



COMMUNITY DEVELOPMENT AGENCY

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October 3, 2017

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

RE: Certification of the 2008 Easton Point Residential Development Final Environmental Impact Report (Final EIR); Rezoning of Martha Company Property APN 059-251-05; and Merits Consideration of the Easton Point Modified Master Plan, Precise Development Plan/Tentative Map.

Dear Board Members:

RECOMMENDATION:

1. Review and consider the Final EIR documents and the EIR administrative record, conduct a public hearing on the adequacy of the Final EIR for certification;
2. Approve the attached Resolution to certify the 2008 Easton Point Residential Development Final EIR as adequate and complete pursuant to CEQA, the State EIR Guidelines and the Marin County Environmental Review Guidelines and Procedures (Attachment 1);
3. Conduct a public hearing on the merits of the Easton Point project, review and consider public comments and the information in this staff report; and
4. Approve the attached ordinances rezoning the Easton Point property (Attachment 2) and conditionally approving the Easton Point Modified Master Plan (Attachment 3), and resolution denying the Easton Point Precise Development Plan/Tentative Map applications (Attachment 4).

BACKGROUND:

The Board continued the public hearing on the Easton Point project to October 3, 2017 to allow the public additional time to review and comment on the staff report.

Your Board received numerous letters and email messages commenting on the matters addressed in the September 19, 2017 staff report. In addition, your Board received a great number of comments regarding the adequacy of the EIR and the merits of the project at the September 19th public hearing. In some instances the actions requested of your Board regarding project merits did not appear consistent with the 1976 Court Judgment or the 2007 Stipulated Judgment.

The County staff was present at the September 19th hearing and took note of the comments made by the public and your Board. In addition, County staff read all the letters and email

messages received to date on the Easton Point project. Based on these comments and observations staff is recommending edits to the CEQA Findings Exhibit “1”, Conditions of Approval, Exhibit ‘3’ and the Mitigation Monitoring and Reporting Program, Exhibit ‘4’ of the draft ordinance approving the Modified Master Plan (Attachment 3). Recommended edits to Exhibits ‘1’, ‘3’ and ‘4’ are tracked in colored type in the attached documents.

PROPOSED PROJECT

As noted in the previous Board staff report the applicant, Martha Company, has elected to seek a first phase of approvals including Final EIR certification, a decision on the rezoning application, and a decision on the merits of the Modified Easton Point Master Plan in compliance with the Court Judgment governing the application. Once the Final EIR is certified, and the Rezoning and Master Plan are decided, the applicant intends to submit a future Precise Development Plan and Tentative Map for subsequent County review and approval.

However, the applicant points out in the June 6, 2017 submittal letter that other than the information provided in the Modified Master Plan all of the remaining project information used by the County of Marin Community Development Agency to find the application “complete” for processing and used to prepare the draft and final EIR are not changed and continue to inform the plan merits review process.

Although the applicant is proposing a Modified Master Plan to document implementation of EIR mitigation measures, the applicant has not modified or withdrawn the December 2008 Precise Development Plan/Tentative Map application that was deemed “complete” by the County of Marin on May 28, 2009. The Modified Master Plan and Precise Development Plan/Tentative Map are not consistent with one another.

STAFF REVIEW AND FINDINGS

At your September 19th public hearing on the Easton Point Final EIR and proposed Modified Master Plan the County staff presented its report to the Board on these matters.

EIR Findings

The County staff concluded that Modified Master Plan mirrors somewhat the lot arrangement in the Biological Alternative #4 in the EIR. However, the lots in the Modified Master Plan are larger in land area than those assumed in Alternative #4 of the EIR. The number of lots proposed at the higher elevations in the 2008 Easton Point Master Plan are reduced in number and relocated to lower elevations on the site. Ridge Road has been extended further eastward to accommodate additional lots, and other lots have been transferred to the Forest Glen area and also along the driveway paralleling Paradise Drive at the lower elevations.

The applicant is still requesting approval of maximum house sizes for each of the lots in the Modified Master Plan and is also requesting that the County adopt the applicant’s recommended design standards in lieu of the County’s zoning standards and hillside development regulations.

Furthermore, as requested by the Marin Municipal Water District (MMWD) the applicant increased the size of the water tank proposed for Parcel ‘C’ from 180,000 gallons to 265,000 gallons and showed how the Modified Master Plan would accommodate MMWD’s request to remove its existing 1-million gallon water tank and build a smaller 590,000 gallon water storage tank higher up on the subject property at elevation 283.

