

MARIN COUNTY PLANNING COMMISSION HEARING MINUTES

October 24, 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 (arrived at 11:19 a.m.)
Wade Holland

Commissioners Absent: None

Staff Present: Alex Hinds, Director, Community Development Agency
Brian Crawford, Deputy Director of Planning Services
Ben Berto, Principal Planner
Eric Steger, Senior Civil Engineer, Department of Public Works
Jeremy Tejrjian, Planner
Christine Gimmler, Senior Planner
Kim Shine, Recording Secretary

Minutes Approved on: November 14, 2005

Convened at 10:36 a.m.
Adjourned at 4:18 p.m.

1. INITIAL TRANSACTIONS

- a. Incorporate Staff Reports into Minutes
M/s Julin/Holland to incorporate the staff reports into the Minutes. Motion passed 7/0/0.
- b. Continuances – Coastal Permit, Design Review, and Merger Appeal: Hillenbrand (Pace/Labovitz)
Both applicant and appellant requested a continuance. With no one present from the public to speak on the item, consideration of the item was continued to the meeting of November 14, 2005.
- c. Approval of Minutes – September 26, 2005
M/s Holland/Julin to approve the minutes of September 26, 2005, as amended. Motion passed 7/0/0.
Approval of Minutes – October 10, 2005

Deputy Director Crawford told the Commission that a question had arisen from Commissioner Greenberg regarding the October 10, 2005, testimony of Environmental Coordinator Tim Haddad regarding the Initial Study and the baseline. Staff suggested a transcript be prepared to resolve Commissioner Greenberg's concern. The Commission agreed and deferred approval of Item 9 of the October 10, 2005, minutes until the next regular meeting. The Commission also discussed the format of the minutes.

- Catherine Caufield, representing the Environmental Action Committee (EAC) of West Marin, addressed the commission regarding the baseline used for the Lawson's Landing DEIR and reiterated that neither the EAC nor their attorney had agreed to any use figures, and that the environmental coordinator's testimony that they had agreed with the use figures is incorrect. She emphasized the EAC's contention that the numbers used in the existing uses baseline are wrong, and asked that the record reflect that the Commission instructed staff to use a certain approach, i.e., using existing uses in the baseline, but did not instruct staff to use certain numbers.
- Gordon Bennett, representing the Sierra Club, addressed the Commission and reiterated that all the baseline numbers have to be backed up by reasoned analysis and substantial evidence.

M/s Holland/Ginalski to approve the minutes of October 10, 2005, as amended, excluding Item 9, Lawson's Landing, pages 7 through 10, and further directed staff to reformat the McEvoy and Kidson minutes as discussed. Motion passed 7/0/0.

2. COMMUNICATIONS – The Commission acknowledged several pieces of correspondence received.

3. DIRECTOR'S REPORT

- Commission meetings will be recorded in a digital video format in the near future.
- An EIR scoping session for the Countywide Plan is scheduled for October 26, 2005.

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

Commissioner Julin gave a follow-up report on The Threatened and Endangered Species Recovery Act of 2005.

5. FUTURE AGENDA DISCUSSION ITEMS, FIELD TRIPS

November 14, 2005

- Mt. Tamalpais Cemetery MP
 - Millstein DR
 - Eastwood Park DR Appeal
- November 15, 2005** - Mease Site Visit
November 28, 2005
- Mease/Salah NegDec/LD/PDP/DR

- Zerull Appeal of Design Review
December 5, 2005 (Special Meeting)
- Redwood Landfill FEIR
December 12, 2005
- Las Cumbras Design Review/Initial Study
- Vlahos Design Review
- Felling Design Review and Initial Study

6. RATIFICATION OF RESOLUTION UPHOLDING THE SCHLESIGNER APPEAL,
DENYING THE MCEVOY APPEAL, AND DENYING IN PART AND APPROVING
IN PART THE MCEVOY USE PERMIT AND DESIGN REVIEW APPLICATIONS

CH

Ratification of resolution upholding the Schlesinger Appeal, denying the McEvoy Appeal, and denying in part and approving in part the McEvoy applications to construct the following improvements on the McEvoy Olive Ranch in Petaluma: (1) a 660 kW, approximately 210-foot tall wind energy conversion system (WECS) for the generation of electricity; (2) an approximately 19.5-foot tall, 1,900 square foot accessory dwelling unit for the assistant orchard manager; and, (3) 1,415 square feet of office and storage additions onto the existing olive pressing barn building. The Vesta V47 wind turbine rotor has a radius of 23.5 meters (77 feet). The subject property is located at 5935 Redhill Road, Petaluma, and is further identified as Assessor's Parcels 125-070-05, -06, and -16.

Staff summarized the revised Resolution and recommended that the Commission review the Resolution, conduct a public hearing limited to the revised Findings in the Resolution, and move to adopt the Resolution with any further revisions that may be agreed upon by a majority of the Commission.

In addition to correcting formatting, grammatical, and typographical errors, the Commission asked that the following revisions be made to the resolution:

- Page 6, Finding VI, deleted and numbering adjusted
- Page 6, Finding VI, "...project is being denied based upon inconsistencies with general plan policies ..."
- Page 6, Finding VII-B, "...the proposed safety lighting required by the Federal Aviation Administration could, result..."
- Page 7, Finding VII-C, "...The noise impacts from operation of the WECS could..."
- Page 7, Finding VIII, "...use subject to Design Review..." and "...has not been determined..."
- Page 8, Finding IX-F-4, "...However, adequate information was not submitted to determine whether the proposed WECS, with a relatively low speed turbine, could, adversely affect the movement of raptors and other bird species."
- Page 9, Finding I deleted and numbering adjusted
- Page 11, Finding XXIII-C, "...distances from other properties."
- Page 13, Section II: CONDITIONS OF PROJECT APPROVAL, "...NOW, THEREFORE, BE IT RESOLVED that the Marin County Planning Commission hereby upholds the Schlesinger Appeal, denies the McEvoy Appeal and overturns the Deputy Zoning Administrator's conditional approval of the proposed WECS and sustains the Deputy Zoning Administrators conditional approval of the detached agricultural worker dwelling and addition to the existing olive processing facility (McEvoy Use Permit 03-31 and Design Review 03-67), subject to the following conditions."
- Page 14, Condition 5, "...shall construct, the project..."

