

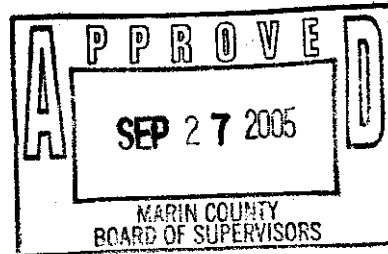
COUNTY OF MARIN
OFFICE OF THE ADMINISTRATOR

3501 CIVIC CENTER DRIVE, SUITE 325, SAN RAFAEL, CA 94903

415/499-6358 - FAX 415/507-4104

Matthew H. Hymel
County Administrator

September 27, 2005



Board of Supervisors
Marin County Civic Center
3501 Civic Center Drive
San Rafael, California 94903

SUBJECT: Response to 2004 - 2005 Grand Jury Report "What Are We Permitting? Construction Permitting and Enforcement Practices at the Marin County Community Development Agency." (June 20, 2005)

Dear Board Members:

RECOMMENDATION: Concur in and adopt the attached proposed response to the 2004-2005 Grand Jury report on the Community Development Agency's construction permitting and enforcement practices and authorize the Board President to forward the response to the Presiding Judge of the Marin County Superior Court.

SUMMARY: The 2004-2005 Civil Grand Jury published a report on June 20, 2005, entitled "What Are We Permitting? Construction Permitting and Enforcement Practices at the Marin County Community Development Agency." The report included a request for response from your Board. Attached for your consideration, in accordance with §933 of the California Penal Code, is a proposed response. A copy of the Grand Jury report is also attached for your information.

FISCAL IMPACT: None.

ALTERNATIVE: The Board may amend any suggested response.

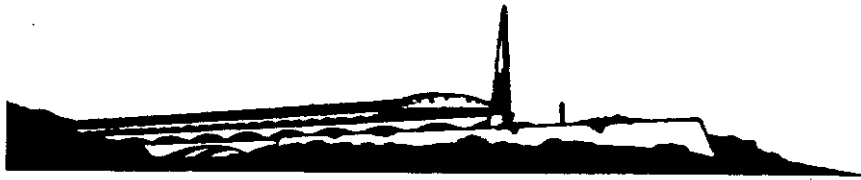
REVIEWED BY:

<input checked="" type="checkbox"/>	County Counsel	<input type="checkbox"/>	N/A
<input checked="" type="checkbox"/>	Human Resources	<input type="checkbox"/>	N/A
<input type="checkbox"/>	Auditor-Controller	<input checked="" type="checkbox"/>	N/A

Respectfully submitted,

Matthew H. Hymel
County Administrator

cc: County Counsel



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THE BOARD OF SUPERVISORS OF MARIN COUNTY

September 27, 2005

Honorable Terrence R. Boren
Presiding Judge
Marin County Superior Court
3501 Civic Center Drive
San Rafael, CA 94903

Dear Judge Boren:

Forwarded herewith is the Board of Supervisors' response to the 2004-05 Grand Jury Report *"What Are We Permitting? Construction Permitting and Enforcement Practices at the Marin County Community Development Agency."* The Board of Supervisors' response addresses all Findings and Recommendations for which a response was requested from the Board of Supervisors.

Respectfully submitted,

Hal Brown
President, Board of Supervisors

cc: Civil Grand Jury

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RESPONSE TO GRAND JURY REPORT FORM

Report Title: What Are We Permitting? Construction Permitting and Enforcement Practices at the Marin County Community Development Agency

Report Date: June 20, 2005

Response by: Marin County Board of Supervisors

FINDINGS

- We agree with the findings numbered: F1 and F8.
- We disagree wholly or partially with the findings numbered: F2, F3, F4, F5, F6, F7, and F9.

RECOMMENDATIONS

- Recommendations numbered R1 and R3 have been implemented.
- Recommendation numbered R2 has not yet been implemented, but will be implemented in the future.
- Recommendations numbered R4, R5, R6, and R7 require further analysis.

(Explanations attached.)

Date: 9/27/2005 Signed: 

Number of pages attached 6

MARIN COUNTY BOARD OF SUPERVISORS

Response to Findings and Recommendations from Civil Grand Jury Report
"What Are We Permitting?" June 20, 2005

Findings

- F1. The CDA has taken some steps to improve the permitting process.**

Response: Agree.

- F2. The planning process lacks clarity and is unduly time-consuming, typically taking three to six months or more.**

Response: Partially disagree. It is true that the planning process in Marin County is more complex and time-consuming than in many other jurisdictions. This reflects the County policy to ensure that Marin County is a well-planned community with appropriately controlled development and maintenance of open space and agricultural land use. The Community Development Agency (CDA) is charged with balancing the needs of permit applicants with the high standards of the Countywide Plan. The time required to properly review and process discretionary permits has increased due to several factors, including heightened public interest and participation in the development review process, as well as additional procedures required by State environmental laws.

