholding the appeal because she is very troubled by the unapproved grading on both the lower and upper level of the patio. She pointed out that the grading and drainage implications on this steep hillside are not addressed and should not be allowed. She agreed that connecting the two adjacent roofs is very different than having a garage at one end and then a pool house at the other end. She added that this new design increases the bulk on the site and overwhelms the site. In regard to the findings made in the proposed Resolution, she believed the impact is not minor or incidental. Also, the proposed patio cover is a roof constructed of steel beams and cement with future opportunity to enclose that area, which would be enormous. She believed the upper concrete area must have a railing, which will add to the bulk and visibility of the structure that will outline the structure from many viewpoints. She stated that the material may be consistent, but the design is not consistent. She desired an approved landscaping plan with native plants with heights at maturity which will not block neighbors' views. She commented on the air condition unit on the roof, which would have impacts visually as well as noise impacts and it must be integrated into the design of the house. She supported the idea of requiring the applicant to file for a Minor Design Review within 30 days upon resolution of this item, and if not applied by that time the associated roof, hardscape and grading of the hill should be restored.

Commissioner Ginalski reviewed materials of this site and believed all parties should have a voice and planning staff wants to be accommodating, but it is hard to build in an infill lot and address needs of the neighbors. He found that by allowing technical amendments over the course of many years what has resulted is a "monster" home. In his view, he did not believe the appearance today by the applicant's attorney recently retained would add anything to the equation and recommended denying the application and moving forward in granting the appeal in order to take it to the next level. He further believed the Commission should not be involved in providing advisory planning.

Deputy Director Crawford stated that in order to approve a Design Review Clearance it must be found consistent with Design Review findings, so the Commission could deny the clearance based on the inability to make the Design Review findings. Alternatively, the Commission could deny the Design Review Clearance based upon more process-oriented reasons such as a full public notice in advance of a decision. Also, a Design Review Clearance could be denied to provide the opportunity to consider conditions for the project, and direction from the Commission on a modified application could be provided as well.

Commissioner Julin clarified that the Commission could uphold the appeal and rather than ask that the applicant apply for a Minor Design Review permit, the Commission could state that the site shall be restored with the structure removed. Deputy Director Crawford responded that only the Design Review Clearance could be acted upon today.

Agency Director Hinds explained that the code enforcement process consists of a different process through a separate hearing officer, although the Commission could make findings and recommendations in that regard.

Chairman Thompson agreed to uphold the appeal because he has problems allowing the enclosure in place and is not certain deed restrictions would be adequate. He believed a planting solution to the privacy issue should be considered. He agreed that removal of structure and revegetation with a very good landscape plan would be appropriate.

Agency Director Hinds recommended that the Commission direct staff to prepare a Resolution and continue the hearing to August 22nd, 2005.

Chairman Thompson asked for a motion.

M/s, Dickenson/Greenberg, to continue the matter to the August 22nd, 2005 Planning Commission meeting and direct staff to prepare a revised Resolution granting the appeal; denying the Design Review Clearance approval; and recommending that the site be restored to that which is currently approved.

Motion passed 7/0.

Chairman Thompson announced at 3:44 p.m. that the Commission would take a short recess and then reconvene with the final agenda item.

Public hearing to consider the Geoffrey Telford Appeal of the Deputy Zoning Administrator's denial of an application for construction of an approximately 25-foot high, 2,140 square foot single-family residence and a 440 square foot detached garage on a vacant lot in Inverness. The project also includes construction of an approximately 545 square foot deck on the north (downhill) elevation of the proposed residence, resulting in a deck that is approximately 13.5 feet in height above grade where a 10-foot maximum is allowed. The new residence would maintain the following minimum setbacks from the closest corresponding property lines: 63 feet from the north (front) property line, 100 feet from the south (rear) property line, 5 feet from the east (left side) property line, and 5 feet from the west (right side) property line. The 14-foot high, detached garage would be located within the northwest corner of the subject property adjacent to Vallejo Avenue and would maintain the following minimum setbacks from the closest corresponding property lines: one foot from the north (front) property line, and one foot from the west (right side) property line. The appellant has noted that the basis for denial of the application as set forth by the Deputy Zoning Administrator is arbitrary and capricious. The subject property is located at **9 Vallejo Avenue, Inverness**, and is further identified as **Assessor's Parcel 114-273-09**.

Anna Camaraota, 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 Telford Appeal and upholding the Deputy Zoning Administrator's denial of the Telford Coastal Permit and Design Review. Alternatively, staff recommended that the Planning Commission consider continuing the hearing to allow the applicant to explore feasible siting and design options that respond more positively to the applicable policies and standards outlined.

Commissioner Holland asked staff to discuss the visibility of the story poles from across Tomales Bay along Highway 1. Planner Camaraota responded that story poles and photographs were not taken from the other side, but landscaping is proposed to screen the development. Agency Director Hinds felt this project would be more visible from Mesa and Point Reyes. Commissioner Holland pointed out that he drove up and down Highway 1 and could not detect the story poles.