The staff's analysis supported by peer review of biological, geological and visual reports supplied by the applicant demonstrates that the changes proposed in the Modified Master Plan are compliant with the special status species avoidance and mitigation measures recommended in the Final EIR, and the proposed new lot layout and fire hydrant locations have the fire flow necessary to allow construction of a residence on each of the proposed lots.

Furthermore, the changes proposed in the Modified Master Plan do not result in any substantial changes in the project, or substantial changes with respect to the circumstances under which the Project would be undertaken that would require major revisions of the EIR due to new or substantially increased significant environmental effects; and there has been no discovery of new information of substantial importance that would trigger or require major revisions to the EIR due to new or substantially increased significant environmental effects.

Specifically, the changes in the Project reflected in the Martha Company's June 6, 2017 revised site plan, as modified on August 4, 2017, generally reduce environmental impacts compared to the analysis in the EIR, and do not result in new or substantially more severe significant impacts. For example, the revised Project plan will result in more overall earthwork movement on site but slightly less export of soil, thereby reducing off-site truck trips and associated off-site impacts compared to what was evaluated in the EIR.

There is no information to date that the passage of time since the DEIR was initially circulated in March 2011 has resulted in any substantial changes with respect to the circumstances under which the Project would be undertaken that would require major revisions of the EIR, or the discovery of new information of substantial importance that would trigger or require major revisions to the EIR. Therefore, no further circulation or subsequent or supplemental EIR is required prior to Project approval.

Merits Issues

Project Roadways and Temporary Construction Road

The new roadways proposed in the Modified Master Plan now comply with the County of Marin Development standards for residential streets. The redesigned roadways serving Ridge Road, Tam View Court and Forest Glen Court are 32 feet in width with 24 foot travel lanes and 8 foot wide parking areas on either side of the roadway. A 4-foot wide walkway is provided on one side of the road. The driveways serving lots 33-36 and 40-43 have a 16 foot paved width with turnouts as required by County code. Proposed improvements to Paradise Drive, as conditioned, will be consistent with the improvement requirement of the Final EIR. The conditions of Master Plan approval require detailed plans for these improvements be submitted with a future Tentative Map application.

The recommended conditions of approval require implementation of all mitigation measures related to the design of the temporary construction road. The construction road will be the only source of access for project development and is to be used in all phases of project development including future home construction.

Open Space and Trails

Marin CDA received a Memorandum from Marin County Parks setting forth the department’s concerns regarding the Modified Master Plan. The Department staff is also opposed to the Open Space District acceptance of the applicant’s offer to dedicate Parcels A and B to the District. The Parks staff points out the numerous landslides within Parcel A and the difficulty to protect natural resources in Parcel A due to easements the applicant envisions over Parcel A to benefit the future residences of the proposed project.

The Parks Department staff also pointed out in their memo that the applicant’s proposal to allow public access through Tam View Court to access St Hillary’s Open Space Preserve will direct people to an area that supports special status species. The Planning staff has recommended a condition of project approval that would relocate the pedestrian access easement adjacent to the ridge east of lots 5 through 9, thereby allowing the easement to terminate at a location currently used by recreation hikers on the Open Space Preserve. This relocation would require the applicant to provide a pedestrian access easement between some proposed lots and across Parcel A to the existing open space preserve.

The Parks District also points out that the applicant is not proposing a public pedestrian trail easement along the lower elevations of the property in the vicinity of what has been termed Spanish Trail. The applicant has only offered one public access easement and the wording of the Court Judgment seems to imply that the applicant only need provide an access easement for one trail. The applicant could of course offer additional trail easements over the property, but it does not appear that more than one is mandated. Furthermore the County of Marin or some other entity is responsible for constructing and maintaining the trail.

Ridge and Upland Greenbelt and Requested House Size

As mentioned at your September 19, 2017 hearing the applicant is requesting approval of house sizes for each of the 43 lots. The house sizes requested range from 5,500 to 8,750 square feet. The County’s adopted design goal is to promote the protection of scenic quality and views of natural areas including ridgelines and upland greenbelts, hillsides, water, and trees from adverse impacts related to development. The County policy to achieve this goal is to regulate the mass and scale of development to ensure the mass and scale of new structures respect environmental site constraints and character of the surrounding neighborhood and are compatible with ridge protection policies and avoid tree cutting. To achieve this policy the County will consider regulating home size.

