

MARIN COUNTY PLANNING COMMISSION HEARING MINUTES
December 12, 2005
Marin County Civic Center, Room 328 - San Rafael, California

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

Commissioners Absent: None

Staff Present: Alex Hinds, Director
Brian Crawford, Deputy Director of Planning Services
Ben Berto, Principal Planner
Neal Osborne, Planner
Eric Steger, Senior Civil Engineer, Department of Public Works
James Raives, Senior Open Space Planner
Kim Shine, Recording Secretary

Minutes Approved on: ***January 9, 2006***

Convened at 1:06 p.m.
Adjourned at 5:54 p.m.

1. INITIAL TRANSACTIONS
 - a. Incorporate Staff Reports into Minutes
M/s Julin/Holland to incorporate the staff reports into the minutes. Motion carried 7/0/0.
 - b. Continuances - None
 - c. Approval of Minutes – November 14, 2005
M/s Julin/Holland to approve the minutes of November 28, 2005, as amended. Motion carried 7/0/0.
2. COMMUNICATIONS – The Commission acknowledged receipt of several pieces of correspondence.
3. DIRECTOR'S REPORT
Deputy Director Crawford briefed the Commission on former and upcoming planning projects before the Board of Supervisors, and gave a status update on a number of other planning items.
4. OPEN TIME FOR PUBLIC EXPRESSION (LIMITED TO THREE MINUTES PER SPEAKER) - *None*
5. FUTURE AGENDA DISCUSSION ITEMS, FIELD TRIPS
 - January 9, 2006 (mid to late a.m. start)**
 - Marin County Cemetery Company
 - Hillenbrand Appeal - CP/DR/Merge
 - Rosenberg Appeal - UP,DR
 - Stinson Beach Community Plan Amendment
 - Salvadore-Swahn EA
 - January 23, 2006**
 - Circular Wireless MP
 - Mease Neg Dec, MP/LD/PDP/DR (continued from 11/28/05)
 - February 13, 2006**
 - Felling DR
 - February 27, 2006**
 - Development Code corrections/revisions

Continued public hearing to consider the revised Vlahos Design Review proposing to construct a new single-family residence and attached garage, a detached second unit, and various site amenities on a vacant lot that is adjacent to the Town of Tiburon's La Cresta Open Space. The revised project is a proposal to construct a residential development with a combined building area of 6,276 square feet on the 44,261 square foot lot. The second unit would be reviewed as a separate ministerial project should the discretionary Design Review application process result in approval of the development proposal. The project includes construction of a swimming pool, concrete patios, access steps, retaining walls, landscaping, 21 roof-mounted solar panels, and a 240 lineal foot driveway extension with a fire truck turnaround, garage area turnaround, and 2 guest parking spaces. The driveway surface would consist of permeable concrete and crushed aggregate. The maximum height of the residence would be 27 feet above natural grade. The residence would have the following minimum property line setbacks: 72 feet front (south), 69 feet side (east), 10 feet side (west), and 50 feet rear (north). The maximum height of the second unit would be 17 feet above grade and would have the following minimum property line setbacks: 15 feet front (south), 85 feet side (east), 73 feet side (west), and 175 feet rear (north). The maximum height of the retaining walls to set the residence and terraced patios into the slope would be 9.5 feet. Approximately one-half of the one-acre site would be affected by the development with grading to consist of 995 cubic yards of soil excavation and 815 cubic yards of fill. The subject property is located at 28 Eagle Rock Road, Mill Valley (Strawberry), and is further identified as Assessor's Parcel 034-012-19.

This item was continued from the meeting on July 11, 2005.

Staff summarized the staff report and recommended that the Commission review the administrative record, conduct a public hearing, and adopt the proposed resolution conditionally approving the Vlahos Design Review with conditions to eliminate the third floor level studio and enclosed access bridge to reduce the size and extent of development for a total building area of 5,987 square feet. Staff pointed out errors in the proposed Resolution and provided corrections to the building area values in Section 1.I and Section 2, Condition of Approval 1. The proposal is for a total building area of 6,276 square feet and a 4,598 square foot single-family residence. The recommendation would approve a 4,316 square foot single family residence.

The public hearing was opened.

The applicant's representatives, Gary Giacomini and Jerry Kler, presented an overview of the revised project to the Commission.

The public hearing was closed.

The Commission asked staff for clarification regarding the location and height of retaining walls and the use of native vs. non-native plant species for landscaping. Staff described the height and location of retaining walls and the native landscaping proposed.

Commissioner Greenberg said the revised project was significantly improved, but noted that the proposed house was still considerably larger than other houses in the area and would not be visually well-integrated into the natural setting due to its vertical angles. In addition, she considered it a problem to rely on eucalyptus trees not on the property for screening of the house, and the applicant provided no alternative for screening on his property.

Commissioner Dickenson agreed that the redesigned project was an improvement, but stated that the house was still too large and imposing for its ridgetop location, and was larger than he could approve within the Ridge and Upland Greenbelt area. He agreed with Commissioner Greenberg that relying on eucalyptus trees on another property to mitigate the visual impact of the house was unacceptable because there could be no guarantee that the

trees would always be in place. Because the redesigned project did not satisfy his concern expressed in July 2005

about its size, he stated he could not support the project.

Commissioner Holland said that in his opinion the architect had responded effectively to the direction given by the Commission in July 2005. He said he could support inclusion of the studio because it would be completely out of view and not intrusive. In addition, he said he could support the 8 foot fence because the height was appropriate for the style of fence designed to keep deer off of the property, and he was prepared to support the project.

