COUNTY OF MARIN

County of Marin
Regulatory Improvements Advisory Committee
Notes from Meeting 2: Permit Review

Meeting Date: December 6, 2012, 1:30 – 3:30pm

Location: Friends of Marin Room, Exhibit Hall Building, Marin Center, San Rafael

Attendance:

Committee Members: Charles Ballinger, Bob Brown, Nona Dennis, Elida Doldan-Schujman, Robert Eyler, Dominic Grossi, Wade Holland, Richard Kalish, David Smadbeck, Kim Thompson, Jan Alff Wiegel, John Young

Other: Scott Alber (Fire Marshal, Marin County Fire Department), Leslie Alden (Aide to Supervisor Kate Sears), Brian Crawford (Community Development Agency Director), Kim Obstfeld (Lisa Wise Consulting, Inc.), Eric Steiger (DPW), Debra Stratton (Senior Secretary, Community Development Agency), Jeremy Tejirian (Principal Planner, Marin County), Jason Weber (Fire Chief, Marin County Fire Department), Lisa Wise (Lisa Wise Consulting, Inc.)

Meeting Summary:

Logistics

1. Review of notes from last meeting - no comments

2. Activity since the last meeting:

   o Board of Supervisors check-in on November 6th
   o Committee tour of CDA on November 16th

3. Next meeting: January 10th at 1:30pm, Civic Center, Room 410B (finish Planning Permit discussion and discuss Building permits)

4. Interim idea sharing and discussion may be initiated by Committee members via email

Discussion Items

Staff provided an overview of the permit review process and reviewed the package of information previously distributed to the Committee. The key items covered in this presentation were:

- Overview of the Community Development Agency
- Application Submittal
- Completeness Review
- Merits Review and Decision
- Recent Code Development Amendments

A discussion of the process ensued. Key findings and recommendations identified by the Committee are described below.

Findings/Recommendations

Completeness Review

1. **Community group transmittal.** Applications are transmitted to some community groups prior to the application being deemed complete by the CDA (at the same time that they are transmitted to other government agencies). Community groups include design review boards and other groups with a clear stake in the project (e.g. a homeowner's association) or long-standing organizations that have requested to be on the transmittal list. Since the community groups are intimately familiar with the area in question, they sometimes can assist staff in better understanding of the context of a project. While there are disadvantages in this early input in that a project may not be fully vetted, it provides greater transparency in project approval, and it can be helpful for applicants to receive initial community comments before engaging the development team in several rounds of revisions. Input from community groups is currently provided to applicants at the end of the completeness review along with Staff's "preliminary merit comments".

   a. Consider training and informational material, such as YouTube videos, for new design review board members that explain the advisory role of the board, meeting protocol, and objectives of the review. This information could also prove useful to applicants.

   b. Consider modifying this procedure once the new website is live so that interested community groups are automatically notified and can download public information for review.

2. **Serial review.** The first step in the formal application process is reviewing the application materials submitted for the project to see if they are adequate to fully review the project. This process is governed by the Permit Streamlining Act, which specifies that an agency must provide a comprehensive list of every item of information that can be required for an application (see Planning Permit Application Submittal Checklist) and that a determination regarding whether an application is complete must be made within 30 days of the date of submittal. If the application is not complete, then those items of information that are still necessary should be prepared by the applicant and submitted within one month, but this step can take substantially longer depending on the type of information requested by staff and the length of time it takes the applicant to prepare it. Once the applicant resubmits an application, planning staff again has up to one month to determine whether the application is complete.

   a. Consider evaluating projects that are deemed incomplete to determine the most common issues encountered at this stage. Based on this review and evaluation, consider revising the submittal checklist, improving coordination with public agencies, and additional staff training to improve customer service.

Appeals

3. **De novo appeals.** Currently the Planning Commission (PC) conducts a "de novo" hearing on appeal. In a de novo hearing, the PC has the opportunity to look at a project as a new matter, rather than just considering the grounds of the appeal.

   a. Consider instituting "limited" appeals in which the PC and Board of Supervisors (BOS) would address only the points articulated in the appeal letter, rather than the "de novo" approach currently in place. (Note: Appeal rules should be precise and consistent throughout the County's Municipal Code to avoid unintended legal issues if the permit or project is taken to court.)

4. **Frivolous appeals.** Frivolous appeal is a legal term that refers to an action that is clearly intended merely to delay or embarrass the opposition. Frivolous appeals would include appeals that are not based on County standards or policy.

    a. Consider allowing the CDA Director to send frivolous appeals of administrative decisions directly to the BOS. In these cases, there is a strong likelihood that they will go to the BOS eventually because any decision by the PC is likely to be appealed. Sending the appeal straight to the BOS will save the applicant and the County time and money.

Current Planning Website

5. **Online zoning information and permit history.** Online access to relevant zoning information and permit history for a parcel can save time and money for property owners and the County due to fewer phone calls and trips to the front counter. It will also give property owners, builders, and architects greater access to information earlier in the process, which should help to make more informed decisions about project feasibility.

    a. As part of the CDA's website upgrades, create a portal where the public can enter an APN and retrieve relevant zoning information and permit history for a parcel.

6. **Participation guidelines on website.** Redesigning the County's current planning website means improved customer service, better access to information, and greater transparency of CDA activities.

    a. Consider creating a page or section of the current planning website that describes opportunities for public participation. Develop and post a guidebook for constructive involvement in the development review process. Include sections such as "frequently asked questions" and "ten most common blunders" to guide public testimony at meetings, interaction with Staff, and submittal of comments. This will be useful in setting expectations for an appellate and ensure that public participants are appropriately prepared.

Other Items for Future Discussion

7. **Subjective terms and policies.** Subjective or non-quantifiable terms and policies complicate the permitting process and reduce predictability for applicants. Wherever possible, clarify or minimize qualitative policies and make standards precise and direct. (This will be revisited in the meeting(s) on the General Plan.

8. **Appeal fees.** Fees for appeals to the PC and BOS are relatively low. They were set at a modest rate to promote due process and to allow residents to address legitimate complaints. However, the fees are lower than many jurisdictions and do not begin to cover the County's costs. (This will be revisited in the meeting on fees.)