- Deleted: cannot be approved
- Deleted: the project has not sufficiently demonstrated that
- Deleted: would not
- Deleted: project has not sufficiently demonstrated that
- Deleted: would
- Deleted: conclusively
- Deleted: In addition, the project site is not known as a migratory corridor for raptors or other wildlife and
- Deleted: single
- Deleted: should not
- Deleted: in part and sustains in part
- Deleted: action by
- Deleted: ly
- Deleted: ing
- Deleted: the
- Deleted: install

The public hearing was opened.

- Laure Reichel, 5925 Red Hill Road, Petaluma, addressed the Commission and stated her concerns that the proposed turbine would change the landscape; there is insufficient wind in the area to warrant the installation of a turbine of the size proposed; wind turbines of the proper size in the proper location could be a solution to energy problems as long as they do no harm to humans or animals; and an Alternative Energy Commission composed of independent experts, residents, and others should be formed to develop rules, regulations, and guidelines to address the present and future application of such technologies.
- Beverly McIntosh, 29 Woodland Avenue, San Anselmo, provided information to the Commission from the Public Interest Energy Program under the California Energy Commission regarding avian collisions.

The public hearing was closed.

Chairman Thompson asked for a motion.

M/s Dickenson/Ginalski to approve the Resolution, as revised in discussion today, upholding the Schlesinger Appeal and denying the McEvoy Appeal of the McEvoy Design Review 03-67 and overturning in part and sustaining in part the Deputy Zoning Administrator's Conditional Approval of the McEvoy Use Permit 03-31 and Design Review 03-67.

Commissioner Thompson called for a roll call vote, and the motion carried 6/1/0 (Commissioner Holland dissenting).

The Commission adjourned at 11:55 a.m. and reconvened at 12:13 p.m.

MARIN COUNTY PLANNING COMMISSION

RESOLUTION PC05-015

A RESOLUTION UPHOLDING THE SCHLESINGER APPEAL AND DENYING THE MCEVOY APPEAL OF THE MCEVOY DESIGN REVIEW 03-67 AND OVERTURNING IN PART AND SUSTAINING IN PART THE DEPUTY ZONING ADMINISTRATOR'S CONDITIONAL APPROVAL OF THE MCEVOY USE PERMIT 03-31 AND DESIGN REVIEW 03-67F
ASSESSOR'S PARCELS 125-070-05, -06, AND -16
5935 REDHILL ROAD, PETALUMA

SECTION I: FINDINGS

GENERAL

I. WHEREAS, Russ Morita, on behalf of the property owner, Nan McEvoy, submitted a Use Permit and Design Review to construct the following improvements on the McEvoy Olive Ranch in Petaluma: (1) a 660 kilowatt (kW), approximately 210-foot tall wind energy conversion system (WECS) for the generation of electricity; (2) an approximately 19.5-foot tall, 1,900 square foot accessory dwelling unit for the assistant orchard manager; and, (3) 1,415 square feet of office and storage additions onto the existing olive pressing barn building. The proposed office and storage additions would match the existing olive pressing barn building. Proposed building materials for the accessory dwelling unit include composition shingle roofing with board and batten siding. As proposed, the accessory dwelling will be located approximately 290 feet from the existing residence to the west and 260 feet from the storage and maintenance building to the southwest.

The proposed wind energy conversion system (WECS) consists of a 40-meter (131.2 feet) tall tubular tower with an 11-foot diameter base mounted with a Vesta V47 wind turbine. The Vesta V47 wind turbine rotor has a radius of 23.5 meters (77 feet). The WECS will have setbacks of 730 feet to the easterly property line, approximately 1,400 feet from the residence located on the Reichek property (Assessor's Parcel 125-070-15), and approximately 1,310 feet from the residence located on the Schlesinger property (Assessor's Parcel 125-520-01). Electricity generated by the wind turbine will feed into a Pacific Gas and Electric connection at the base of the tower, then connect to an existing electrical line on the property. The WECS will be painted with a white matte finish, and will include a shielded uplight on the nacelle of the wind turbine for aircraft safety in compliance with FAA standards.

Use Permit approval is necessary for the expansion of the olive processing facilities. Design Review approval is necessary for the WECS, the addition of additional building area to the existing olive processing facility in excess of 4,000 square feet, and for the agricultural dwelling unit.

The subject property is located at **5935 Redhill Road, Petaluma**, and is further identified as **Assessor's Parcels 125-070-05, -06, and -16**.

II. WHEREAS, on August 25, 2005, the Deputy Zoning Administrator granted conditional approval of the proposed project with modifications to the siting and color of the WECS, and that required the submittal of a report monitoring the avian resources in the area.

III. WHEREAS, on September 6, 2005, Sumner Schlesinger filed a timely appeal of the Deputy Zoning Administrator's decision regarding the Design Review approval for the WECS. The Schlesinger appeal asserts the following: (1) the overall height and scale of the WECS will impact views and vistas in the area; (2) the WECS will generate excessive noise levels; (3) the proposed uplight located on the nacelle (the

enclosed part of the wind turbine in which the generator is located) of the WECS will result in nighttime lighting impacts; (4) the WECS will not be compatible with the rural setting of the general vicinity; (5) the project will impact raptor and other avian resources; and (6) the siting of the WECS, as modified by conditions of approval, will locate the WECS closer to single-family dwellings on adjacent properties, and will violate the setback requirements of the Marin County Development Code for WECS.

