December 11, 2018

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

SUBJECT: The Oaks (Daphne) Master Plan Amendment, Design Review, Tree Removal Permit, and EIR Addendum (P1547)

Dear Supervisors,

There is additional information to present to your Board and additional correspondence has been submitted since the previous Board letter was distributed, which is attached.

Planning Division staff recommends that the following should be added to condition of approval 1 of the project approval Resolution:

“The conditions of approval contained herein supersede the conditions of approval applied in the original Oakview Master Plan, Use Permit, and Tentative Map.”

In addition, the title of the Resolution should be corrected to refer to the Board rather than to the Planning Commission.

REVIEWED BY:
[ ] Department of Finance [ X ] N/A
[ ] County Counsel [ X ] N/A
[ ] Human Resources [ X ] N/A

SIGNATURE:

Jeremy Tejirian
Planning Manager

Attachments:

1. Applicant comments from Robert Eaves, received 12-7-18
2. DPW response to applicant comments, received 12-7-18
3. Applicant comments from Neil Sorensen, received 12-6-18
4. Uniformly applied Conditions of Approval 2018
5. Staff powerpoint presentation
December 7, 2018

Supervisor Damon Connolly
Ms. Berenice Davidson
Mr. Mathew Hymel
Mr. Eric Steger
Raul Rojas
Mr. Jeremy Tejirian
County of Marin

Marin County’s Resolution No. 2003-97 states that new real estate developments’ “construction activity places a significant burden on local roadways and is a significant cause of roadway damage.” It further states “The Board of Supervisors has determined that the increased cost to the County for maintenance and repair resulting from construction activity should be offset by the collection of fees to cover the cost to the County.”

This resolution imposes a Road Impact Fee of 1% of the value of the improvements to be constructed. In the case of THE OAKS, we will be obligated to pay a fee of between $400,000 and $500,000.

Some new projects require access by miles of County roads. In the case of THE OAKS, we are using 2 blocks of Marinwood Avenue. That’s all. 2 blocks. The damage that our construction vehicles will do the Marinwood Avenue will be minimal, if any at all.

The Road Impact Fee was not conceived for cases such as ours where only 2 blocks are exposed. This is a backbreaking amount with no justification. I hereby request that the Fee be waived. In its place, the County should impose a condition of approval that states that THE OAKS will be responsible for the immediate repair of any damage that our construction trucks do to Marinwood Avenue during our construction period. No Certificate of Completion will be issued by the County unless and until any needed repairs are completed to DPW standards.

Please consider the following:

35 MILLER AVENUE
NO. 232
MILL VALLEY CA 94941
(415) 464-2000  FAX (415) 384-9359
www.venturecorporation.com
• In addition to very high Building Permit fees, THE OAKS will pay $95,931 fees the County for offsite intersection improvements despite the fact that THE OAKS generates virtually no significant traffic impacts.

• This project has already contributed 9.36 acres of land to the County of Marin for the Lucas Valley Road / Highway 101 interchange. Another 70 acres has been contributed for permanent open space, and our project is paying for the construction of walking and bicycle trails across that land.

• The cost to completely repave the entire two blocks of Marinwood Avenue from Miller Creek Road to the current end of pavement, using actual 2018 County road construction costs, is a small fraction of the Fee we're being asked to pay for damage that would be virtually impossible to occur.

• Section 3 of the County Resolution provides that “the County Administrator, with the director of Public Works, may waive or reduce the Roadway Impact Fee…”

THE OAKS has unusually high site improvement costs resulting from the need to build a bridge and a very long private access road. Another $400,000 to $500,000 is backbreaking and unwarranted. Resolution 2003-97 states that the purpose of the Roadway Impact Fee was to “to cover the cost to the County.” If this request is approved, there will be no cost to the County.

Thank you for your consideration.

