

Marin County Planning Commission  
Regular Meeting  
January 23, 2012

*ROLL CALL The meeting was called to order by Chair Peter Theran at 10:00 a.m.*

Present at Roll Call: Peter Theran; Don Dickenson; Mark Ginalski; Randy Greenberg;  
Wade Holland.

Absent at Roll Call: Katherine Crecelius; Joan Lubamersky.

[Agenda](#)

1. INITIAL TRANSACTIONS

a. Incorporate Staff Reports into Minutes

M/s Wade Holland - Randy Greenberg to incorporate the staff reports into the minutes.

Vote: Motion carried 5-0

AYES: Peter Theran; Don Dickenson; Mark Ginalski; Randy Greenberg; Wade Holland.

ABSENT: Katherine Crecelius; Joan Lubamersky.

b. Minutes

M/s Wade Holland - Randy Greenberg to approve the minutes of the regular meeting of January 9, 2012, as submitted, and acceptance of the resolution denying the Matteson appeal and sustaining the Determination of Incompleteness of the Phillips Lot Line Adjustment, 3000 and 4000 Old Rancheria Road, Nicasio, APN 121-100-29, -30.

Vote: Motion carried 4-0-1

AYES: Peter Theran; Don Dickenson; Randy Greenberg; Wade Holland.

ABSTAIN: Mark Ginalski.

ABSENT: Katherine Crecelius; Joan Lubamersky.

c. Communications

None.

2. DIRECTOR'S REPORT

a. Preliminary Agenda Discussion Items, Field Trips

No updates were reported.

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

Chair Theran opened and closed public open time with no speakers coming forward.

Commissioner Lubamersky present at 10:02 a.m.

The Commission recessed at 10:03 a.m. and reconvened at 10:05 a.m. with six members present.

#### 4. DEVELOPMENT CODE AMENDMENT PROCESS DISCUSSION

CDA staff present: CDA Assistant Director Tom Lai and Principal Planner Jeremy Tejirian.

Responding to a concern brought forward by Bridger Mitchell on behalf of a number of community organizations during public open time at the January 9, 2012, Planning Commission meeting, Mr. Tejirian described the process by which staff represented the Commission's recommendation to the Board of Supervisors regarding proposed Development Code Amendments governing appeals of Agency determinations.

Speaking on behalf of the organizations named below, Bridger Mitchell requested that the Commission convey its recommendation to the Board of Supervisors directly: Environmental Action Committee of West Marin, Inverness Association, Sierra Club-Marin Group, Marin Conservation League, Marin Surfrider Foundation, West Marin/Sonoma Coastal Advocates, and Brenda and Richard Kohn.

The Commissioners expressed confidence that the Board of Supervisors understood the Commission's recommendation but suggested to staff that a memo to the Board clarifying the Commission's recommendation would be helpful.

#### 5. MCCARTHY APPEAL OF THE DENIAL OF THE MCCARTHY DESIGN REVIEW

##### [Staff Report](#)

CDA staff present: Mr. Lai and Planner Scott Greeley

DPW staff present: Michel Jeremias, Interim Senior Civil Engineer

Mr. Greeley presented the staff report, provided several corrections to project information, and recommended that the Planning Commission review the administrative record, conduct a public hearing, and adopt the recommended Resolution denying the McCarthy appeal and sustaining the administrative decision denying the McCarthy Design Review.

Bryan Murdock, the applicant, and Mike McCarthy, the property owner and appellant, gave a visual presentation showing the proposed design and asserted that design guideline C-1.4 of the Single-family Residential Design Guideline is out-of-date for current parking needs in the neighborhood, there is very good pedestrian frontage, and the project will enhance the neighborhood.

The following members of the public spoke in support of the project, citing that it would enhance the neighborhood: Daniel Shiner, Edward Lawrence, Nancy Campbell, Jeff Matthew, and Ricardo Soto.