Commissioner Julin agreed with Commissioners Greenberg and Dickenson that the size of the project was too large and out of character with the architecture of other homes in the neighborhood. In addition, she said she could not support the use of non-native plants for landscaping, and felt that vegetation should not be relied upon to mitigate visual impacts of the structure, but rather preferred that the architecture be able to stand on its own visually. She said she could not make Findings IV, V, VI-A, VI-B, F-1, F-3, and H, and therefore could not support the staff recommendation to approve the project.

Commissioner Barner agreed with Commissioner Greenberg that it is less than desirable to rely on the offsite eucalyptus for screening, but noted that it is hard to get other vegetation to grow near eucalyptus to provide alternate screening. He stated that as proposed, the house would be large and have the potential for being visible, but in his opinion the same would be true for any house on this particular site. Noting that the immediate neighbors had brought forth no objections to the project, he was prepared to support the staff recommendation.

Commissioner Ginalski said that from a siting point of view the applicant did a good job, and the proposed building area would be relatively small given the size of the property. He stated that the architect also did a good job of having the project mass broken up by type of building, which mitigates and softens the bulk and mass of the project. He conceded that the house would probably exist longer than the eucalyptus grove, and there were large expanses of single types of materials. However, he said he approved of the colors and materials of the proposed design, supported a 6 foot fence contiguous with the open space, and was prepared to support the staff recommendation with modifications.

Chairman Thompson said that he was satisfied with the reduced size of the house, and also understood the possible visual impact if the eucalyptus grove was removed. He suggested that the applicant be directed to review the landscape plan to provide onsite screening on the southwest side and increase the use of native plants, and said he was prepared to support the project with the provision that an additional landscape review be performed.

M/ Holland/Barner to adopt the proposed resolution approving the Vlahos Design Review with the following amendments: (1) the size of the residence as stated in Condition 1 be corrected from 4,348 square feet to 4,316 square feet; (2) the deletion of Conditions 4-a and 4-b; (3) a new condition be imposed which states that prior to issuance of a building permit, the applicant shall submit an amended landscaping plan to (a) provide for onsite landscape screening along the west side of the property to mitigate visual impacts in the event the offsite eucalyptus grove is removed, and (b) increase the ratio of native to non-native plant species, while allowing for non-native species, compatible with the landscaping in the area, if they would provide for more immediate screening of the residence and/or if they would be better suited to the soil, climate, and topography.

Commissioner Julin stated her intention to vote against the motion based on her inability to make the findings as noted earlier.

Commissioner Dickenson stated that he would vote against the motion based on his inability to make required Findings IV, V, VI-A, VI-B, VI-E, VI-F-1, and VI-H, because the size of the proposed house is not compatible with other homes in the area and is not appropriate for the Ridge and Upland Greenbelt site.

Commissioner Greenberg said she would vote against the motion for the same reasons mentioned by Commissioners Dickenson and Julin, and also because she did not support allowing the studio or the 8 foot fence. She also suggested that the required amended landscape plan should show exactly what is going to be planted on

the hillside to protect the hill.

Commissioner Holland agreed to reinstate Condition 4-b in his motion with the maximum fence height amended to 6 feet rather than 4 feet, but declined to reinstate Condition 4-a (removal of the studio). Commissioner Barner, as the seconder of the motion, indicated his support of the motion as amended.

Commissioner Ginalski restated his position that the fence should be 6 feet in height and that the studio should be removed. Commissioner Holland agreed to amend his motion to retain Condition 4-a (removal of the studio and access bridge). Commissioner Barner stated he supported the motion as amended.

Revised M/s Holland/Barner to adopt the proposed resolution approving the Vlahos Design Review with the following amendments: (1) the size of the residence as stated in Condition 1 be corrected from 4,348 square feet to 4,316 square feet; (2) modify Condition 4-b to allow a 6-foot tall fence in the same design (3) add a new condition which states that prior to issuance of a building permit, the applicant shall submit an amended landscaping plan to (a) provide for supplemental onsite landscape screening along the west side of the property to mitigate visual impacts in the event the offsite eucalyptus grove is removed, (b) increase the ratio of native to non-native plant species, while allowing for non-native species, compatible with the landscaping in the area, if they would provide for more immediate screening of the residence or if they would be better suited to the soil, climate, and topography, and (c) include a recommendation for the type of vegetation to be planted on the hillside to provide for slope stability.

Chairman Thompson conducted a roll call vote, and the motion carried 4/3/0, with Commissioners Julin, Greenberg, and Dickenson dissenting.

The Commission recessed at 2:44 p.m. and reconvened at 2:55 p.m.