Respectfully,

Robert J. Eves
Managing Member
Dear Mr. Eves,

Attached is the Board of Supervisors Resolution adopting the Roadway Impact Fees. It was adopted to mitigate impacts on all County roads from all associate construction traffic due to development. Fees may be waive for construction of affordable housing units at the time of building permit application submittal. I understand that the plans with separate affordable housing units has changed and the affordable housing units have been merged in into one of the other structures. We can work with your firm and Building and Safety to develop the valuation for the affordable housing units within the main structure and forward a request and valuation information on to the County Administrator. Public Works does not have authority to waive fees beyond what is in the Board resolution.

Greetings:

The attached letter relates the THE OAKS senior living community that is being considered by the Board of Supervisors on Monday.

PLEASE GIVE THIS A QUICK READ NOW.

Rob
RESOLUTION NO. 2003-97

RESOLUTION OF THE MARIN COUNTY BOARD OF SUPERVISORS
ADOPTING A ROADWAY IMPACT FEE TO PROVIDE FOR THE REPAIR AND MAINTENANCE OF DAMAGED STREETS AND ROADS CAUSED BY CONSTRUCTION ACTIVITY

WHEREAS, the County of Marin funds ongoing roadway projects to maintain and repair local roadways; and

WHEREAS, traffic associated with construction activity places a significant burden on local roadways and is a significant cause of roadway damage; and

WHEREAS, the Board of Supervisors has considered the report analyzing necessary road repair projects, the costs of the projects and the share of the project costs resulting from construction activity and earth work and demolition activity; and

WHEREAS, the Board of Supervisors has determined that the increased cost to the County for such maintenance and repair resulting from construction activity should be offset by the collection of fees to cover the costs to the County; and

WHEREAS, staff has calculated that the proposed fee will cover a portion of the costs to the County of Marin for its roadway repair resulting from construction activity as described in Attachment A to this resolution; and

WHEREAS, notice of the proposed Roadway Impact Fee has been given pursuant to California Government Code § 66018.

NOW, THEREFORE, BE IT RESOLVED, that the following fee is hereby adopted and shall be subject to the requirements and collected as specified herein:

1. A Roadway Impact Fee of 1.0 (one) percent of the value of the improvements to be constructed under the Building Permit shall be paid on all construction projects occurring on all property adjacent to streets and roads in the County of Marin;

2. The Roadway Impact Fee shall be collected at the time of issuance by the County of all Building Permits wherein the project's valuation is $10,000 or more;

3. Upon written request, the County Administrator, in consultation with the Director of Public Works, may waive or reduce the Roadway Impact Fee for any Building Permit project directly related to the creation of affordable housing units;

4. Roadway Impact Fees shall be retained in a separate fund with all fund accounting and reporting performed consistent with Government Code § 66000, and the funds shall only be used to reconstruct, repair and maintain the County's streets and roads; and

5. This resolution shall be effective 60 (sixty) days after passage.

PASSED AND ADOPTED at a regular meeting of the Board of Supervisors of the County of Marin held on this 15th day of July, 2003, by the following vote:

AYES: SUPERVISORS Susan L. Adams, Harold C. Brown, Jr., Steve Kinsey, Annette Rose, President

NOES: SUPERVISOR Harold C. Brown, Jr.

ABSENT: SUPERVISOR Cynthia L. Murray

ATTEST:

CLERK

PRESIDENT, BOARD OF SUPERVISORS
Hi Jeremy,

In reviewing the Board material for Tuesday's hearing, I noted that an important statement may have been left out of the resolution of approval for the project.

As shown on the attached page from the resolution that went to the Planning Commission in September, you had included a statement that the new conditions of approval "supersede the conditions of approval in the original master plan, use permit and tentative map." I could not find this in the new resolutions that are going to the Board. Did I miss it?

I think it is important to state this somewhere since this action is only on the assisted living project and not the residential project.

Please confirm whether this was mistakenly left out and that it will be put back in. Thanks.

NEIL SORENSEN
Attorney at Law
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San Rafael, CA 94903

Tel: (415) 499-8600
Fax (415) 491-9515
Web: www.sorensenlaw.com

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C. Construction of the 3,625 square foot apartment building containing six affordable housing units.