Commissioner Dickenson asked staff if there was an understanding that moving the house 12 feet is consistent with the approved septic plan. Planner Camaraota responded that it is an acceptable setback.

The hearing was opened to the public.

Onju Updegrave, applicant, stated that the location as shown is more in conformance with staff's recommendation to the Deputy Zoning Administrator and the proposal is responsive to the neighbors' concerns. Also, moving the building down to the street is not found on a hillside within this neighborhood. It is more typical that a building is located further above the street in order to create a buffer. There are nearby properties that are accessed from the upper street. Therefore, this building is more consistent and less looming over this neighborhood. They have not redesigned the septic system because the already approved system is one that is most sufficient and best in conformity to all department standards. Additionally, a re-design of the septic system is prohibitive due to the cost and the requirement for the 50-foot setback between watercourses and the septic leach field. Finally, the realignment of the steps that lead to the house accomplishes the goals and intentions of the DZA for easier access, but in a manner that is in keeping with the community. They believe that the revised plans address staff's concerns related to visual impacts and work best with this difficult site and they are willing to continue working with staff for the best result.

Commissioner Dickenson asked the reason for the 3-foot setback for the deck. Ms. Updegrave responded that to be any closer, fire rated walls and eaves are needed and they desired as much deck as possible for outdoor space.

Alex Riley, Inverness resident, felt the applicant is trying to address all concerns with this difficult site and encouraged the Commission to approve the project.

David Dillon, Greenbrae resident/owner of adjacent property, believed the modified plan addressed all his objections, other than the 1-foot setback off his property line, but due to the parking constraints he would not have any objection. He also recommended that the Commission approve the project. He further pointed out that a little down slope is acceptable, but bringing the home all the way down to the street would impact the neighborhood.

Peter Gradjansky, neighbor/landscape architect, expressed concern for the visual impacts and believed landscape details are very important for the entire site. He then encouraged the applicant to build a home as far down near the street as possible.

The public hearing was closed.

Commissioner Greenberg asked staff if consideration has been given to the placement of a home on the adjacent lot. Planner Camaraota responded that she did not assess the neighboring site, but noted that the configuration and topography are similar. Mr. Dillon noted that he may never build in that area, but he would take the adjacent property into account, which he did not believe would be a major hurdle. Also, the only reason this house is seen is because all the trees were removed prior to Mr. Telford purchasing this lot.

Commissioner Barner expressed concern for a motion sensor in regard to lighting due to wildlife in the area and a visual blight that might be created. Planner Camaraota responded that there might be other solutions such as adding light switches at both the top and bottom of the steps. Commissioner Barner recommended that staff consider additional solutions. Agency Director Hinds noted that the lighting would be low wattage and very well shielded.

Commissioner Holland believed the proposed location is the best approach rather than coming all the way down to the garage. There are still some minor items that could be worked out with staff, so a continuance would be acceptable to work matters out with staff and then staff could prepare a Resolution for approval.

Commissioner Dickenson felt the DZA's idea of moving the house down to the garage would be a major mistake and moving it 12 feet downhill is a good compromise, which reduces the number of stairs while still providing an area for landscaping between the house and the garage, so he is prepared to grant the appeal. He recommended continuing the matter for staff to prepare a revised Resolution and conditions. He expressed concern for the view of the retaining walls from the street and desired elevations from the street.

Commissioner Greenberg stated that higher the house is on the hillside the less visual it will be to those driving by and if colored, trimmed and landscaped properly, higher on the hill would not be an impact. She has no problem with the applicant not coming down the 12 feet in order for those passing to have more hillside to view. She expressed concern for the colors and recommended that the house be dark in color as well as the trim and eaves in order for the house to disappear. Also, she had no objection for lighting sensors, but options should be explored. She then discussed the retaining walls on the street to allow for extra parking and with overhanging plantings that would soften that area enormously. She

recommended that steps off the parking area be natural stone, rather than concrete. She further believed the applicant did a great job with an impossible site and it should be approved.

Commissioner Julin concurred with Commissioner Greenberg and Dickenson's comments. She discussed page 2 of the Resolution and pointed out that the date should be changed to August 8th, 2005 and on page 3 in regard to archaeological resources a clause should be added to state, "*in the event such resources are encountered during grading.*" Also, page 4 in regard to wildlife habitat, staff should double-check the endangered species. She further asked that some building material samples be provided at the next meeting.

Agency Director Hinds believed the garage doors as well as the retaining walls must be given additional detail.

Chairman Thompson asked for a motion.

M/s Holland/Julin to continue the hearing to September 26, 2005, with the applicant's concurrence and direct staff to prepare a Resolution with findings to grant the appeal and approve the modified application.

Deputy Director Crawford provided the Commission with information on a Petaluma river tour of the Redwood Landfill as follows: suubrown@comcast.net

Chairman Thompson adjourned the Planning Commission meeting at 5:07 p.m.