Despite these challenges, the CDA has been able to successfully process most development applications in an effective and timely manner. For example, the Board recently adopted Single-Family Residential Design Guidelines, which provide clear direction for design of projects, reduce confusion or misunderstanding regarding the meaning and intent of design review standards and criteria, and maintain consistency in decisions for design review projects with respect to the quality and characteristics of the surrounding community and environmental setting. The guidelines will also serve as a basis for expediting projects that meet clear and thoughtful standards.

The Board of Supervisors and CDA have also initiated an organizational assessment of the department that will include an evaluation of the existing permit process, including performance measures, as well as policy issues and regulatory requirements. The assessment will be conducted by outside consultants with expertise in planning and permit review processes to ensure a thorough and impartial evaluation. The assessment will result in recommendations for additional key initiatives to improve the efficiency and effectiveness of CDA's permit review process as well as other organizational and system improvements.

- F3. Permits and enforcement have increased, but the number of staff members has remained static. Within the CDA, Code Enforcement, Current Planning, and Building & Safety are chronically understaffed.**

Response: Partially disagree. Although the number of permits has increased to a certain extent, the major issue involved in a planner's workload is the required staff work for each permit. Staffing levels will be reviewed as part of the organizational assessment to determine whether there are opportunities to address this issue through permit process efficiencies.

F4. The workplace at the CDA is seriously crowded.

Response: Partially disagree. The Board of Supervisor agrees that CDA space is crowded as is the space of many of the departments within the Civic Center. However, it is not clear that they are as "seriously" crowded as some other departments within the Civic Center.

To address the general issue of overcrowding within the Civic Center, the County has prepared a Facilities Master Plan and is in the process of demolishing the old jail space and constructing an additional 13,000 square feet of office space. In addition, we are planning for a new public safety building to be located on the Civic Center campus. This new building would free up approximately 25,000 to 30,000 square feet of office space by moving existing departments to the new building. Both these efforts will ease the current overcrowding within the Civic Center.

F5. CDA management has put little emphasis on enforcement.

Response: Disagree. The CDA has allocated three full-time staff members to the Code Enforcement section of the Planning and Building and Safety Divisions. Code Enforcement staff are primarily responsible for responding to and resolving planning and building code violations, which for the most part are complaint driven.

As recognized in the Grand Jury report, the CDA has established revised code inspection and compliance procedures to verify that construction projects are carried out in conformance with approved plans and conditions. The procedures require surveys or other methods of verification for building setbacks, height and floor area to ensure that new construction does not exceed the parameters established by the County's zoning and building codes. The Grand Jury report also acknowledges the increased permit penalties that were adopted by the Board of Supervisors to further deter applicants from committing violations, particularly those applicants that are intentional or repeat offenders.

F6. Planning and Building & Safety Division staff lack the information technology to do their jobs efficiently.

Response: Partially disagree. The CDA Planning Division operates a very comprehensive and sophisticated computer GIS system that numerous other planning and building agencies in Marin rely upon. Most of the information available through this system is readily available to the Planning Division staff at their desktop computers. Nonetheless, additional technology improvements are needed to upgrade and integrate the CDA's permit tracking throughout the three divisions, especially those related to Building and Safety and Environmental Health Services. In recognition of this, the Board of Supervisors has allocated

\$400,000 in the FY 2005-06 budget to upgrade the CDA's permit tracking system.

F7. The CDA does not have a one-stop shop.

Response: Partially disagree. The CDA Planning Division is currently co-located with the Building and Safety Division and immediately accessible to the Department of Public Works Land Development and Water Resources divisions, both of which play a major role in the development review process. The Civic Center Facilities Master Plan proposes the eventual relocation of all land development departments to a new central location to create greater convenience to customers.

Although the CDA does not have a single office where permits involving multiple authorizations from all three divisions can be approved over the counter, the Planning Division has an established fast-track program that allows qualifying building permit applications to be reviewed and approved within a 3-day period. In addition, the CDA grants over-the-counter permits for a variety of small projects that do not warrant design review, such as electrical and plumbing permits, kitchen and bathroom remodels, window, siding and roof replacements, solar installations, and water heaters and furnaces.

It is worth noting that projects involving on-site septic systems and/or water supplies are generally not well suited to an over-the-counter permit due to the complexities of septic and water systems and the level of technical review that is typically required to ensure compliance with the County's health code. This factor distinguishes the County from cities and towns in Marin that operate an over-the-counter permit program benefiting from the availability of urban services.

F8. All eleven cities and towns in Marin require a pre-sale inspection. The County does not.

Response: Agree.

F9. The CDA did not adequately follow through on the recommendations of the 1999-2000 Grand Jury report.