This Master Plan Amendment relates solely to the lot containing the residential care facility, and has no force or effect on the original Oakview Master Plan requirements for any of the other lots included in the Oakview Master Plan.

Design Review approval is granted for the physical improvements for the project.

Tree Removal Permit is granted for the removal of 39 mature, healthy, native trees that are protected under County code.

The conditions of approval contained herein supersede the conditions of approval applied in the original Oakview Master Plan, Use Permit, and Tentative Map.

2. Plans submitted for a Building Permit shall substantially conform to plans identified as Exhibit A, entitled "The Oaks Senior Living Community," consisting of 65 sheets prepared by Dahlin Group, RHAA Landscape Architecture and Planning, and ILS Associates, Inc., received in final form on June 12, 2017, and on file with the Marin County Community Development Agency, except as modified by the conditions listed herein.

3. BEFORE ANY PERMITS ARE SUBMITTED AND ANY WORK IS PERFORMED, apply and pay the required fee for mitigation monitoring.

4. Design and build all on-site structures, roads, and utilities in conformance with the California Building Code. MM 5.1-6

5. BEFORE REMOVING ANY RIPARIAN TREES, the applicant shall obtain authorization in a Section 1602 Streambed Alteration Agreement from the California Department of Fish and Wildlife (CDFW). MM 5.3-2(a)

6. BEFORE ISSUANCE OF BUILDING, GRADING, OR ANY CONSTRUCTION PERMITS for the bridge and to reduce project impacts of on-site erosion and downstream sedimentation due to construction of the Marinwood Avenue Bridge on Miller Creek, it will be necessary to demonstrate compliance with the following:

   • Acquire a 1603 Stream Alteration Agreement from the California Department of Fish and Wildlife (CDFW). In addition to measures outlined in the project SWPPP for graded or exposed soil surfaces, the applicant's construction contractor(s) and field engineer should implement temporary measures, where required, to minimize channel sedimentation during bridge construction. Due to the good quality stream habitat and culverting impacts to aquatic life, a bypass pipe through the work area is not recommended. Some form of cofferdam segregating the work areas from the active channel are would be preferable. All such measures would be described in the Stream Alteration Agreement submittal and would be subject to approval by CDFW.

   • Submit an application or letter of notification, as appropriate, to the U.S. Army Corps of Engineers for an Army Fill Permit, in accordance with provisions of the Nationwide Permit Program.
MARIN COUNTY UNIFORMLY APPLIED CONDITIONS
FOR PROJECTS SUBJECT TO DISCRETIONARY PLANNING PERMITS

2018

STANDARD CONDITIONS

1. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall revise the site plan or other first sheet of the Building Permit plan sets to list as notes all standard and project specific conditions of approval, including the applicable special conditions listed herein and those conditions listed in the project approval, as well as any requirements indicated by other regulating agencies during the planning process.

2. The applicant/owner shall pay any deferred Planning Division fees as well as any fees required for mitigation monitoring or condition compliance review before vesting or final inspection of the approved project, as determined by the Director.

3. The applicant/owner shall 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 this application, for which action is brought within the applicable statute of limitations. The County of Marin shall promptly notify the applicant/owner of any claim, action, or proceeding that is served upon the County of Marin, and shall cooperate fully in the defense.

4. Exterior lighting for the approved development shall be located and shielded to avoid casting glare into the night sky or onto nearby properties, unless such lighting is necessary for safety purposes.

5. Building Permit applications shall substantially conform to the project that was approved by the planning permit. All Building Permit submittals shall be accompanied by an itemized list of any changes from the project approved by the planning permit. The list shall detail the changes and indicate where the changes are shown in the plan set. Construction involving modifications that do not substantially conform to the approved project, 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.

SPECIAL CONDITIONS

1. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall submit a signed Statement of Conformance prepared by a certified or licensed landscape design professional indicating that the landscape plan complies with the State of California’s Model Water Efficient Landscape Ordinance and that a copy of the Landscape Documentation Package has been filed with the Community Development Agency.
2. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall mark or call out the approved building setbacks on the Building Permit plans indicating the minimum distance of the building from the nearest property line or access easement at the closest point and any of the following features applicable to the project site: required tree protection zones, Wetland Conservation Areas, or Stream Conservation Areas.