- IV. WHEREAS, on September 6, 2005, Russ Morita, applicant and appellant representing property owner, Nan McEvoy, filed a timely appeal of the Deputy Zoning Administrator's decision regarding conditions of Design Review approval for the WECS. The McEvoy Appeal asserts the following: (1) the siting as modified by conditions of approval will be problematic from a geotechnical standpoint due to ridge grade and soil composition at that location and will violate the setback requirements of the Marin County Development Code for WECS; (2) the WECS cannot be painted to comply with conditions of approval because painting over the manufacturer's standard coating may affect the tower's resistance to corrosion and void the manufacturer's warranty; and (3) the WECS cannot be constructed to specifications listed in the proposal considered by the Deputy Zoning Administrator and conditions of approval because the only available WECS for purchase will have a total height of 246 feet (164-foot tall tower and rotor radius of 82 feet), tower base diameter of 12 feet, and maximum turbine power of 750 kilowatts.
- V. WHEREAS, the Marin County Planning Commission held a duly noticed public hearing on October 10, 2005, to consider the above appeals, the merits of the project in its entirety, and hear testimony in favor of, and in opposition to, the project.

FINDINGS UPHOLDING SCHLESINGER APPEAL, DENYING THE MCEVOY APPEAL AND OVERTURING DEPUTY ZONING ADMINISTRATOR'S CONDITIONAL DESIGN REVIEW APPROVAL OF THE WIND ENERGY CONVERSION SYSTEM (WECS)

- VI. WHEREAS, the Marin County Planning Commission finds that, pursuant to the State CEQA Guidelines Section 15270, the requirements of CEQA do not apply to the Design Review proposal for the WECS because that particular component of the project is being denied based upon inconsistencies with general plan policies and zoning standards, as set out in the findings below.
- VII. WHEREAS, the Marin County Planning Commission finds that the proposed WECS is inconsistent with the Marin Countywide Plan for the following reasons:
- A. The substantial height and size of the WECS, and its location on a ridgeline, will be incompatible with the visual setting of the surrounding area by detracting from the rural landscape and by having a dominant appearance from neighboring properties and within the viewshed along Red Hill Road. (Countywide Plan Policy EQ-3.11); and
 - B. Due to the substantial height of the WECS, and its location on a ridgeline, the proposed safety lighting required by the Federal Aviation Administration could result in nighttime lighting impacts on adjacent residents and/or disrupt the rural aesthetic of the immediate vicinity (Countywide Plan Policy EQ-3.26); and

- C. The noise impacts from operation of the WECS could result in unacceptable noise intrusion based upon the standards adopted in the County zoning ordinance (Marin County Development Code). (Marin Countywide Plan Policy N-1.1.a).

VIII. WHEREAS, the Marin County Planning Commission finds that the proposed WECS, although a permitted use, subject to Design Review, in the A-60 zoning district, is inconsistent with Marin County Code Section 22.32.180 for the following reasons: (1) Without further review of alternative locations and/or design options for the WECS and other energy conservation techniques that may or may not be well suited to fulfilling or contributing to the objectives of the project, it cannot be found that the project minimizes the visual prominence of the WECS to the greatest extent feasible given the factors stated in Findings VII.A and VII.B above; and (2) it has not been determined through a site-specific acoustical analysis that the noise produced by operation of the WECS will be within the maximum allowable noise levels established by the above code section.

IX. WHEREAS, the Marin County Planning Commission finds that the proposed WECS is inconsistent with the mandatory findings to approve a Design Review in accordance with Marin County Code Section 22.42.060 for the following reasons:

- A. **The proposed structure will properly and adequately perform or satisfy its functional requirements without being unsightly or creating incompatibility/disharmony with its locale and surrounding neighborhood.**

The substantial height and size of the WECS, as well as its location on a ridgeline, will result in a structure that is excessively visible and out of scale with the surrounding rural setting. Without further, more detailed analysis, the required nighttime lighting may result in light intrusion impacts on adjacent residents and/or create a significant diminution of the nighttime visual setting of the project area.

- B. **It 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 and pleasing development of the neighborhood as a whole, including public lands and rights-of-way.**

As stated in the above findings, the WECS will result in visual impacts, and may result in noise intrusion, that will substantially interfere with the enjoyment of neighboring properties that are within view and/or an audible distance from the WECS.

- C. **It will not directly, or cumulative, 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 is situated well within the boundaries of the project site, and although the proposed WECS will result in impacts to neighboring properties, it is unlikely that the extent of these impacts will be substantial enough to preclude or inhibit further investment or improvements on the same or other properties in the project area.

- D. **It 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 not require the removal of any trees or other vegetation, and will only require minimal grading for the location of the detached agricultural worker accessory dwelling unit.

E. It will be in compliance with the design and locational characteristics listed in Chapter 22.16 (Planned District Development Standards) of the Marin County Development Code.

The standards established in the above chapter of the Marin County Development Code pertain primarily to residential projects and other conventional types of development. However, one of these standards requires the approval of a project to be based in part upon a finding that the proposal is consistent with policies of the Marin Countywide Plan. As stated in the above findings, the WECS does not comply with Countywide Plan policies regarding visual impacts and noise. Therefore, the above finding cannot be made for the WECS.

F. It 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 of characteristics of the following:

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

The WECS will not minimize or eliminate adverse visual effects for the reasons stated in the above findings.

2. Drainage systems and appurtenant structures;

Based on the minimal impervious surface area of the WECS and the size of the project site and watershed, the WECS will not result in drainage systems that may cause adverse physical effects.

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

The WECS will not require substantial amounts of grading and appurtenant structures that may result in adverse physical effects.

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

The WECS is situated well within the boundaries of the project site and set back a substantial distance from adjacent properties, pathways and rights-of-way. Therefore, it will not affect the circulation of persons or vehicles. However, adequate information was not submitted to determine whether the proposed WECS, with a relatively low speed turbine, could adversely affect the movement of raptors and other bird species.

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

As stated in the above findings, the WECS will result in adverse visual effects to neighboring properties and will be out of scale with the rural setting of the project area. However, it will not eliminate views or vistas available to adjacent residents, nor will it affect privacy because of the nature of the land use.