Five of the Commissioners expressed concerns about the project, including ignoring an unambiguous design guideline from the Single-family Residential Design Guidelines, setting a precedent for garage additions resulting in the loss of small-neighborhood character, and placement of the garage with a near-zero setback in the front yard and impacting both visual character and pedestrian safety. The Commission acknowledged the strong community support for the project but noted the Commission's lack of jurisdiction to suspend or modify the Single-family Residential Design Guidelines.

Commissioner Lubamersky stated that she supported the project, noting the eclectic character of the neighborhood and that the Strawberry Design Review Board recommended approval of the project.

M/s Randy Greenberg - Mark Ginalski to approve a Resolution denying the McCarthy appeal and sustaining the administrative decision denying the McCarthy Design Review, with the addition of a citation of Development Code Chapter 22.20.090C(2)(c) as the basis for the project requiring Design Review.

Vote: Motion carried 5-1

AYES: Peter Theran; Don Dickenson; Mark Ginalski; Randy Greenberg; Wade Holland.

NOES: Joan Lubamersky.

ABSENT: Katherine Crecelius.

Chair Theran indicated that the decision is appealable to the Board of Supervisors by 4:00 p.m. on Monday, February 6, 2012.

## 6. STRAWBERRY VILLAGE RETAIL APPEAL OF THE INCOMPLETENESS FINDING FOR THE STRAWBERRY VILLAGE RETAIL TENTATIVE MAP WAIVER

### [Staff Report](#)

CDA staff present: Mr. Tejrjian and Mr. Greeley

DPW staff present: Ms. Jeremias, Associate Civil Engineer

Commissioner Dickenson disclosed that he was a County staff planner and handled the Design Review application for 60 Belvedere Drive over 30 years ago.

Mr. Greeley presented the staff report and recommended that the Planning Commission review the administrative record, conduct a public hearing, and adopt the recommended Resolution denying the Strawberry Village Retail appeal and sustaining the determination of incompleteness of the Strawberry Village Retail Tentative Map Waiver. Mr. Tejrjian reviewed staff's approach for choosing an incompleteness determination over a summary denial of the project.

Judy Davidoff, attorney representing the applicant/appellant, and Chris Long, surveyor, reviewed the bases of appeal and discussed the reasons that a tentative map waiver is appropriate, including that no development or change to existing use is being proposed. Ms. Davidoff also asserted that the information required in the Notice of Project Status goes beyond what is necessary to review the project.

Staff answered questions from the Commission regarding ownership of the parcel; parking easements; lot slope requirements; and local ordinance requirements for Tentative Maps and Parcel Maps. Commissioner Dickenson raised concerns to staff, Ms. Davidoff, and Mr. Long as to whether the property was a separate legal lot from Strawberry Village and whether a shared parking agreement may exist between the two.

The Commissioners supported staff's recommendation to deny the appeal, citing the reasons set forth in the proposed resolution, including that Tentative Map Waivers are not appropriate for creation of new lots, staff's reasonable request for additional information in order to complete evaluation of the project, and the potential for setting an undesirable precedent to allow subdivision of urbanized properties through Tentative Map Waivers.

M/s Randy Greenberg - Don Dickenson to approve the Resolution denying the Strawberry Village Retail Appeal and sustaining the determination of incompleteness of the Strawberry Village Retail Tentative Map Waiver.

Vote: Motion carried 6-0

AYES: Peter Theran; Don Dickenson; Mark Ginalski; Randy Greenberg; Wade Holland; Joan Lubamersky.

ABSENT: Katherine Crecelius.

Chair Theran indicated that the decision is appealable to the Board of Supervisors by 4:00 p.m. on Monday, February 6, 2012.