3. 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. Exterior lighting visible from off-site shall consist of low-wattage fixtures, and shall be directed downward and shielded to prevent adverse lighting impacts to the night sky or on nearby properties. Exceptions to this standard may be allowed by the Community Development Agency staff 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.

4. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall record a Waiver of Public Liability holding the County of Marin, other governmental agencies, and the public harmless related to losses experienced due to geologic and hydrologic conditions and other natural hazards.

5. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall submit written confirmation that the property owner has recorded the "Disclosure Statement Concerning Agricultural Activities," as required by Section 23.03.050 of the Marin County Code.

6. BEFORE ISSUANCE OF A BUILDING PERMIT for any of the work identified in the project approval, the applicant shall install 3-foot high temporary construction fencing demarcating established tree protection zones for all protected trees that are not being removed in the vicinity of any area of grading, construction, materials storage, soil stockpiling, or other construction activity. The applicant shall submit a copy of the temporary fencing plan and site photographs confirming installation of the fencing to the Community Development Agency. Acceptable limits of the tree protection zones shall be the dripline of the branches or a radius surrounding the tree of one foot for each one inch diameter at breast height (4.5 feet above grade) of the tree trunk. The fencing is intended to protect existing vegetation during construction and shall remain until all construction activity is complete. If encroachment into the tree protection zone is necessary for development purposes, additional tree protection measures shall be identified by a licensed arborist, forester, or botanist, and the tree specialist shall periodically monitor the construction activities to evaluate whether the measures are being properly followed. A report with the additional measures shall be submitted for review and approval by the Planning Division before any encroachment into a tree protection zone occurs.

7. BEFORE FINAL INSPECTION, if encroachments into a tree protection zone have been approved, then the tree specialist shall submit a letter to the Planning Division verifying that the additional tree protection measures were properly implemented during construction activities.

8. BEFORE ISSUANCE OF A BUILDING PERMIT, temporary construction fencing shall be installed on the subject property at edge of the Wetland Conservation Area and/or Stream Conservation Area, as applicable to the site. The applicant shall submit a copy of the temporary fencing plan and site photographs confirming installation of the fencing to the Community Development Agency. The construction fencing shall remain until all
construction activity is complete. No parking of vehicles, grading, materials/equipment storage, soil stockpiling, or other construction activity is allowed within the protected area. If encroachment into the protected area is necessary for development purposes, additional protection measures shall be identified by a qualified biologist and the biologist shall periodically monitor the construction activities to evaluate whether the measures are being properly followed. A report with the additional measures shall be submitted for review and approval by the Planning Division before any encroachment into a protected area occurs.

9. BEFORE FINAL INSPECTION, if encroachments into a protected area have been approved, then the biologist shall submit a letter to the Planning Division verifying that the additional protection measures were properly implemented during construction activities.

10. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant must provide written evidence that all appropriate permits and authorizations have been secured for this project from the Bay Conservation and Development Commission, the California Department of Fish and Game, the Regional Water Quality Control Board, the California Coastal Commission, the California State Lands Commission, the Bay Area Air Quality Management District, and/or the United States Army Corps of Engineers.

11. BEFORE FOUNDATION INSPECTION, the applicant shall have a licensed land surveyor or civil engineer with proper surveying certification verify that the foundations of the project comply with the approved setback distances from adjacent property lines, access easements, rights of way as shown on the approved building permit plans and submit a written (stamped) Building Setback Certification to the Planning Division. Verification is only required for setback distances when the structure is located up to or within one foot of the minimum required setback for conventionally zoned properties and when the structure is located within five feet of a property line, access easement, or right of way for planned district zoned properties. The building setback verification can also be satisfied by having a licensed land surveyor or civil engineer with proper certification conduct a survey of the appropriate boundaries and install survey hubs with connecting colored line in locations that can be readily used by the Building and Safety Inspection staff to verify building setbacks in the field prior to approval of the foundation inspection. If new survey hubs are installed, the project land surveyor or civil engineer must submit a written (stamped) Building Setback Certification to the Planning Division confirming that the staking of boundary lines has been properly completed.