- G. It includes features which foster energy and natural resource conservation while maintaining the character of the community.**

The project includes the construction of a 660 kW wind energy conversion system (WECS) which will provide energy for the agricultural and residential uses occurring at the site, and will lower carbon dioxide emissions by 295 tons on an annual basis (per the applicant's energy consultant). However, for the reasons stated in the above findings, the WECS will be out of scale with the rural setting of the project area

- 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.**

As stated in the above findings, the WECS will be inconsistent with certain policies of the Countywide Plan and standards of the Marin County Development Code.

- X. WHEREAS, the Marin County Planning Commission finds that the use of efficient and renewable energy sources is consistent with and encouraged by County policy and standards when the structures, equipment and improvements related to generating such energy are sited and designed in a manner that properly balances other County land use and environmental policy objectives. In that regard, the Planning Commission further finds that a modified project providing a source of efficient and/or renewable energy for the agricultural and other uses on the McEvoy property may resolve the above policy and zoning inconsistencies.

FINDINGS SUSTAINING THE DEPUTY ZONING ADMINISTRATOR'S CONDITIONAL DESIGN REVIEW AND USE PERMIT APPROVALS OF THE DETACHED AGRICULTURAL WORKER DWELLING UNIT AND ADDITION TO OLIVE PROCESSING FACILITY

- XI. WHEREAS, the Marin County Planning Commission finds that the proposed detached agricultural worker dwelling unit and addition to the existing olive processing facility are Categorical Exempt from the requirements of the California Environmental Quality Act (CEQA), per Section 15303, Class 3 because these improvements will not result in excessive amounts of grading or tree removal, will not affect sensitive wildlife habitat and will not result in other adverse impacts to the environment.
- XII. WHEREAS, the Marin County Planning Commission finds that the proposed detached agricultural worker dwelling unit and addition to the existing olive processing facility are consistent with the Marin Countywide Plan for the following reasons:
- A. The above improvements are incidental to the primary use of the property as an olive farm which is permitted by the AG1 (Agricultural, one unit per 31 to 60 acres) land use designation governing the property;
 - B. The above improvements will be located on previously disturbed portions of the property and will not require removal of trees or significant amounts of grading;
 - C. The above improvements will enhance the long-term agricultural use of the land by allowing the property owner to accommodate the growing demand for high-quality, organic olive oil;

- D. The above improvements will comply with Marin County standards for flood control, geotechnical engineering, and seismic safety, and include improvements to protect lives and property from hazard;
 - E. The above improvements will 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;
- XIII. The above improvements will not cause significant adverse impacts on water supply, fire protection, waste disposal, schools, traffic and circulation, or other services; and,
- XIV. The above improvements will provide housing opportunities for agricultural workers in the Inland Rural Corridor on an agricultural property site which is served by existing roadways, and necessary public and community facilities within the Inland Rural Corridor.
- XV. WHEREAS, the Marin County Planning Commission finds that the proposed detached agricultural worker dwelling unit and addition to the olive processing facility are consistent with the governing A-60 zoning district because these improvements will further agricultural land uses on the property and will comply with the governing development standards related to setbacks to property lines and building heights (Marin County Development Code Sections 22.08.030 – Table 2-1, 22.08.040 – Table 2-2, and 22.20.060.B).
- XVI. WHEREAS, the Marin County Planning Commission finds that, in accordance with the conditions of approval, the mandatory findings for a Use Permit per Section 22.48.040 of the Marin County Code can be made for the following reasons:
- A. The proposed addition to the existing olive processing facility is allowed within the governing A-60 zoning district (Agricultural District, 60 acre minimum lot size);
 - B. The proposed addition to the existing olive processing facility is consistent with the Countywide Plan for reasons discussed in Section XII above;
 - C. The proposed addition to the existing olive processing facility is categorically exempt from the CEQA for the reasons discussed in Section XII above;
 - D. The proposed addition to the existing olive processing facility will be compatible with existing and future land uses in the area because the dwelling unit, and office addition are uses that are incidental to, and supportive of, surrounding agricultural land uses;
 - E. The proposed addition to the existing olive processing facility will be visually compatible with proposed development on the subject parcel and surrounding parcels because it will utilize an architectural style, building materials and colors that are harmonious with other agricultural buildings in the area; and,
 - F. The granting of the Use Permit will not be detrimental to the public interest, health, safety, convenience, or welfare of the County, or injurious to the property or improvements in the vicinity and zoning district in which the real property is located because the proposed addition to the existing olive processing facility will meet the setbacks prescribed by the A-60 zoning district and Marin County Development Code Section 22.32.180, and will not obstruct any adjacent neighbor's views, air, light, or privacy. Furthermore, the addition to the existing olive processing facility will be required by the issuance of a building permit to meet Uniform Building Code standards and, therefore, will be constructed in a manner that will preclude potential injury to improvements on the subject property, and improvements on neighboring properties.

XVII. WHEREAS, the Marin County Planning Commission finds that the proposed agricultural worker dwelling unit and addition to the existing olive processing facility are consistent with the mandatory findings to approve a Design Review in accordance with Marin County Code Section 22.42.060 for the following reasons:

- A. The proposed structure 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 detached agricultural worker dwelling unit and addition to the existing olive processing facility will result in structures of height, mass and bulk proportionately appropriate to the 552-acre site. These improvements will be consistent with the existing agricultural operations and incorporate architectural characteristics and building forms that are consistent with other development in the area. They will be constructed using materials and colors, non-reflective and subdued in nature, to better blend with the surrounding natural and built environments.

- B. It 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 and pleasing development of the neighborhood as a whole, including public lands and rights-of-way.**

The detached agricultural worker dwelling unit and addition to the existing olive processing facility has been sited on the property to meet all the setback requirements of the Marin County Code and the A-60 zoning district. These improvements are accessory and incidental to agricultural land uses at the subject property and in the area, and the topographical features of the area provide partial screening and privacy. Given the size, configuration, and topography of the subject property, the detached agricultural worker dwelling unit and addition onto the existing olive processing facility will be compatible with the orderly and pleasing development of the surrounding community.