## 7. LOCAL COASTAL PROGRAM UPDATE

### [Staff Report, Supplement & Errata](#)

CDA Staff present: CDA Director Brian Crawford, Mr. Lai, Principal Planner Jack Liebster, Senior Planner Kristin Drumm, Senior Planner Christine Gimmler, Planner Veronica Corella-Pearson, and Assistant Planner Alisa Stevenson  
Steve Scholl, Consultant Planner  
DPW staff: Ms. Jeremias

Mr. Crawford acknowledged the Planning Commission's work on the LCP, as well as staff's work and the public's input, and asked the Commission to recognize the importance of adhering to the schedule for completion and recommendation of the LCP amendment to the Board of Supervisors.

Mr. Liebster provided an overview of the staff report materials for this meeting and noted several corrections and revisions to enter into the record.

The Commission recessed for lunch at 12:00 noon and reconvened at 1:00 p.m. with six members present as indicated.

The following organization representatives and members of the public spoke regarding various issues including: major vegetation removal in the Coastal Zone; grazing in wetlands; Wind Energy Conversion Systems (WECS); public comments have not been completely addressed;

mariculture in the parks; water resources; and proposed changes to the Title 22 County tree ordinance:

Inverness Association: Bridger Mitchell

Community Marin: Nona Dennis

Environmental Action Committee of West Marin: Amy Trainer

West Marin/Sonoma Coastal Advocates: Susie Schlesinger, Helen Kozoriz, Beverly Childs McIntosh

Woody Elliott, Terence Carroll, Cela O'Connor

The Commission recessed briefly from 1:45 p.m. to 1:50 p.m. and from 3:27 p.m. to 3:43 p.m.

The Commission reviewed and discussed the December 1, 2011, and January 9, 2012, Decision Tables and carryover issues in the areas of Biological Resources, Environmental Hazards, Water Resources, and Major Vegetation Removal, as presented in the staff report, supplemental staff report and errata to the Decision Tables and staff report. The comments and direction provided by the Commission to staff will be reflected in updated Tentative Decision Tables.

The Commission decided to restrict all WECS in the Coastal Zone other than roof-mounted WECS to the C-APZ and C-ARP zoning districts by straw vote 5-1 (Dickenson).

M/s Randy Greenberg - Joan Lubamersky to continue the hearing to February 13, 2012.

Vote: Motion carried 6-0

AYES: Peter Theran; Don Dickenson; Mark Ginalski; Randy Greenberg; Wade Holland; Joan Lubamersky.

ABSENT: Katherine Crecelius.

M/s Randy Greenberg - Joan Lubamersky to adjourn.

Vote: Motion carried 6-0

AYES: Peter Theran; Don Dickenson; Mark Ginalski; Randy Greenberg; Wade Holland; Joan Lubamersky.

ABSENT: Katherine Crecelius.

Chair Theran adjourned the meeting adjourned at 4:07 p.m.

The next meeting of the Planning Commission is scheduled for February 13, 2012.

**Planning Commission FINAL Decision Table  
January 23, 2012  
LCP Hearing on Carryover Issues**

**APPROVED by Planning Commission:** February 13, 2012

The items in highlighted strike-out and underline format document changes made by the Planning Commission to the working draft of the LCP at the January 23, 2012 hearing. Other ~~strike-outs~~ and underlines indicate changes proposed in the January 23, 2012 staff report materials and approved by the PC.