12. BEFORE CLOSE-IN INSPECTION, the applicant shall have a licensed land surveyor or civil engineer with proper surveying certification prepare and submit written (stamped) Floor Elevation 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.

13. BEFORE CLOSE-IN INSPECTION, the applicant shall have a licensed land surveyor or civil engineer with proper surveying certification submit a written (stamped) building Roof Elevation Certification 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. The Roof Elevation Certification shall include the roof materials in the calculation.

14. BEFORE CLOSE-IN INSPECTION, the applicant shall submit a written (stamped) building Floor Area Certification from the project surveyor or engineer confirming that the floor area of the building conforms to the floor area that is shown on the approved Building Permit plans.
plans. The Floor Area Certification shall include the exterior siding finish for buildings in the calculation.

15. BEFORE FINAL INSPECTION, the project shall substantially conform to the requirements for exterior materials and colors, as approved herein. Approved materials and colors shall substantially conform to the materials and colors samples shown in "Exhibit A" unless modified by the conditions of approval. The exterior materials or colors shall conform to any modifications required by the conditions of approval. All flashing, metalwork, and trim shall be treated or painted an appropriately subdued, non-reflective color.

16. BEFORE FINAL INSPECTION, the applicant shall install all approved landscaping that is required for the following purposes: (1) screening the project from the surrounding area; (2) replacing trees or other vegetation removed for the project; (3) implementing best management practices for drainage control; and, (4) enhancing the natural landscape or mitigating environmental impacts. If irrigation is necessary for landscaping, then an automatic drip irrigation system shall be installed. The species and size of those trees and plants installed for the project shall be clearly labeled in the field for inspection.

17. BEFORE FINAL INSPECTION, the applicant shall submit a Certificate of Completion prepared by a certified or licensed landscape design professional confirming that the installed landscaping complies with the State of California's Model Water Efficient Landscape Ordinance and the Landscape Documentation Package on file with the Community Development Agency.

18. BEFORE FINAL INSPECTION, the applicant shall submit written verification from a landscape design professional that all the approved and required landscaping has been completed and that any necessary irrigation has been installed.

19. BEFORE FINAL INSPECTION, the applicant shall call for a Community Development Agency staff inspection of approved landscaping, building materials and colors, lighting and compliance with conditions of project approval at least five business days before the anticipated completion of the project. Failure to pass inspection will result in withholding of the Final Inspection approval and imposition of hourly fees for subsequent reinspections.

20. BEFORE FINAL INSPECTION, utilities to serve the approved development shall be placed underground except where the Director determines that the cost of undergrounding would be so prohibitive as to deny utility service to the development.

CODE ENFORCEMENT CONDITIONS

1. Within 30 days of this decision, the applicant must submit a Building Permit application to legalize the development. Requests for an extension to this timeline must be submitted in writing to the Community Development Agency staff and may be granted for good cause, such as delays beyond the applicant's control.

2. Within 60 days of this decision, a Building Permit for all approved work must be obtained. Requests for an extension to this timeline must be submitted in writing to the Community Development Agency staff and may be granted for good cause, such as delays beyond the applicant's control.
3. Within 120 days of this decision, the applicant must complete the approved construction and receive approval of a final inspection by the Building and Safety Division. Requests for an extension to this timeline must be submitted in writing to the Community Development Agency staff and may be granted for good cause, such as delays beyond the applicant's control.
BOARD OF SUPERVISORS
HEARING
December 11, 2018

The Oaks Master Plan Amendment, Design Review, and Tree Removal Permit
Marinwood Avenue, San Rafael
Assessor's Parcela 164-270-05

SITE PLAN

ORIGINAL PROJECT

SITE SECTIONS

PROPOSED PROJECT

SITE SECTION COMPARISON
Approve the Oaks Master Plan Amendment, Design Review, Tree Removal Permit, and EIR Addendum