



MARIN COUNTY COMMUNITY DEVELOPMENT AGENCY

ALEX HINDS, DIRECTOR

December 5, 2006

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

Subject: Binford Road, LLC Storage Facility Draft Mitigated Negative Declaration of Environmental Impact, Countywide Plan Amendment, Rezoning, Master Plan, Land Division, and Tidelands Permit
8190 Binford Road, Novato
Assessor's Parcels 125-190-21, -65 and -66

Dear Supervisors:

Summary Recommendation

On September 11, 2006, the Planning Commission unanimously (7-0) recommended denial of the Binford Road, LLC Storage Facility Countywide Plan Amendment, Rezoning, Master Plan, Land Division, and Tidelands Permit applications. On behalf of the Planning Commission, staff recommends, after review of the administrative record and conduct of a public hearing, that your Board adopt the recommended resolution denying the applications.

Project Summary

The Binford Road, LLC Storage Facility applications request approval of a Countywide Plan Amendment and Rezoning for the development and operation of a multi-purpose self-storage facility utilizing 29 acres of the 47.3-acre project site. The proposal would reconfigure and divide the property into the following three lots: Lot 1 (southwestern parcel fronting Binford Road) 14.1 acres; Lot 2 (northwestern parcel) 14.9 acres; and Lot 3 (eastern parcel) 18.3 acres. The Countywide Plan (CWP) Amendment proposes to change the CWP Land Use Designation from Recreational Commercial (RC) to Planned Industrial District (IND) for proposed Lots 1 and 2 and to Open Space (OS) for proposed Lot 3. Rezoning is requested for the property from Resort and Commercial Recreation District (RCR) to Bayfront Conservation - Industrial Planned District (BFC-IP) for proposed Lots 1 and 2 and to Bayfront Conservation - Open Space (BFC-OA) for proposed Lot 3. Development of the self-storage facility will be located on the western-most portion of the site (Lots 1 and 2). Retention of wetlands, continued marsh restoration, and preservation of open space are proposed on the eastern portion (Lot 3) of the site. Lot 3 is proposed to be dedicated to a public or conservation entity to be held as permanent open space. The applicant proposes to apply a conservation easement over the area within the Novato Canal (approximately 9.3 acres of portions of Lots 1 and 2). Structural development is proposed on approximately 16.25 acres of Lots 1 and 2, extending approximately 2,000 feet easterly from Binford Road along the northern and southern levees of the Novato Canal.

The applicant has based the development proposal on the capabilities and constraints of the project site as evaluated in an Environmental Assessment, prepared by LSA, Inc., and adopted by the Marin County Planning Commission on April 10, 2000. The project would consist of approximately 685 storage units in 23 buildings totaling approximately 225,300 square feet as follows: 90,880 square feet of floor area on proposed Lot 1 (FAR 27% on approximately 7.73 dry-land acres) and 129,420 square feet of floor area on proposed Lot 2 (FAR 35% on approximately 8.52 dry-land acres), with a total 29% FAR over Lots 1 and 2. Construction is scheduled to occur in three phases over a five to ten year period. The one-story structures range in height from 14 to 24 feet. Buildings will be light construction with metal framing, stucco walls, with occasional split-face concrete block walls for the taller units, and metal roofing. Ultimate build-out of the project will require approximately 85,000 cubic yards of imported fill to be deposited on the existing levee areas. The facility would be used for storage of personal vehicles, recreational vehicles and trailers, boats, general household items, and office storage. Access to the storage units would be from Binford Road with the construction of two internal roadways extending along the north and south levees. Runoff from buildings and paved areas would be captured in two on-site holding ponds located on proposed Lots 1 and 2. A public viewing area with parking will be provided immediately off Binford Road to afford the public views of the marsh wetlands running the length of the canal towards the Petaluma River. The project also proposes the continued restoration of approximately 4.1 acres of tidal marshlands.

Background

During the 1990's, code enforcement problems with illegal uses of the property occurred, such as storage of Vietnam War barges, firewood sales and storage of a variety of vehicles and debris. The County entered into a Stipulated Judgment (#147983, May 14, 1996) (*Attachment 9*) in connection with a County code enforcement action, which ordered the cleanup of the site by 2000. This deadline was extended to 2002. The 1996 Stipulated Judgment allows and prohibits the following structures/uses on the property:

1. A concrete building used in connection with site operation;
2. A second building used in connection with shipyard, boat-building, boat repair, and boat maintenance;
3. Boat building, repair, and storage on the south side of the property, along the levee and in the canal in a designated area that allows up to 50 boat spaces and 25 cargo containers, which shall not exceed approximately 12 feet by 20 feet in size; and
4. Storage of debris, junk, and abandoned vehicles, structures, and materials not directly used in conjunction with the allowed uses are prohibited.

The useable area allowed by the 1996 Stipulated Judgment consists of approximately 12 acres on the southern dike, extending 1,4000 feet easterly from Binford Road.