MARIN COUNTY PLANNING COMMISSION

RESOLUTION NO. PC06-001

A RESOLUTION APPROVING THE VLAHOS DESIGN REVIEW
ASSESSOR'S PARCEL 034-012-19
28 EAGLE ROCK, MILL VALLEY

SECTION 1: FINDINGS

- I. WHEREAS Jerry Kler, Architect, on behalf of James Vlahos, submitted revised Design Review and Second Unit Permit applications proposing to construct a residential development with a combined building area of 6,276 square feet. The single-family residence would have 4,598 square feet, the attached garage, mechanical room, and elevator would have 921 square feet, and the detached second unit would have 757 square feet. The single-family residence would have a maximum height of 27 feet above natural grade. A 192 square foot studio connected to the residence with an enclosed bridge walkway would have a maximum height of 14 feet at an elevation of 287 feet. The project includes construction of a swimming pool, concrete patios, access steps, retaining walls, landscaping, 21 roof-mounted photovoltaic panels, and a 240 lineal foot driveway extension with a fire truck turnaround, garage area turnaround, and 2 guest parking spaces. The driveway surface would consist of permeable concrete and crushed aggregate. The project also includes the legalization of an as-built 8-foot tall iron fence along the north and west property lines, and construction of a new fence along the east property line. The residence would have the following property line setbacks: 72 feet front (south), 69 feet side (east), 10 feet side (west), and 50 feet rear (north). The studio would have a maximum height of 14 feet at an elevation of 287 feet. The maximum height of the second unit would be 17 feet above grade and would have the following property line setbacks: 15 feet front (south), 85 feet side (east), 73 feet side (west), and 175 feet rear (north). The maximum height of the retaining walls to set the residence and terraced patios into the slope would be 9.5 feet, the maximum height of the retaining wall for the guest parking spaces would be 7.5 feet, and the maximum height of the retaining wall for the fire truck turnaround would be 9.4 feet. Approximately one-half of the one-acre site would be affected by the development with grading to consist of 995 cubic yards of soil excavation and 815 cubic yards of fill. The proposal for a second unit will be reviewed as a separate ministerial Second Unit Permit project after completion of the discretionary Design Review application process for the entire project. The subject property is identified as 28 Eagle Rock Road, Mill Valley and Assessor's Parcel 034-012-19.
- II. WHEREAS the Marin County Planning Commission held a duly noticed public hearing on July 11, 2005, and continued hearings on November 14, 2005, and December 12, 2005, to consider the merits of the project, and hear testimony in favor of and in opposition to the project.
- III. WHEREAS the Marin County Planning Commission finds that the proposed project is Categorically Exempt from the requirements of the California Environmental Quality Act, per Section 15303, Class 3(a) because the construction of a new single-family residence with an attached garage and a second unit would not result in significant environmental impacts.
- IV. WHEREAS the Marin County Planning Commission finds that the proposed project is consistent with the Marin Countywide Plan because it would:
 - 1. Result in development that would be reasonably sized and visible to conform to the governing standards related to building height, size and location on an open grassy hillside near a visually prominent ridgeline (Policies EQ-3.18, EQ-3.19, and CD-8.12).

2. Be consistent with the land use designation of Planned Residential and Ridge and Upland Greenbelt Overlay Area (PR/RUG).

V. WHEREAS the Marin County Planning Commission finds that the proposed project is consistent with the Strawberry Community Plan policies as development that would preserve the natural appearance of hills, ridgelines, and other prominent or significant landforms because it would be a reasonably sized residential development on the lower and least visible portions of the site, with moderate grading for fill, and a maximum height of 27 feet above grade.

VI. WHEREAS the Marin County Planning Commission finds that the proposed project, is consistent with all of the mandatory findings to approve the Vlahos Design Review application (Section 22.42.060 of the Marin County Code) as specified below.

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.

This finding can be made because the proposed project will be in substantial harmony with its surrounding. The height and overall size of the residence would not be unsightly or create disharmony with the surrounding neighborhood. The structure would be well screened from the southwest by existing mature vegetation, and proposed landscaping would provide screening of its visible mass and bulk viewed from U.S. Highway 101 and residential properties to the west. The proposed residence would have 6,276 square feet of total building area that would be 2,720 square feet larger than the median of the five adjacent residences. The proposed residence would be 1,872 square feet larger than the largest adjacent residence at 32 Eagle Rock Road. With the reduction in size recommended to eliminate the studio and cluster development better on the site, the total building area would be 5,987 square feet. This size development would be the largest in the neighborhood, but would not detract from the neighborhood character because of substantial setbacks from the road and neighboring properties, substantial screening with existing and proposed landscaping, and articulated architectural forms that step up the hill. The proposed development would be consistent with the Single-family Residential Guidelines for hillside lots near a ridgeline.

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.

This finding can be made because the proposed project will minimize or eliminate adverse visual effects within the surrounding neighborhood. Due to its size, bulk and mass, and location, the proposed residence would not have an adverse visual effect to adjacent properties to the south and west and would not substantially interfere with views of the Town of Tiburon's La Cresta Open Space and a scenic ridgeline. The residence would also be visible from U.S. Highway 101 and residential areas to the west and northwest. The visibility of the proposed residence would not detract substantially from the natural aesthetics of the hillside and ridge area environment that characterizes this area. The residence would be located lower on the site in the middle and southwest portions of the lot where it would be less visible and partially screened by existing and proposed trees and landscaping. The architectural forms would step up the slope and would contain articulated elements consistent with many of the Single-family Residential Guidelines for hillside development. The maximum height of 27 feet above grade would be for a small portion of the

residence and would not substantially detract from the enjoyment of the open space views and pleasing development of the neighborhood.

- 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 proposed development would not impair or inhibit the future investment in the vicinity by introducing development that is inconsistent with the community character of the Eagle Rock Road neighborhood as was discussed in Findings VI. A and VI. B.

- 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.**

This finding can be made because native and non-native landscaping is proposed to replace approximately 10 Eucalyptus trees that were removed from the site. The proposed grading for 995 cubic yard of excavation and 815 cubic yards of fill is necessary to set the development into the hill to protect views and to provide driveway, parking, and a fire truck turnaround area that comply with County Codes.

- 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.**

This finding can be made because the proposed improvements, as modified by conditions of approval to delete the studio, in the Ridge and Upland Greenbelt Area are clustered in the least visible location of this grassy hillside lot, the visual bulk and mass of the residence is acceptable, and the height would not encroach into the 100 vertical foot ridge setback area. The Planned District Development Standards in Marin County Code Section 22.16.030.F.1 require clustering of structures in the most accessible, least visually prominent, and most geologically stable portions of the site. Clustering is especially important on open grassy hillsides. The Planned District Development Standards in Marin County Code Section 22.16.030.F.2 prohibit development within 300 feet horizontally, or within 100 feet vertically of visually prominent ridgelines. The northeastern corner of the subject property is within 100 vertical feet of the ridgeline at an elevation of 300 feet. The maximum height of the residence would be at elevation 285 feet mean sea level, which is 15 below the 100 vertical foot non-development area.