<b>Biological Resources (BIO)</b>
<p><b><u>Biological Resources Chapter - Background</u></b> The Planning Commission approved staff's recommended changes to the Background section for Biological Resources as proposed in the 1/23/12 staff report, with additional changes as shown (highlighted):</p> <p><b>Biological Resources - Background:</b> ... Bolinas Lagoon and Tomales Bay are part of a larger, relatively undisturbed complex of wetlands along the Marin/Sonoma coast that includes Drakes and Limantour Esteros, Abbotts Lagoon, Estero Americano, Estero de San Antonio, and Bodega Harbor. Tomales Bay, Bolinas Lagoon, and the waters along much of the County's ocean shoreline are also part of the Gulf of the Farallones National Marine Sanctuary. <u>The area is within the Pacific flyway and supports approximately 20,000 wintering shorebirds, seabirds, and waterbirds both seasonally and year-round. Subtidal areas and extensive mudflats support diverse populations of invertebrates and provide nursery and feeding habitat for resident and migratory fish, while steelhead and coho salmon</u> <del>move through the lagoon to</del> <u>access streams in the watershed.</u> ...</p>
<p><b><u>Policy C-BIO-1 Environmentally Sensitive Habitat Areas; and Policy C-BIO-3 Environmentally Sensitive Habitats of Rare or Endangered Species and Unique Plant Communities.</u></b> The Planning Commission approved staff's recommendation to revise Policies C-BIO-1 and C-BIO-3 as proposed in the 1/23/12 staff report.</p>
<p><b><u>Policy C-BIO-4 Alteration of Land Forms.</u></b> See the section for "Major Vegetation Removal in the Coastal Zone" below.</p>
<p><b><u>Program C-BIO-5.b Expand Environmentally Sensitive Habitat Areas.</u></b> The Planning Commission requested that staff restore the original language of Program C-BIO-5.b as proposed in the June 2011 Public Review Draft of the LCP, with modifications as shown (highlighted):</p> <p><b><i>Program C-BIO-5.b Allowed Development in an ESHA.</i></b> Encourage the expansion of environmentally sensitive habitat areas by establishing criteria that would allow <u>property owners affected properties</u> to remain subject to <u>the pre-existing buffers from the pre-existing edge of the habitat area rather than from the edge of the expanded habitat area.</u></p>

**Policy C-BIO-14 Wetlands.**

The Planning Commission approved staff's recommended changes to Policy C-BIO-14, with additional modifications as shown (highlighted):

**C-BIO-14 Wetlands.** Preserve and maintain wetlands in the Coastal Zone, consistent with the policies in this section, as productive wildlife habitats, water filtering and storage areas, and, as appropriate, recreational open space. Evaluate land uses in wetlands as follows:

1. Permit diking, filling, and dredging of wetlands only in conformance with the policies contained in Policy C-BIO-16. Prohibit filling of wetlands for the purposes of residential development.
2. Allow certain resource-dependent activities in wetlands including fishing, recreational clamming, hunting, nature study, bird watching and boating.
3. Prohibit grazing or other agricultural uses in a wetland, except in those reclaimed areas presently (prior to the certification of this amended policy on [date]) used for such activities, or in new areas where a grazing land ranch plan has been approved by the California Regional Water Quality Control Board, or where the landowner ~~has partnered~~ demonstrates to the County's satisfaction that they have developed and implemented management measures to prevent adverse impacts to wetland functions and resources such as by partnering with the Marin Resource Conservation District or the University of California Agriculture and Natural Resources Cooperative Extension ~~for the development and implementation of management measures to prevent adverse impacts to wetland functions and resources.~~

**Environmental Hazards (EH)**

**Environmental Hazards Chapter – Background**

The Planning Commission approved staff's recommended changes to the Background section for Environmental Hazards as proposed in the 1/23/12 staff report.

**Policy C-EH-13 Shoreline Protective Devices**

The Planning Commission approved Policy C-EH-13 with modifications to item #8 as shown (highlighted):

**C-EH-13 Shoreline Protective Devices.**

...

8. The shoreline protective device ~~is~~ may be authorized for a specified period of time, ~~twenty years from the date of approval~~ depending on the nature of the project and other possible changing conditions. Maintenance beyond the ~~twenty-year~~ specified time period, modification, or expansion of the approved device shall require approval of an amendment to the Coastal Permit.