Response: Disagree. The CDA has addressed the recommendations set out in the 1999-2000 Grand Jury report as follows:

- Planning Division staff have been adequately trained both in-house by senior staff and County employee training programs, as well as through continuing educational courses offered by the University of California Extension and other outside planning seminars and courses. The need for additional training will be addressed by the organizational assessment currently under way.
- Variations of approved plans have been thoroughly reviewed and changes that are not substantially different from the approved plans or that do not require a variance from adopted standards are processed through an appropriate level of discretionary permit review. Discretionary

- R3. The Board of Supervisors hire/appoint a consultant to assess the CDA's information technology needs and provide a cost-benefit analysis of their implementation.**

Response: Has been implemented. On August 30, 2005 the Board of Supervisors approved professional services agreements with two outside consultants (Zucker Systems and Crawford Multari & Clark) to conduct a comprehensive assessment of the CDA, including its current information technology systems. The Board has already allocated \$400,000 for technology improvements that will be identified in the assessment report.

- R4. The CDA institute a customer-friendly, one-stop shop service several days a week.**

Response: Requires further analysis. The scope of the organizational assessment recently authorized by the Board of Supervisors will include an evaluation of the CDA's current permit processes and make recommendations with respect to fast-track measures designed to create greater efficiencies for customers and staff. In addition, the assessment will address revised or new performance measures or benchmarks for customer service. The CDA will consider the extent to which the current over-the-counter permit approvals can or should be implemented in the context of the recommendations from the assessment.

- R5. The CDA and the Board of Supervisors adopt a requirement for pre-sale inspections of residences for unincorporated areas of the County.**

Response: Requires further analysis. Most home sales involve an inspection conducted by a private contractor or firm. The extent of these inspections may vary depending upon the contractor and/or the jurisdiction requiring or offering the inspection. Further analysis is needed to consider the feasibility of establishing a mandatory time-of-sale inspection program that can be conducted in a clear and consistent manner. The analysis will include the possibility of having private contractors conduct inspections that focus on important public health and safety standards based upon clear guidance from the County regarding the scope of the inspection.

The CDA will conduct a preliminary analysis of a home inspection program within 6 months, including consultation with home inspection consulting firms, representatives of Marin realtors, and public health and safety agencies. Recommendations regarding the program will be made within the next year. *When complete, staff will send an addendum to the Grand Jury.*

- R6. CDA staffing be increased in the areas of code enforcement, building inspection, and current planning.**

Response: Requires further analysis. Staff levels will be considered based on the recommendations from the organizational assessment, as well as the County's overall goals and funding constraints.

- R7. The CDA find solutions to the crowded work conditions of its staff.**

permit requests for major deviations are likely to be referred to the Planning Commission for public hearing and additional scrutiny.

- The CDA has shared its files and records with other divisions within the agency and other County departments. In addition, CDA will be implementing a more sophisticated and comprehensive integrated permit tracking system that will provide for significant improvements in this area.
- The CDA has strengthened its internal policies in the area of code compliance procedures and abatement of violations. Examples of this are the April 2004 code inspection and compliance procedures discussed above and the stiffening of permit penalties for work performed in violation of approved plans.

Recommendations

The Grand Jury recommends that:

R1 Enforcement be more stringent and consistent.

Response: Has been implemented. The CDA has adopted revised code inspection and compliance procedures requiring permit applicants to demonstrate that new construction complies with approved plans. The CDA Planning and Building and Safety staff has been implementing these procedures through the building inspection and condition compliance processes. Refinements to these procedures are expected in the future to ensure their effectiveness and efficiency.

In addition, the Board of Supervisors has approved increased permit penalty fees for unauthorized construction proposed for legalization as a means of creating a greater disincentive to begin work without obtaining proper approvals and/or to adhere to the limits of construction required by approved permits.

R2. The planning process be clarified, streamlined, and shortened.

Response: Will be implemented. In July 2005 the Board of Supervisors adopted the Single-Family Residential Guidelines. These guidelines will improve the design review process by providing permit applicants with clear direction for designing single-family residential projects, which represent a substantial amount of the County's discretionary planning permits. In that regard, the guidelines should also reduce the confusion and misunderstanding that can occur in the design review process because applicants do not fully understand issues that planning staff will consider in approving or denying a project.

Additional improvements to the planning process are expected as a result of the organizational assessment that the Board of Supervisors authorized on August 30, 2005. The assessment will include a critical evaluation of the CDA permit review process and related policies and standards. The assessment will include recommendations for further improvements in the planning process.

Response: Requires further analysis. The County has prepared a Civic Center Facilities Master Plan that may result in the CDA Planning and Building and Safety Divisions relocating to a more spacious office area. The CDA and County Administrator's office are presently considering the master plan and implications for relocating the CDA to a different area of the Civic Center.