- 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;**

This finding can be made. The 5,987 square feet of proposed building area, 27-foot maximum height, clustered bulk and mass, materials and scale of the structures would minimize or eliminate adverse physical or visual effects (refer to Findings VI. A, VI. B, and VI. E above).

- 2. Drainage systems and appurtenant structures;**

The proposed drainage systems have been reviewed by the Department of Public Works and an on-site dispersal system is recommended instead of an entirely offsite dispersal system to the storm drain system of North Knoll Road and Eagle Rock Road.

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

This finding can be made. The development is proposed on a steep 36% upslope parcel with the construction of numerous retaining walls up to 9.5 feet tall and considerable reforming of the natural terrain to comply with access and turnaround standards. The proposed excavation of 995 cubic yards and fill of 815 cubic yards over 50% of the site (20,000 square feet) would minimize 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 proposal will not interfere with existing pathways or rights-of-way for persons, animals, vehicles, or watercraft. An access trail to the La Cresta Open Space is currently provided from Via Los Altos.

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

This finding can be made. As proposed, the residence would not result in a loss of views and vistas from properties located downhill and adjacent to the project site. Due to the minimal visual impacts on surrounding properties, the proposal is consistent with Strawberry Community Plan Policy CD 2.1, which discourages development that interferes with existing views.

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

The project size will require reducing energy use with efficiency measures and solar energy use. The project includes 21 solar panels on the roof for the generation of electricity to offset utility demand. A Title 24 analysis to document the energy use of the project has been provided to verify inclusion of energy conservation features. A Residential Green Building Checklist has been provided to verify inclusion of design features that foster energy and natural resource conservation. The submitted Checklist indicates 177 points and a Green Building rating of Platinum.

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.

This finding can be made because the proposed project would be in substantial harmony with its surrounding due to the height, location, and size. The size of the proposed residential development will blend into the site and character of the surrounding community adjacent to public open space. The project is consistent with the Countywide Plan and Development Code standards for development in the Ridge and Upland Greenbelt because development would be clustered in the least visible location and would be 15 feet lower than the ridgeline setback area that is 100 vertical feet below the ridgeline (refer to Findings VI. A, VI. B, and VI. E above).

SECTION 2: CONDITIONS OF PROJECT APPROVAL

NOW, THEREFORE, BE IT RESOLVED that the Marin County Planning Commission hereby approves the Vlahos Design Review (DR 05-21) subject to the following conditions:

Marin County Community Development Agency, Planning Division

1. The Vlahos Design Review approval is granted pursuant to Chapter 22.42 of Marin County Code to construct a residential development with combined building areas of 5,987 square feet. The approval permits construction of a 4,316 square foot residence, a 921 square foot garage with mechanical room and elevator, and a 750 square foot second unit. The approval permits a single-family residence with a maximum height of 27 feet above natural grade. The 192 square foot studio connected to the residence with an enclosed bridge walkway is not approved. The approval permits the construction of a swimming pool, concrete patios, access steps, retaining walls, landscaping, 21 roof-mounted solar panels, and a 240 lineal foot driveway extension with a fire truck turnaround, and 2 guest parking spaces. The driveway surface would consist of permeable concrete and crushed aggregate. The approval requires modification of the as-built 8-foot tall iron fence along the north and west property lines to a 6-foot tall fence, and permits construction of a 6-foot tall fence along the east property line. The approval permits the residence with the following property line setbacks: 72 feet front (south), 69 feet side (east), 10 feet side (west), and 50 feet rear (north). The approval permits a detached second unit with a maximum height of 17 feet above grade and the following property line setbacks: 15 feet front (south), 85 feet side (east), 73 feet side (west), and 175 feet rear (north). The approval permits retaining walls to set the residence and terraced patios into the slope with a maximum height of 9.5 feet. The subject property is located at 28 Eagle Rock Road, Mill Valley and is further identified as Assessor's Parcel 034-012-19.
2. Except as modified herein, the required Building Permit and site improvements shall substantially conform to plans on file with the Marin County Community Development Agency, Planning Division identified as Exhibit A, "Project Design For Vlahos" consisting of 18 sheets, prepared by Jerry Allen Kler Associates Architects, dated November 1, 2005, and date stamped received in the Planning Division on November 14, 2005; and Exhibit B, "Color Board" submitted November 30, 2005.
3. BEFORE ISSUANCE OF A BUILDING PERMIT, and pursuant to Item E of the Community Development Agency Planning Division Fee Schedule, the applicant shall submit \$2,895.00 to the Planning Division as a double Design Review fee payment for the grading and utility trenching work completed before Design Review approval, and after a Stop Work Order was issued for unauthorized grading on the property.
4. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall submit revised plans to the Director for review and approval that:
 - a. Delete the third floor studio and enclosed walkway access bridge;
 - b. Reduce the fence height to 6 feet along the north and east property lines, and reduce the fence height to 6 feet for the first 40 lineal feet along the western property line measured from the northwest corner of the property; and,
 - c. Reduce the second unit to a maximum floor area of 750 square feet.

Upon approval, the revised plans shall be labeled "Revised Exhibit A."

5. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall revise the site plan or other first sheet of the office and job site copies of the Building Permit plans to list these Design Review Conditions of Approval as notes.
6. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall submit either: 1) a Statement of Conformance, signed by a certified or licensed landscape design professional confirming that the landscape design requirements of Chapter 23.10 of the Marin County Code have been met; or 2) a letter from the Marin Municipal Water District indicating that the proposed landscaping complies with all conditions of the District's Water Conservation Ordinance.

7. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall submit a signed Statement of Conformance demonstrating that the project qualifies for a “Certified” or better rating under the Marin Green Home: New Home Green Building Residential Design Guidelines. The Building Permit shall include specifications demonstrating compliance with all construction-related measures that are used to meet the “Certified” or better rating.
8. Exterior lighting shall be located and/or shielded so as not to cast glare on nearby properties.
9. If archaeological, historic, or prehistoric resources are discovered during construction, construction activities shall cease, and the Community Development Agency staff shall be notified so that the extent and location of discovered materials may be recorded by a qualified archaeologist, and disposition of artifacts may occur in compliance with State and Federal law. A registered archeologist, chosen by the County and paid for by the applicant, shall assess the site and shall submit a written report to the Community Development Agency staff advancing appropriate mitigations to protect the resources discovered. No work at the site may recommence without approval of the Community Development Agency staff. All future development of the site must be consistent with findings and recommendations of the archaeological report as approved by the Community Development Agency staff. If the report identifies significant resources, amendment of the permit may be required to implement mitigations to protect resources. Additionally, the identification and subsequent disturbance of an Indian midden requires the issuance of an excavation permit by the Department of Public Works in compliance with Chapter 5.32 (Excavating Indian Middens) of the County Code.
10. All construction activities shall comply with the following standards:
 - a. Construction activity is only permitted between the hours of **7:00 a.m. and 6:00 p.m., Monday through Friday**, and **9:00 a.m. and 5:00 p.m. on Saturday**. No construction shall be permitted on Sundays and the following holidays (New Year’s Day, President’s Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day). Loud noise-generating construction-related equipment (e.g., backhoes, generators, jackhammers) can be maintained, operated, or serviced at the construction site from 8:00 a.m. to 5:00 p.m. Monday through Friday only. Minor jobs (e.g., painting, hand sanding, sweeping) with minimal or no noise impacts on the surrounding properties are exempted from the limitations on construction activity. At the applicant’s request, the Community Development Agency staff may administratively authorize minor modifications to these hours of construction.
 - b. It shall be the responsibility of the applicant to ensure that all construction materials and equipment are stored on-site (or secured at an approved off-site location) and that all contractor vehicles are parked in such a manner as to permit safe passage for vehicular, pedestrian, and bicycle traffic at all times.
11. All utility connections and extensions (including but not limited to electric, communication, and cable television lines) serving the development shall be undergrounded from the nearest overhead pole from the property, where feasible as determined by the Community Development Agency staff.
12. The applicant/owner hereby agrees to defend, indemnify, and hold harmless the County of Marin and its agents, officers, attorneys, or employees from any claim, action, or proceeding, against the County or its agents, officers, attorneys, or employees, to attack, set aside, void, or annul an approval of the Vlahos Design Review, for which action is brought within the applicable statute of limitations.
13. BEFORE FINAL INSPECTION, the applicant shall submit a Statement of Completion, signed by a certified or licensed landscape design professional, verifying that all approved and required landscaping has been installed in accordance with the approved landscape plan and Chapter 23.10 of the Marin County Code, where applicable.

14. 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 is obtained by the applicant.
15. BEFORE FINAL INSPECTION, the applicant shall submit a signed Statement of Completion confirming that the project has been constructed in compliance with all of the measures that were used to meet the “Certified” or better rating under the Marin Green Home: New Home Green Building Residential Design Guidelines.
16. BEFORE FOUNDATION INSPECTION, the applicant shall have a licensed land surveyor or civil engineer with proper certification conduct a survey of the side and rear (east, west, and north) property lines and install property line markers that can be readily verified by the Building and Safety Inspection staff to verify building setbacks and submit a written (stamped) confirmation to the Planning Division confirming that the staking of the property lines has been properly completed. In addition, it is recommended that the required setback lines be clearly marked by stakes similar to batter boards that are installed at the foundation corners. The requirement for new survey markers may be waived if proper survey markers already exist at the site and can be used by the Building and Safety Inspection staff to definitely measure building setbacks.
17. BEFORE APPROVAL OF THE UNDERFLOOR INSPECTION, the applicant shall have a licensed land surveyor or civil engineer with proper certification prepare and submit a written (stamped) survey or certification to the Planning Division confirming that the building’s finish floor elevation conforms to the floor elevation that is shown on the approved Building Permit plans, based on a benchmark that is noted on the plans.
18. BEFORE APPROVAL OF THE FRAMING INSPECTION, the applicant shall have a licensed land surveyor or civil engineer with proper certification submit a written (stamped) building height survey confirming that the building conforms to the roof ridge elevations that are shown on the approved Building Permit plans, based on a benchmark that is noted on the plans.
19. BEFORE APPROVAL OF THE FRAMING INSPECTION, the applicant shall submit documentation from the project engineer or “as-built” service, to be approved by the Chief Building Inspector, confirming that the floor area of the building conforms to the floor area that is shown on the approved Building Permit plans. A registered engineer or “as-built” service must stamp and wet sign this verification. Alternatively, the applicant may request that the Building and Safety Inspection staff verify the floor area based on measurement marks on the subfloor and second/third floor framing.
20. 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 Community Development Agency staff in consultation with the Strawberry Design Review Board. Exterior lighting visible from off site shall be permitted for safety purposes only, shall consist of low-wattage fixtures, and shall be directed downward and shielded to prevent adverse lighting impacts on nearby properties. The Community Development Agency staff may allow exceptions to this standard if the exterior lighting would not create night-time illumination levels that are incompatible with the surrounding community character and would not shine on nearby properties.
21. BEFORE FINAL INSPECTION, the applicant shall install all landscaping and an automatic drip irrigation system in accordance with the approved landscape plan. The applicant shall call for a Community Development Agency staff inspection of the landscaping at least five working days before the anticipated completion of the project. Failure to pass inspection will result in withholding of the Final Inspection and

imposition of hourly fees for subsequent reinspections.

22. 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 is obtained by the applicant.