<b>Mariculture (MAR)</b>
<p><b><u>Policy C-MAR-2 Mariculture in the Parks</u></b>                      The Planning Commission requested that staff delete Policy C-MAR-2 from the Land Use Plan.</p> <p><del><b>C-MAR-2 Mariculture in Parks.</b> Existing maricultural operations in the parks are encouraged in a manner compatible with natural resource protection and should be permitted to continue. Additional mariculture activities should be considered, provided that they are compatible with other park uses, and do not conflict with public access, recreation, the protection of natural and visual resources, water quality, or National Park Service policies concerning commercial development. New mariculture activities should be subject to permit review by the Coastal Commission.</del></p>

<b>Water Resources (WR)</b>
<p><b><u>Water Resources Chapter – Background</u></b>                      The Planning Commission approved staff’s recommended changes to the Background section for Water Resources as proposed in the 1/23/12 staff report.</p>
<p><b><u>Policy C-WR-2 Water Quality Impacts of Development Projects</u></b>                      The Planning Commission approved staff’s recommended changes to Policy C-WR-2 as proposed in the 1/23/12 staff report.</p>
<p><b><u>Policy C-WR-3 Storm Water Runoff; and Section 22.64.080 – Water Resources.</u></b>                      The Planning Commission approved staff’s recommended changes to Policy C-WR-3 as proposed in the 1/23/12 staff report and errata.</p>
<p><b><u>Policy C-WR-14 Design Standards for High-Impact Projects</u></b>                      The Planning Commission approved staff’s recommended changes to Policy C-WR-14, as proposed in the 1/23/12 staff report, with an additional modification as shown below (highlighted):</p> <p style="padding-left: 40px;"><b>Policy C-WR-14 Design Standards for High-Impact Projects.</b></p> <p style="padding-left: 40px;">...</p> <p style="padding-left: 40px;">6. <u>Development that will:</u></p> <p style="padding-left: 40px;">...</p> <p style="padding-left: 80px;"><u>“Discharge runoff directly” is defined as runoff that flows from the development to the ocean, coastal waters, or to a stream or wetland buffer that is not first combined with flows from any other adjacent areas.</u></p> <p style="padding-left: 40px;">...</p>

**Section 22.64.080.A.3 – Water Resources: Application Requirements: Site Plan – Post-Construction Element.**

The Planning Commission approved staff’s recommended changes to Section 22.64.080.A.3, as proposed in the 1/23/12 staff report, for consistency with the PC-approved changes to Policy C-WR-13.

**Section 22.64.080.B.4 – Water Resources: Water Quality Standards: Detention and infiltration basins.**

The Planning Commission approved staff’s recommendation to delete Section 22.64.080.B.4, as proposed in the 1/23/12 staff report, for consistency with the PC-approved deletion of Policy C-WR-11.

**Section 22.64.080.B.8 – Water Resources: Water Quality Standards: Construction Phase Pollution.**

The Planning Commission approved staff’s recommendation to add new Section 22.64.080.B.8, as proposed in the 1/23/12 staff report, for consistency with the PC-approved addition of new Policy C-WR-15.

**Section 22.64.080.C.10 – Water Resources: Grading and excavation standards: Erosion and Flood Control Facilities.**

The Planning Commission approved staff’s recommendation to add new Section 22.64.080.C.10 as proposed in the 1/23/12 staff report, for consistency with the PC-approved addition of new Policy C-WR-17.

**Chapter 22.68 – Coastal Permit Requirements**

**Section 22.68.050.A.2 – Exempt Projects**

The Planning Commission approved staff’s recommended changes to Section 22.68.050.A.2 as proposed in the 1/23/12 staff report.

**Major Vegetation Removal in the Coastal Zone**

To address the removal of major vegetation in the 1/23/12 staff report, staff proposed changes to Policy C-BIO-4 and to the definition of “Major Vegetation.” Staff also proposed new Programs C-BIO-4.a and -4.b, new Policy C-EH-24, and new Section 22.64.060.B.10. The Planning Commission requested that staff make the following changes:

- Revise definition of “Major Vegetation” to add reference to “defensible space” and add exception for ornamental vegetation.
- Revise Section 22.64.060.B.10 to replace all references to “tree” with “major vegetation” and move item #11 up to #1 (renumbered as “a” – “k” for consistency with development code).
- Replace “aesthetically important” with a clearer term.
- Confirm that a Coastal Permit *and* Tree Removal Permit would never both be required for the

same vegetation removal.