The 1996 Stipulated Judgment does not:

- Limit work within the tidal wetland areas to avoid disturbing potential nesting activity in the canal or along Black John Slough;
- Require continual maintenance and clean-up of the site or limitations of activities within the canal;
- Limit types or amounts of equipment within the tideland areas, including the canal;
- Restrict or limit activities within the Tidelands Subzone; or
- Require restoration of tidal marsh areas as intended by the Tidelands Subzone policies.

In 1998, W. R. Forde Associates, (now Binford Road, LLC) entered into an agreement with the property owner to purchase the property for the purpose of developing a storage facility. As part of the purchase and application process for the proposed use, W. R. Forde Associates initiated site clean-up activities and applied for the applicable permits from the U. S. Army Corps of Engineers. Currently, the property is developed with a variety of sheds and cargo containers and is used for storage of building materials and boats, and boat building and repair activities situated in the southwestern portion of the property along the south levee road. A large crane on-site is often used to move material for tenants. Some boats are moored in the Novato Canal for repair work. Two boarded and vacant buildings in deteriorated condition are situated at the entrance of the property near Binford Road.

Planning Commission's Decision and Findings

At the August 28, 2006 and September 11, 2006, public hearings, the Planning Commission considered the application and adopted a resolution (Marin County Planning Commission No. PC 06-024) (*Attachment 6*) recommending that the Board of Supervisors deny the Binford Road, LLC Storage Facility Countywide Plan Amendment, Rezoning, Master Plan, Land Division, and Tidelands Permit applications without environmental review. The Planning Commission expressed a number of concerns regarding the proposed project including:

1. Appropriateness of the overall development intensity including the size and scale of the proposed buildings given the site's environmental constraints;
2. Potential visual impacts and conflicts within the character of the natural environment;
3. Excessive amount of fill and impervious surfaces required by the proposed project;
4. Proposed buffer zones of less than 100 feet from wetlands and the Tidelands Subzone;
5. Lack of sufficient information regarding hydrology, drainage, and water quality protection and information regarding future site maintenance;
6. Adequacy of public benefits including the proposed public viewing area when that view would be infringed upon by the proposed storage units; and
7. Phasing of construction over a 5 to 10-year period.

In recommending denial of the proposed project, the Planning Commission found that: (1) the proposed project is inconsistent with various CWP Environmental Quality policies relating to the Bayfront Conservation Zone (BCZ) because:

- Development should foster the preservation of sensitive wildlife and aquatic habitats within the Diked Historic Marshlands Subzone and should not require diking, filling, or dredging;
- Within the BCZ when development is proposed, priority should be given to water-oriented uses such as public access, low intensity passive recreational and educational opportunities and affordable housing;
- The proposed project does not limit the amount of filling on the levees while allowing a reasonable economic return on the property; and

Conclusion

The Planning Commission's recommended action was based on inconsistencies between the project and current CWP policies, as well as the finding that it would be premature to consider land use designation and zoning changes in advance of completion of the current CWP update. Although restoration of the site would be the preferred alternative from the standpoint of resource conservation and CWP policies, the recommended denial does not deny the project based strictly on a restoration scenario.

Recommendation

Staff recommends that your Board take the following actions:

1. Review the administrative record;
2. Conduct a public hearing; and
3. Adopt the attached resolution denying the Binford Road, LLC Storage Facility Countywide Plan Amendment, Rezoning, Master Plan, Land Division, and Tidelands Permit.

Respectfully submitted,

Reviewed by:

Johanna M. Patri, AICP
Acting Principal Planner

Alex Hinds
Director

Attachments:

1. Resolution denying the Binford Road, LLC Storage Facility Countywide Plan Amendment, Rezoning, Master Plan, Land Division, and Tidelands Permit
2. Location Map
3. Assessor's Parcel Map and Existing and Proposed CWP Land Use Designation Maps
4. Proposed Site Plans and Fill Plan
5. August 28, 2006 Planning Commission and Airport Land Use Commission Minutes and Marin County Airport Land Use Commission Resolution No. ALUC 06-001
6. September 11, 2006 Planning Commission Minutes and Marin County Planning Commission Resolution No. PC 06-024
7. Project Site Background Information
8. Marin County Superior Court November 23, 1977 Stipulated Judgment (No. 72266)
9. Marin County Superior Court May 14, 1996 Stipulated Judgment (No. 147983)

(The following attachments are included only in the Board of Supervisors report packet. Copies of the attachments are available for public review at the Community Development Agency Room 308 from 8:00 a.m. to 4:00 p.m. daily.)

10. August 28, 2006 Staff Report to the Marin County Airport Land Use Commission
11. August 28, 2006 Staff Report to the Planning Commission
12. September 11, 2006 Staff Memorandum to the Planning Commission
13. Draft Mitigated Negative Declaration of Environmental Impact (Initial Study)
14. Environmental Assessment for 8190 Binford Road, Novato, California

Cur/jp/Binford Road/BOS letter 12-5-06