Department of Public Works, Land Use and Water Resources Division

23. BEFORE ISSUANCE OF BUILDING PERMIT, the applicant shall submit or complete the following items:
 - a. Revise plans to show new location for proposed energy dissipater so it does not concentrate the flow into the neighboring property. Provide design detail of proposed energy dissipater(s). Provide pipe size recommendations for new storm drains based on the Hydrology and Hydraulic Calculations.
 - b. The plans shall be review an approved by a Registered Civil Engineer with soils engineering expertise or a Registered Geotechnical Engineer. Certification shall either be by the engineer's stamp and signature on the plans, or by stamp and signed letter.
 - c. A registered Engineer shall design the site/driveway retaining walls, drainage, and grading plans. Plans must have the engineer's signature and stamp.
 - d. Submit engineer's calculations for site/driveway retaining walls, signed and stamped by the engineer.
 - e. Submit an Erosion and Siltation Control Plan.
 - f. An Encroachment Permit shall be required for all improvements within the road right-of-way.
 - g. The applicant shall pay Public Transportation Facilities fees in accordance with Marin County Code Chapter 15.07.

Marin Municipal Water District

24. The applicant must enter into a pipeline extension agreement for the installation of the necessary facilities to upgrade the District's existing facilities. The District's Board of Directors must approve the agreement. All costs associated with a pipeline extension are borne by the applicant. Upon completion and acceptance of these facilities, this property will be eligible for water service upon request and fulfillment of the following requirements:
 - a. Completion of Low Pressure Water Service Applications including completion and notarization of Low Pressure Agreements. The applicant may be required to install mechanisms to pressurize each system;
 - b. Submittal of a copy of the building permit and payment of required fees;
 - c. Completion of the structure's foundation within 120 days of the date of application;
 - d. Compliance with the District's rules and regulations in effect at the time service is requested; and,
 - e. Compliance with the District's landscape requirements (Ordinance 385) through submittal of working drawings for all planting and irrigation systems to the District prior to provision of water service for new landscape areas, or improved or modified landscape areas.

Richardson Bay Sanitary District

25. The applicant must obtain a Sanitary Connection Permit for the plumbing fixtures to be installed and pay the infrastructure fee.

Southern Marin Fire Protection District

26. All access roads serving a dwelling shall be a minimum of 12 feet in width and be paved.
27. Driveways off access roads serving dwelling units shall meet Marin County Standards related to dimensions, surfacing, and slope (slope not to exceed 21 percent).
28. All new driveways shall be designed so that emergency vehicles can negotiate turns without having to make backing maneuvers (no switchbacks).
29. All access roads or driveways in excess of 150 feet in length shall be provided with an approved turn around.
30. In addition to the turn around described above, driveways or access roads shall have turnouts every 150 feet or as required by the fire district. A turnout shall be described as a shoulder or wide portion of the driving surface which has enough useable surface for vehicles to pass.
31. Provide a U.L. listed key box as required by the Southern Marin Fire Protection District. If electric gate, a Knox Box is required.
32. PRIOR TO FRAMING, provide fire department approved fire hydrant(s) to be spaced at 350 feet intervals and capable of providing a flow at the site of 750 gallons for 2 hours. Hydrant placement (including water main extension) shall be reviewed and approved by the District and MMWD.
33. For all new construction, plans for fire sprinkler design shall be approved and reviewed by the Southern Marin Fire Protection District prior to installation.
34. The address shall be posted in accordance with requirements of the Uniform Fire Code.
35. Smoke detectors shall be installed in accordance with the Uniform Building Code.
36. Non-combustible roofing is required for all new construction.
37. Compliance must be provided with Public Resources Code 4291 relating to brush and weed clearance.
38. Prior to occupancy, a spark arrestor shall be installed in the chimney(s).
39. All on-site improvements, such as water main extensions, hydrants and access roads must be serviceable PRIOR TO FRAMING the structure.
40. FINAL OCCUPANCY APPROVAL shall not be granted/released until authorization to the Community Development Agency has been received from the District.

Planning Commission

41. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall submit a revised landscape plan to the Director for review and approval that provides long-term screening with evergreen trees along the west side

to replace the screening effect of the Eucalyptus trees on the neighboring property that may be removed in the future. The landscape plan shall increase the ratio of native plants in relation to non-native plants. The emphasis of the landscape plan shall be on native species with some allowance for non-native species that are fast growing for screening the west elevation of the residence. Non-native species shall be compatible with the natural landscape, soils, and drainage characteristics of the affected area and local climate, to the extent possible. The landscape plan shall provide slope stabilization upslope of the residence. Upon approval, the revised landscape plan shall be included in revised Exhibit A.

SECTION 3: VESTING AND APPEAL RIGHTS

NOW, THEREFORE BE IT RESOLVED that the applicant shall vest the approval of the Vlahos Design Review (DR 05-21) application, before January 9, 2008, with the issuance of Building Permits and substantial completion of all improvements in accordance with the conditions of approval, or all rights granted in this approval shall lapse unless the applicant applies for an extension at least 30 days before the expiration date and the Director approves it.

NOW, THEREFORE BE IT FURTHER RESOLVED that this decision is final unless appealed to the Board of Supervisors. A Petition for Appeal and a \$700.00 filing fee must be submitted in the Community Development Agency - Planning Division, Room 308, Civic Center, San Rafael, no later than 4:00 p.m., January 19, 2006.