- C. It 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 is situated well within the boundaries of the project site and the detached agricultural worker dwelling unit and addition to the existing olive processing facility will be set back substantial distances from other properties. Therefore, these improvements will not affect the ability of other property owners to make further investment in or improvements on their land.

- D. It 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 not require the removal of any trees or other vegetation, and will only require minimal grading for the location of the detached agricultural worker accessory dwelling unit.

E. It will be in compliance with the design and locational characteristics listed in Chapter 22.16 (Planned District Development Standards) of the Marin County Development Code.

The design of the proposed detached accessory dwelling unit and office addition will be compatible with that of other structures in the vicinity, will respect the surrounding natural environment, and will not diminish views from surrounding properties because materials and colors will be used to blend the structures in with the surrounding natural environment and the proposed structures incorporate heights, architectural styles, and sizes that are compatible with the surrounding neighborhood. These improvements will be sufficiently clustered with other existing improvements on the property and will not require significant grading or tree removal. The proposed detached accessory dwelling unit and office addition will not encroach onto adjoining private properties, public lands, or private and public easements and rights-of-way, and ample parking will be provided for occupants of the buildings.

F. It 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 of characteristics of the following:

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

The detached accessory dwelling unit and office addition will result in development which incorporates architectural characteristics and building forms that are consistent with other development in the area and are harmonious with the surrounding natural and built environments. The detached accessory dwelling unit and office addition will be constructed using materials and colors, non-reflective and subdued in nature, to better blend with the surrounding natural environment as well as the built environment. The detached accessory dwelling unit and office addition maintain adequate separation from other structures and property lines. The overall scale of the detached accessory dwelling unit and office addition is compatible with other development on the property and in the area, and is appropriate given the size and configuration of the property.

2. Drainage systems and appurtenant structures;

The drainage system for the project has preliminarily been reviewed and accepted by the Department of Public Works. As part of the Building Permit review, the Department of Public Works will review the grading and drainage plans to ensure that the project incorporates suitable drainage systems that will adequately collect, convey, distribute surface run-off into appropriate drainage systems.

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

The primary grading to occur on the site is for the construction of the detached agricultural worker accessory dwelling unit and therefore will not disturb the majority of the existing topography. The grading that will occur will enable the detached agricultural worker accessory dwelling unit to maintain a lower profile and minimize its profile as viewed from off-site locations. Site disturbance will be limited to within the building footprint and driveway improvements.

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

The development on the property will not interfere with the containment, movement, or circulation of animals, conveyances, or persons because the project will be located entirely on the subject property, which is not officially designated as a known migratory corridor for raptors or other wildlife.

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

The siting of the detached agricultural dwelling unit and addition to the existing olive processing facility will not eliminate the sun and/or light exposure on adjacent properties, or result in the elimination of views, vistas, or privacy. The building forms are adequately articulated thereby minimizing the visual profile of the structures as viewed from off-site locations. No significant views or vistas will be obstructed by the detached accessory dwelling unit and office addition and the design of the detached accessory dwelling unit and office addition will be compatible with that of other structures in the vicinity, will respect the surrounding natural environment, and will not diminish views from surrounding properties because materials and colors will be used to blend the structures in with the surrounding natural environment. Finally, the proposed detached accessory dwelling unit and office addition incorporate heights, architectural styles, and sizes that are compatible with the existing development on the subject property.

G. It includes features which foster energy and natural resource conservation while maintaining the character of the community.

The detached agricultural worker dwelling unit and addition to the existing olive processing facility will be reviewed for compliance with State and County energy conservation requirements through the building permit review process.

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.

For the reasons stated in Finding XII above, the detached agricultural worker dwelling unit and addition to the existing olive processing facility are consistent with the Countywide Plan. In addition these improvements are in support of or related to agricultural production, and thus compatible with the existing and planned uses of the project area. They will be reviewed through the building permit process to ensure compliance with the County's health and safety standards.

SECTION II: CONDITIONS OF PROJECT APPROVAL

NOW, THEREFORE, BE IT RESOLVED that the Marin County Planning Commission hereby upholds the Schlesinger Appeal, denies the McEvoy Appeal and overturns the Deputy Zoning Administrator's conditional approval of the proposed WECS and sustains the Deputy Zoning Administrator's conditional approval of the detached agricultural worker dwelling and addition to the existing olive processing facility (McEvoy Use Permit 03-31 and Design Review 03-67), subject to the following conditions.

Marin County Community Development Agency, Planning Division

1. EXCEPT AS MODIFIED BY CONDITIONS OF APPROVAL, and pursuant to Marin County Code Sections 22.48.040 and 22.42.060, the McEvoy Use Permit 03-31 and Design Review 03-67 approval hereby authorizes the construction of the following improvements on the McEvoy Olive Ranch in Petaluma:

- a. A 19.5-foot tall, 1,900 square foot accessory staff dwelling unit; and,
- b. A 1,415-square foot office and storage addition onto the existing olive pressing barn building.

The office and storage addition are approved to be constructed at the same height as the existing olive pressing barn building and to utilize existing colors and materials. The accessory staff dwelling unit is approved to utilize composition shingle roofing with board and batten siding. The accessory staff dwelling unit is approved to be located approximately 290 feet from the existing residence to the west and 260 feet from the storage and maintenance building to the southwest. The subject property is located at **5935 Redhill Road, Petaluma**, and is further identified as **Assessor's Parcels 125-070-05, -06, and -16**.

2. EXCEPT AS MODIFIED BY CONDITIONS OF APPROVAL, plans submitted for a building permit shall substantially conform to the following plans on file in the Marin County Community Development Agency:

- a. "Exhibit A," entitled, "McEvoy Ranch, Staff Cottage," consisting of 24 sheets, prepared by BAR Architects, dated May 6, 2002 and revised August 29, 2002, and revised Sheet A2.01 date stamped June 3, 2005;
- b. "Exhibit B," entitled, "McEvoy Ranch – Olive Barn Office and Storage Addition," consisting of 13 sheets, prepared by Appleton and Associates, Inc., Architects, dated April 11, 2003;
- c. "Exhibit C," entitled, "Composite Site Map," consisting of 4 sheets, prepared by Dimensions 4 Engineering Inc., dated February 2004;
- d. "Exhibit D," entitled, "Location Map for Water Springs," consisting of 1 sheet, prepared by Dimensions 4 Engineering Inc., dated March 2005; and,

3. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall revise site plan or other first sheet of the office and job site copies of the Building Permit plans to list these Use Permit and Design Review Conditions of Approval as notes.

4. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall revise the plans to depict the location and type of all exterior lighting for review and approval of the Director. Exterior lighting for the staff dwelling unit and office addition shall be permitted for safety purposes only, must consist of low wattage fixtures, and must be hooded. The Building Plans shall include specifications (cut sheet) for all exterior lights.

5. BEFORE FINAL INSPECTION, the applicant shall construct the project substantially consistent with Exhibits A, B, C, D, and all conditions of approval.

6. 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.

7. All utility connections and extensions serving the project shall be installed underground.
8. All flashing, metal work and trim for the office addition and detached agricultural worker dwelling unit shall be an appropriately subdued, nonreflective color.
9. In the event that the terms of this Use Permit approval are violated or that the approved uses are carried on in such a manner as to adversely affect the health, welfare, or safety of persons residing or working in the neighborhood, or be detrimental to the public welfare or injurious to the property or improvements in the neighborhood, this Use Permit may be revoked or suspended pursuant to Marin County Code, Chapter 22.120.
10. All relevant Conditions of Approval for the McEvoy Use Permit adopted by the Deputy Zoning Administrator under Resolution 96-098 shall apply.
11. 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, as determined by the Community Development Agency staff, may be required to be halted until proper authorization for the modifications are obtained by the applicant.

Department of Public Works, Land Development

12. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall provide pertinent design information as specified below.
 - a. Submit a Stability Report prepared by a registered Civil Engineer with geotechnical expertise or by a certified Geotechnical Engineer. The report must attest to the suitability and geological feasibility of placing a building on the site and identify any drainage or soils problems that the design of this project must accommodate.
 - b. Improvement Plans shall be prepared by a registered Civil Engineer, signed and stamped.
 - c. Apply for a separate building permit for retaining walls. Submit two sets of structural calculations signed and stamped by the Design Engineer.
 - d. Plans must be reviewed and approved by the soils engineer. Certification shall be by stamp and signature on the plans or by a stamped and signed letter.
 - e. Sheet 4 of 4 shall be consistent with sheet 3 of 4 regarding the new 12' wide gravel roadway and proposed parking. Modify plans accordingly.
 - f. Sheet 2 of 4 does not comply with California Title 24. The disabled parking stall at the Olive Pressing Barn Building shall have the loading/unloading area located on the passenger side of the vehicle. "No Parking" shall be painted on the pavement of both loading/unloading areas.

- g.** All parking and path of travel shall comply with all federal and state accessibility requirements. Construction documents must be drawn of sufficient clarity to indicate nature and extent of work. Add note on site plan: Contractor to verify that all barriers in the path of travel have been removed or will be removed under this project, and path of travel complies with CBC 1133B.
- h.** Note on plans that the Design Engineer shall certify to the County of Marin in writing (stamped and signed) that all grading, drainage, retaining wall construction and excavation were done in accordance with approved plans and field directions. Certification letters shall include the project address, assessor's parcel number and building permit number. Also note on plans that prior to final inspection driveway, parking and site improvements shall be inspected by DPW Engineer.

Marin County Environmental Health Services

Sewage

- 13. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall fulfill the following requirements:

 - a.** Obtain Septic Tank Installation Permit(s). Septic tank siting must observe all setbacks.
 - b.** Provide a written statement that the proposed office will be limited to providing space for four or fewer additional employees. The existing mound septic system is designed for the 8 existing employees plus four additional employees (and the flow from the proposed two bedroom residence).

Water

- 14. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall obtain a valid water permit issued by Environmental Health Services. The applicant must apply directly to EHS for a water system permit.

Marin County Fire Department

- 15. PRIOR TO FOUNDATION INSPECTION, the applicant shall provide confirmation to the Planning Division that the Fire Marshal has approved the Vegetation Management/Defensible Space Plan and that the project complies with all applicable fire safety requirements.
- 16. BEFORE FINAL INSPECTIONS, the applicant shall submit written certification from the District Fire Marshal that the project complies with all District regulations, including, but not limited to the following items listed below.

 - a.** Payment of all required fees.
 - b.** If a gate is contemplated, Fire Department approval for gates on the access road and/or driveway is required. If the gate is locked in any fashion, a MCFD Knox rapid entry system is mandatory.
 - c.** Road signage indicating the address of the new 2nd Unit is required. Numbers are to be a minimum of 4" in height with a 3/8" stroke, on a sharply contrasting background.
 - d.** Residential Sprinkler System (design approval and site inspection by the Building Dept.) As part of the sprinkler system installation, a spare sprinkler head cabinet containing two spare sprinkler heads, and the applicable sprinkler head wrench will be required prior to final approval of the sprinkler system.
 - e.** Commercial Sprinkler System (if required, design approval and inspection by the Fire Dept.)

- f. Class "A" Roofing (design approval and site inspection by the Building Dept.)
- g. Smoke Detection System (design approval and site inspection by the Building Dept.)

SECTION III: VESTING, PERMIT DURATION, AND APPEAL RIGHTS

NOW, THEREFORE BE IT FURTHER RESOLVED that the applicant must vest this Use Permit and Design Review approval by obtaining a Building Permit for the approved work and substantially completing all work before October 24, 2007, 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 Director 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. Upon completion of the requirements to vest this application, the Use Permit shall remain valid in perpetuity as long as all the terms of this permit are maintained.

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 Use Permit and Design Review approval (and no extensions have been granted), the Building Permit, Use 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 Use Permit and Design Review at least 10 days before the expiration of the Use Permit and Design Review approval.