Staff will revise as directed and bring this back to the Planning Commission for review at the February 13, 2012 hearing.

**Agriculture (AG)**

*Agriculture was not addressed in the 1/23/12 Staff Report, but was brought up for discussion during review of the Errata and Supplemental Materials at the 1/23/12 Planning Commission hearing. At that time, the Commission requested further changes as noted below.*

**Program C-AG-2.e Establish Criteria for On-site Agricultural Sales and Processing.**

With the exception of item "5.a," the Planning Commission approved staff's recommendation to delete most of Program C-AG-2.e, since it has been completed and implemented by proposed Development Code Sections 22.32.026 (Agricultural Processing Uses) and 22.32.027 (Agricultural Retail Sales and Facilities (coastal)). The Commission further requested that staff draft a new policy to introduce the revised program to follow, based on the remaining language of item 5.a regarding "Community-specific retail sales." Staff will adjust this section and bring it back to the Planning Commission for review at the February 13, 2012 hearing.

**Policy C-AG-7 Development Standards for Agricultural Production Zone (C-APZ) Lands.**

The Planning Commission approved staff's recommended changes to Policy C-AG-7 as proposed in the errata and supplemental enclosure #4 to the 1/23/12 staff report, with a further modification to change "enhance" to "maintain" in item A.1.

**Section 22.65.040 – C-APZ Zoning District Standards**

The Planning Commission approved staff's recommended changes to Section 22.65.040 as proposed in the supplemental enclosure #4 to the 1/23/12 staff report, with further modifications as shown below (highlighted):

**22.65.040 - C-APZ Zoning District Standards**

...

**C. Development standards**

...

**1. Standards for agricultural uses:**

a. Permitted development shall protect and ~~enhance~~ maintain continued agricultural use, and contribute to agricultural viability.

b. Development shall be permitted only where adequate water supply, sewage disposal, road access and capacity and other public services are available to support the proposed development after provision has been made for existing and continued agricultural operations. Water diversions or use for a proposed development shall not adversely impact stream or wetland habitats, have significant effects on groundwater resources, or significantly reduce freshwater inflows to water bodies including but not limited to Tomales Bay, either individually or cumulatively. ~~The proposed development will. Permitted development shall have no significant adverse impacts on environmental quality or natural habitats, and shall meet all other applicable policies, consistent with the LCP,~~

...

<p><b><u>2. Standards for Non-Agricultural Uses:</u></b></p> <p>...</p> <p><b>c. Required findings.</b></p> <p>...</p> <p><b>(2)</b> The proposed development will not conflict with the continuation or initiation of agricultural uses on the portion of the property that is not proposed for development, on adjacent parcels, or <b>on other agricultural</b> parcels within one mile of the perimeter of the proposed development.</p> <p>...</p>
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<p style="text-align: center;"><b>Wind Energy Conversion Systems (WECS) (coastal)</b></p> <p style="text-align: center;"><i>WECS was not addressed in the 1/23/12 Staff Report, but was brought up for discussion during review of the Supplemental Materials (Enclosure #4) at the 1/23/12 Planning Commission hearing. At that time, the Commission requested further changes as noted below.</i></p>
<p><b><u>Section 22.32.190 – Wind Energy Conversion Systems (WECS) (coastal)</u></b></p> <p>The Planning Commission approved staff’s recommended changes to Section 22.32.190 as shown in the supplemental enclosure #4 to the 1/23/12 staff report, and requested further modifications to limit Small and Medium Freestanding WECS to only be allowed in coastal agricultural zoning districts (C-ARP and C-APZ). Staff will revise as directed and bring this back to the Planning Commission for review at the February 13, 2012 hearing.</p>