SECTION 4: VOTE

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the County of Marin, State of California, on the 9th day of January 2006, by the following vote to wit:

AYES: BARNER, GINALSKI, HOLLAND, THOMPSON

NOES: DICKENSON, GREENBERG, JULIN

ABSENT: NONE

DON DICKENSON, CHAIR
MARIN COUNTY PLANNING COMMISSION

Attest:

Kim Shine
Recording Secretary

Public hearing to consider the Las Cumbres Land Division and Master Plan applications to divide an existing 832 acre site into four residential parcels of 24, 45, 323, and 440 acres. A total of four single-family residences are proposed on the four parcels, identified as Parcels A, B, C, and D, with Parcels C and D also proposing a second unit. Parcels C and D also contain an accessory building envelope in a separate location from the residential building envelope. The application would allow the future subdivision of land around the accessory building envelopes of Parcels C and D, for a total potential project build-out of six lots and residences (and two second units). Parcel boundaries, building envelopes, leach field locations, road and utility locations, and proposed open space areas are included as part of the project applications. Access to the parcels would be from a combination of existing paved roads and dirt roads, and new driveways varying in length from 50 to 1,080 feet in length. Sanitary service would be provided by individual septic systems. Water services would be provided by wells. Approximately 6 acres of land is proposed for development, with the remaining 826 acres of land proposed as permanent private open space. An open space easement is proposed along the southern boundary of Parcel D, with an access easement on the ridgeline portion of the Los Pinos fire road, and a floating trail easement for a future trail in the southwesterly portion of Parcel D. The subject property is located at 5749 Lucas Valley Road, approximately 2½ miles east of Rancho Nicasio, and is further identified as Assessor's Parcels 121-210-51 and -52.

Prior to taking action on the merits of the project, the Marin County Planning Commission considered the adoption of a Negative Declaration of Environmental Impact for the project.

Ben Berto, Principal Planner, summarized the staff report and recommended that the Commission review the administrative record, conduct a public hearing, and take the following actions:

1. Recommend that the Board of Supervisors adopt a resolution approving the Mitigated Negative Declaration; and
2. Recommend that the Board of Supervisors adopt a resolution approving the proposed Las Cumbres Master Plan and Land Division.

The Commission asked staff for clarification regarding the extent of a recent landslide across the access to building envelope C1 and whether an analysis had been done in terms of reconstructing the hillside, if necessary; whether geologic mapping had been done; whether the dimensions of the fire department turnaround in the Parcel C1 building envelope would conflict with the large rock outcropping; the location of the leachfield on Parcel D1 and whether that leachfield is in a landslide area; the processing and timing of the current land division and future subdivision; the desirability of foregoing details about building envelopes except for Parcels A and B; the size of the proposed building envelopes and recommended reductions; the potential size of the buildings in the envelopes; the intent to preserve trees; the trail easement desirability and location(s); standards for the street address; water supply; and the potential for second units on each parcel.

The public hearing was opened.

The applicant's representatives, Terrel J. Mason (attorney), Steve Arago (designer), and Dietrich Stroeh (civil engineer), presented details of the project to the Commission. Mr. Mason explained that the family trust (property owner) needed two parcels for distribution to the Trust, with the remainder parcel(s) to be sold to pay estate taxes. He would have no objection to leaving the Parcel C and D area undivided to be divided at some future time. Mr. Arago explained that building envelope C1 was selected for its architectural interest, and the entire building envelope would not be developed. The septic drainfield would be located uphill approximately 1,400 feet away from the building envelope. He confirmed that building envelope C2 has been moved into the swale, and that it still enjoys views to the east. Building envelope D1 was the fourth choice, and they would be happy to consider

other locations. Mr. Stroeh stated that the well tests had been redone for wells 1 and 2 in July and August of 2000. Well 1 yielded flows of 20 gallons per minute (gpm) and well 2 yielded 11 gpm. Marin County requires 1 gpm for a single family residence, so these wells are substantially in excess of minimum requirements. Although water lines would be widely distributed, this could be easily done. Concerning septic sites, the proposed areas are all good, and larger than what is needed, so that septic systems could be moved within the sites. They knew about the slide in the drainfield location for building envelope D1, and would address the issue by buttressing and dewatering, so that groundwater levels would be lower than currently. He also stated that where access roads crossed slides, they would have to reconstruct, although he didn't have specifics on the extent of work. Mr. Stroeh also confirmed that the septic system for building envelope C1 would be up and over the hill.

Terry Mason explained that when the original family home was sold, Mr. Gonzales retained two-thirds of the west well's capacity for himself. One hundred percent of the east well was retained by Mr. Gonzales for his remainder parcel.

James Raives, Senior Open Space Planner for the Marin County Open Space District, told the Commission that he has worked cooperatively with the applicants to develop open space and trail easements, and that important public benefits would come with the project. He also stated that the existing 152-acre conservation easement is a non-exclusive easement that does not prohibit the granting of additional easements over or through this easement area, and would potentially allow construction of a trail. The Open Space District would be willing to work with the Homeowners Association on a trail in the 152-acre easement area.

The following people spoke regarding their concerns about the project. Issues raised included: access to and participation in maintenance of roadways, trails, and fire roads during development of the property and thereafter; Rancho Santa Margarita residents appreciate the ridge trail easement offer; the applicants should join the property owners' association and pay road assessment fees estimated at approximately \$3,000-3,500/year; the need for a trail easement to be granted for public use; impacts on the fragile road and bridge; water runoff; environmental impacts of the development; a loop trail near building envelope D1 has been used historically and an easement should be formalized; paving the trail for a driveway would endanger equestrians and hikers; the visibility of building envelope D1; concern and historical problems with the water supply and the need for up-to-date well tests.

- Jim Troy, president, Rancho Santa Margarita Property Owners' Association
- John Neff, adjacent property owner
- John Catts, 130 Camino Margarita
- Terri Beausejour, 70 Los Pinos Road
- Cynthia Kenyon, 55 Los Pinos Road
- Stephen Lewis, 5899 Lucas Valley Road

Terry Mason confirmed that that the applicants are consenting to join the Homeowners Association as a condition of approval.

The public hearing was closed.