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 **November 3, 2005**.

SECTION IV: VOTE

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the County of Marin, State of California, on the 24th day of October, 2005, by the following vote to wit:

- AYES: BARNER, DICKENSON, GINALSKI, GREENBERG, JULIN, THOMPSON
- NOES: HOLLAND
- ABSENT: NONE

STEVE C. THOMPSON, CHAIR
MARIN COUNTY PLANNING COMMISSION

Attest:

Kim Shine
Planning Commission Secretary

Public hearing to consider the Saeed Ghafoori Design Review application proposing a 3-story, 6,227 square foot house with an attached, 1,119 square foot, 3-car garage, on a vacant 21,175 square foot lot. The maximum height of the house is approximately 35 feet. The house is proposed to be located on the northeasterly uphill corner of the lot. Proposed setbacks are: approximately 38 foot front yard (southeast) setback, 46 foot (west) side yard setback, 15 foot (east) side yard setback, and a 67 foot rear yard (northwest) setback. A new driveway off of Sky Road is proposed. The subject property is located at 9 Sky Road, Mill Valley, and is further identified as Assessor's Parcel 34-151-19 (formerly 34-151-13).

Staff summarized the staff report and recommended that the Commission review the administrative record; conduct a public hearing; and adopt the Resolution denying the Ghafoori Design Review project. The Commission asked staff for clarification on parcel sizes in the neighborhood; the proposed access through parcel 034-151-15 (now 034-151-18); and the percentage of site disturbance.

The public hearing was opened.

Rick Stacy, architect representing the applicant, made a presentation of the project to the Commission.

The following people expressed their concern about the project:

- Erik Koski, 17 Sky Road, said the neighbors are opposed to the project because of its excessive scale.
- Stan Oshaben, 54 Bay Vista Drive, stated that his main concerns are increased water flow down the hill, the lights on the driveway shining into his house, the noise that would be generated by heavy equipment, and the cutting down of trees.
- Elizabeth Shreeve, 15 Sky Road, said she concurs with staff's recommendation to deny the project based on a lack of compatibility with the neighborhood and the scale of the project; the easement lacks sufficient width on the street to meet County standards for a driveway to a single residence, a shared driveway would be a good design technique to reduce impacts on the surrounding neighbors; privacy would be reduced if the vegetation adjacent to the retaining wall is removed; she would like to see more detail about the lighting; the project would block her view of Mt. Tamalpais; and construction hours should be limited.
- Maria Ryan, 7 Sky Road, expressed her concerns regarding the placement of the driveway, impacts on her privacy, the removal of vegetation, and her preference for a shared driveway, and she also said that compatibility with her neighbors is most important to her.

The public hearing was closed.

The Commission discussed potential problems with drainage from the proposed project and how those problems might be resolved; whether the size of the proposed structure is appropriate given the constraints of the lot and the size of neighboring houses; the location of the driveway; the location of the easements; the possibility of removing the third story; and the possibility of having a shared driveway.

Commissioner Dickenson said he agreed with staff's recommendation that the house is inappropriate for the lot. Commissioner Barner added that a 58% site disturbance is too high. Commissioner Holland voiced his concern about the location of the driveway, suggesting that a shared driveway would minimize the impact at that end of the property. Commissioners Thompson, Julin, and Greenberg concurred with comments made by other Commissioners, and said they supported staff's recommendation to deny the project.

Staff told the Commission that if the applicant agreed, the Commission could vote to continue the hearing to a future date to allow the applicant time to redesign the project; alternatively, the Commission could vote today and their decision could be appealed to the Board of Supervisors.

Commissioners Greenberg and Dickenson stressed that the redesigned project would require a completely different design, probably less than half the size of the project being considered today. The applicant asked for time to consider the options, and the Commission recessed for lunch at 1:22 p.m., reconvening at 2:05 p.m.

The applicant asked the Commission for guidance on the redesign of the project. Commissioners Holland and Dickenson emphasized that the Commission could not provide direction on the size of a project they had not seen,

but noted that the redesigned project must have legal access for the driveway and the size of the project would have to be significantly reduced and would have to comply with the County's design criteria. Vice Chair Julin and Chairman Thompson agreed that a three-story structure was inappropriate to the site, and consideration should be given to having one driveway serve two houses.

The applicant asked the Commission to continue this hearing item to a future date uncertain so that he could redesign the project.

M/s Julin/Dickenson to continue the project to a date uncertain at the applicant's request to allow the applicant time to redesign the project, subject to the direction provided by the Commission at this hearing.

Motion carried 7/0/0.

8. COASTAL PERMIT, DESIGN REVIEW, AND MERGER APPEAL:
HILLENBRAND (PACE/LABOVITZ)

JT

Public hearing to consider the Appeal of the Deputy Zoning Administrator's approval of the Gretchen Hillenbrand Coastal Permit/Design Review/Merger applications to demolish an existing residence and construct a two-story, 3,139 square foot single-family residence, a 256 square foot bathhouse, a 286 square foot guesthouse, a 700 square foot barn, and various site amenities including landscaping and a pool. The applicant also proposes to convert an existing second unit into a 560 square foot guesthouse. The proposed structures would reach a maximum height of 25 feet above existing grade and maintain setbacks exceeding 90 feet from all property lines. The subject property is developed with a septic system, which would be upgraded, and a well that would be granted an operating permit. A new driveway would be constructed along an access easement on Assessor's Parcel 188-140-70 that leads to the subject property from Horseshoe Hill Road and the use of an existing driveway leading to Olema-Bolinas Road would be abandoned. The merger would combine two legal lots of record into a single 7.68-acre legal lot of record in Bolinas. The Deputy Zoning Administrator's approval of the project has been appealed to the Planning Commission. The subject property is located at 655 Olema-Bolinas Road, Bolinas, and is further identified as Assessor's Parcels 188-140-66 and 188-150-04.

Staff told the Commission that both the applicant and the appellant submitted written requests to continue this item. Since no other members of the public were present to speak on this item, staff recommended that the hearing on this item be continued to a future date.