The Commission discussed alternative building sites to building envelope D1. In response to a question, staff estimated that the slope to the open area above the building envelope appeared to exceed slope limits, and John Catts stated the slope appeared to be approximately 30 percent. The Commission questioned whether second units would be income restricted, and staff responded that the second units would be required but without income restrictions, since such units do not currently qualify for affordable housing. The Commission questioned the configuration of building envelope C2; and the need for resolution between the applicant and staff about the best locations for building sites.

Commissioner Dickenson stated that this was a very constrained site, and there were lots of unanswered questions. He noted that Parcel A has minimal constraints in terms of configuration, location, and visibility; Parcel B feels comfortable; building envelope C1 is a constrained area with geological issues, a creek crossing, and no clear

access; the proposed building envelope on C2 may be buildable but there are significant problems and visual impacts with the driveway location: it is very visible on a grassland site; building envelope D1 is not suitable for a home site, as it is relatively steep with many trees, removal of which could cause wind problems for remaining trees, and there are access problems; building envelope D2 may be a reasonable home site. He said that more information is needed before approving the Master Plan and he is uncertain if the Negative Declaration of Environmental Impact is appropriate. He suggested that Parcels A and B could be considered as separate parcels, with Parcels C and D combined and subject to a future Master Plan.

Commissioner Greenberg agreed with Commissioner Dickenson that there is insufficient information and that the scale involved makes it difficult to make an informed evaluation. Parcels A and B may be viable and six houses on the current site seem reasonable, however she needs to be convinced that the proposed building envelopes are the only viable areas. She noted there are public benefits to granting the easements, she is sensitive to the visual impact on neighbors, and environmental impacts need to be considered. She said she could support the creation of four lots, with the potential to further subdivide Parcels C and D, without details on the building envelopes. For building envelope D1, she would support the building envelope on the open knoll, as it could be screened so it has fewer visual impacts. She recommended more clustering of the building envelopes, keeping the rock outcropping on C1 outside of the building envelope, and stated that the driveway location on building envelope C2 was contrived, difficult, and undesirable. A better location for building envelope C2 was right off the existing fire road in the saddle.

Commissioner Holland agreed with Commissioner Greenberg about the desirability of creating four lots, with the building envelopes on Parcel A and Parcel B, and to not specify building envelopes on either Parcel C or Parcel D. He stated that building envelope C2 is a compromise with the neighbors and the road location doesn't make sense; C1 is not an economically viable building site; and that Parcel D1 is a difficult site.

Commissioner Barner questioned the role of the Planning Commission in this project; relayed his concern about the cost of the required infrastructure, and noted that if one were to buy the land, put in the infrastructure, and build a house, they would also want a view. He said that the differences need to be resolved between the applicant's consultants and staff in terms of appropriate locations. He questioned whether there was a way to be more general with the building sites for Parcels C and D.

Commissioner Ginalski agreed that the project was difficult to analyze and digest. There appears to be an opportunity to get lower density if we move quickly, which is not fair as additional analysis is needed, including hydrological analysis of the wells.

Commissioner Julin stated that she had nothing to add, except to commend both the applicant and staff for their demonstrated spirit of cooperation and hope that the process does not drag unnecessarily.

Chairman Thompson agreed that out of the four principal house sites, two were okay and two were in question, and asked staff to relook at Master Plan requirements. It appears we may end up with a detailed look at six sites, and wondered if there was an easier solution.

Deputy Director Crawford clarified that the Commission's responsibility was to make a recommendation to the Board of Supervisors, hopefully sooner rather than later. Based on today's hearing, the consensus of the Commission appears to be that based on the level of information provided in the current application and considering their site visit and issues of access, grading, and tree removal, the Commission is comfortable with Parcels A and B and with the possibility of building envelope D2. He noted that the Commission could continue the item to a future date to allow for additional analysis: C1 for the feasibility of having a driveway easement extending from the existing adjacent driveway; building envelope C2 for an alternative building site in the saddle portion of the ridge; possible options for building envelope D1; reexamine the issue of long-term water supply and relevant County standards. Alternatively, the Commission could make a recommendation to the Board of Supervisors for Parcels A and B only since the Commission is unable to make consistency findings for Parcels C

and D. Concerning recommending approval of the Master Plan and Land Division, staff could explore approving the overall density and general building locations, or a modified Master Plan for Parcels A and B with no specific building envelopes on Parcels C and D, although that latter approach may be problematic with respect to environmental review.

Commissioner Barner questioned if the land division was essential to meeting the applicant's objective of selling off some of the land and whether the land division could go forward without the details of a Master Plan.

Deputy Director Crawford stated that Planned District zoning requires a Master Plan, but not necessarily a Land Division at this stage of the review process.

Commissioner Dickenson said he was willing to approve only three lots: Parcel A, Parcel B, and Parcels C and D combined, with the C/D remainder being a parcel that could accommodate up to four additional homes with general criteria, leaving the question of siting for future separate applications.

Terry Mason said he would like to see the subdivision of Parcel A and Parcel B, with the remainder of Parcels C and D to be further divided subject to a future Precise Development Plan. He reiterated the benefit of a low density, six-lot Master Plan with two parcels specified and the other four future lots not specified at this point.

Deputy Director Crawford suggested that staff would carefully consider the need to revise and re-circulate the negative declaration based on how a preferred alternative is crafted.

M/s Dickenson/Greenberg to continue the public hearing to consider the Las Cumbres Negative Declaration and Land Division and Master Plan applications to the meeting of January 23, 2006, with a direction to staff to work with the applicant and return to the Commission with a revised Master Plan for a three parcel Land Division application, including proposed Parcels A and B with the third parcel being designated for up to four additional lots subject to future entitlements.

The motion carried 7/0/0.

The Commission advised the applicant and staff of the parameters with respect to the Master Plan for four additional lots: the length of driveways; minimizing the new driveways; clustering; and meeting all Countywide Plan criteria and planning district zoning requirements.

The Commission adjourned at 5:44 p.m.