Chairman Thompson asked for a motion.

M/s Dickenson/Greenberg to continue the Hillenbrand Coastal Permit, Design Review, and Merger until the meeting of November 14, 2005, at the request of both the applicant and appellant.

The motion carried 7/0/0.

The commission recessed at 2:33 p.m. and reconvened at 3:33 p.m..

Public hearing to consider the Douglas Design Review application proposing to construct an addition to an existing 8,965 square foot residence on the 2.01 acre subject property. The proposed project would add 5,155 square feet of additional living area to the residence, including a 3,087 square foot addition to the existing lower floor and a 2,068 square foot addition to the main floor of the building. Approximately 1,500 square feet of the existing structure would also be remodeled. The proposed two story addition would attain a maximum height of 23 feet above existing grade and 26.3 feet above finished grade, with a maximum roof ridge height over 6 feet lower than the existing residence. The proposed addition would be sited 30 feet or more from all surrounding property lines. All exterior materials and colors are proposed to match the existing structure. According to the application, the project has been designed to achieve Platinum-level compliance with the Marin County Green Building Residential Design Guidelines, including the use of solar energy and water heating systems. The property is governed by conventional R-R:B-3 zoning. However, Design Review is required due to the size of the residence. The subject property is located at 126 Hill Drive, Kentfield, and is further identified as Assessor's Parcel 071-021-19.

Staff summarized the staff report and recommended that the Commission review the administrative record; conduct a public hearing; and adopt the Resolution approving with conditions the Douglas Design Review application. Staff also noted that after the preparation of the staff report several letters were received from neighbors downhill from the subject property. DPW staff elaborated on existing drainage issues in the area.

The public hearing was opened.

Adam Posard, the applicant's representative, made a presentation of the project to the Commission.

The following people addressed the Commission and voiced their concerns.

- Carol Dean, 214 Poplar Drive, testified that some neighbors did not receive a notice of the project; the landscaping project on the adjoining property owned by the applicant contributed to flooding on her property; runoff from the applicant's property exceeds the capacity of the existing system; it is unacceptable for the applicant to add thousands of square footage to their house at her financial and emotional expense; and the drainage problems have been reported numerous times over the past three years with no resulting improvements.
- Marie Bartee, 219 Poplar Drive, said she had no flooding problems (other than the flood of 1984) until December 2003/January 2004 when water from the applicant's property flooded her property; the County's antiquated system would be unable to handle overflow from the cistern; and the property owner should take care of all the runoff from their property.
- Jacqui Gottlieb, 25 Hill Drive, said that her property has been flooded due to significant runoff from the applicant's property and further study is necessary to solve the problem; diverting runoff to the other side of Hill Drive could solve a significant problem; she does not believe that her tennis court contributes to the drainage problem as the applicant has claimed; she supports having a drainage study done; and the item should be continued so that neighbors who did not receive the notice could have input to the Commission.
- Judy Dobbs Sharlip, 210 Laurel Grove Avenue, said that she has been sending letters since 1996 about drainage problems on her property; she feels that the County has failed to provide solutions to the drainage problem; and the County needs to step in and solve the problem.

The public hearing was closed.

Department of Public Works (DPW) staff addressed the Commission about drainage issues in the area, and planning staff responded to the issue of neighbors being excluded because they were outside the standard 600 foot noticing radius.

The Commission discussed existing runoff from the applicant's property to the neighbors' properties; whether the proposed project would increase peak period runoff; whether a requirement that pre- and post-project hydrological calculations for the site should be addressed in the conditions of approval or prior to approval of the project; issues related to the cistern on the second lot; and whether the property's drainage system is self-contained.

Commissioner Dickenson stated he had no problem with the size of the house, but could not make the required findings regarding drainage without more information. He asked that a hydrological study be done and the results

brought to the Commission for their consideration before a vote is taken on the design review application. He also noted that there could be design and environmental implications related to the drainage system, which should be considered as part of Design Review. Commissioner Ginalski agreed with Commissioner Dickenson that a hydrological analysis should be done but said the project could be conditionally approved before the data is brought back to the Commission.

Commissioner Julin said the project was well done in terms of Design Review, and the drainage issue should be addressed at the staff level. She suggested that a neighborhood association could be formed to research how other communities and neighborhoods deal with similar issues. Commissioner Holland agreed that it would be appropriate to have staff interpret the hydrological data and said he would be comfortable deferring to staff to ensure that the project is built according to specifications and engineering standards.

Director Hinds said a condition of approval could require that the project not adversely contribute to offsite drainage, and the applicant could have to demonstrate that the project meets the County's drainage standards before the building permit would be issued. He expressed his confidence in DPW staff to enforce the permit conditions.

Chairman Thompson agreed that the results of a hydrological study need to be reviewed before the Commission approves the project, noting that it is critical to include all of the surrounding streets in that study.

Commissioner Barner noted his concerns about the lack of drainage data, the definition of no net increase, and questioned whether the two lots should be merged to ensure that the second lot cannot be sold, since the existing cistern is sited on the second lot. Director Hinds agreed with the need to further investigate whether the future sale of a parcel should be prevented if it contains offsite mitigations for another parcel.

Commissioner Greenberg said the project design is attractive and low impact, but based on testimony today and the documented drainage problems, the no net increase in runoff claim needed to be proven based on the results of the hydrological study.

The applicant agreed to a continuance of the project to November 28, 2005.

M/s Dickenson/Holland to continue the public hearing on this item, with the applicant's consent, to the meeting of November 28, 2005, to allow the applicant and staff time to develop more information on the drainage issues identified in the letters and testimony received today.

Vice Chair Julin requested that an acknowledgment be included in the motion that the Commission is comfortable with the design of the project, and the only problematic part of the project is the lack of data on drainage.

Chairman Thompson suggested a vote be taken on Commissioner Dickenson's motion as it stood, and took a roll call vote. The motion carried 6/1/0 (Commissioner Julin dissenting).

The Commission adjourned at 5:34 p.m.