The Court Judgment allows for some residential development within the County’s designated ridge and upland greenbelt zone. However, the majority of lots in the Easton Point project, due to environmental constraints such as landslides and special status species, are located within the Ridge and Upland Greenbelt zone within visually sensitive ridgelines and hillsides. The EIR finds that development along the visually sensitive ridgelines resulted in significant unavoidable visual impacts when viewed from adjacent and nearby public open space viewpoints. The EIR notes that the scale and size of future homes needs to be carefully evaluated to limit the visual impact on the visually sensitive ridges. EIR mitigation recommends limiting residential building heights within the visually sensitive ridge zone to 18 feet. Given the applicant’s requested house sizes reducing residential building height to 18 feet would result in spreading the building footprint further out along the hillsides requiring additional grading and retaining walls. Given these factors the applicant’s requested house sizes could result in a development with a building scale and massing that is not consistent

with the County’s design goals of protecting the natural visual resources such as visually sensitive ridges and hillsides and maintain compatible scale with the adjacent neighborhoods.

Accordingly, the recommended conditions of project approval will limit future residential building heights to 18 feet and deny the applicant’s request for house sizes because the requested house sizes result in visual impacts that are not consistent with the County’s design and visual resource protection policies.

Given the visual constraints of the Easton Point property the County’s design policies call for careful consideration of future house sizes in the Ridge and Upland Greenbelt zone. Implementing Program DES-4c of the Countywide Plan notes that the County will consider regulating home size to achieve its visual quality and community scale policies. The Court Judgment under which the Easton Point application is being processed is silent on the issues of residential building height and house size and the Judgment does not require that these issues be determined at the Master Plan approval stage.

The Easton Point project as modified and conditioned is consistent with a majority of the policies in the Marin Countywide Plan and provisions of the Development Code. However, the Modified Master Plan is not consistent with Marin County policies regulating development within the ridge and upland greenbelt and the protection of other natural resources including the protection of visually sensitive ridgelines. There are alternative lot configurations that could make the project more consistent with the County’s policies of protecting special status species and protecting visually sensitive ridges and hillsides, as well as, the Court’s direction to place lots on geologically safe portions of the property.

Additionally, the conditions require that the landscape envelopes for Lots 5-9, as depicted in the Modified Master Plan, be reduced due to restrictions on development on visually prominent ridges. While the 2007 and 1976 Stipulated Judgments do allow for some development on ridges, these lots are in areas considered particularly visually sensitive, and were avoided in Alternative #4 in the EIR. This condition reduces the envelopes to a half-acre, as required under the Stipulated Judgment and meets county development code requirements that indicate that if structures must be placed within the ridgeline area, they shall be in locations that are the least visible from adjacent properties and view corridors.

ALTERNATIVES TO CONSIDER

The Modified Easton Point Master Plan as conditioned is consistent with the Court Judgment in that it provides for the development of 43 residential lots on minimum half-acre parcels, does not result in any unmitigated public safety impacts, and avoids or mitigates development impacts to special status species. However, staff believes there are opportunities within the parameters of the Court Judgment to better achieve the County of Marin’s natural resource protection policies.

Most of the 43 lots in the Easton Point Modified Master Plan are larger than the ½ acre minimum mandated by the Court Judgment. Accordingly, there appears to be spatial opportunities within the development areas proposed in the Modified Master Plan to relocate and reconfigure some lots to be more consistent with the County’s natural resource protection policies and the Court Order to mitigate special status species impacts and avoid development on known landslides.

For example the total lot area encumbered by proposed lots 40-43 located at the lower end of the project site paralleling Paradise Drive totals 172,965 square feet. Mathematically, approximately eight half-acre lots can be accommodated within this proposed development area. The applicant’s proposed 16-foot wide driveway to access this area can serve up to six lots under County development standards. Accordingly there is an opportunity to relocate two lots into this area without increasing the size of the access driveway. No additional slope repair beyond that already required for current proposed development is necessary. Furthermore this area is outside the Ridge and Upland Greenbelt and does not contain any special status plant species, visually sensitive ridges, and will have adequate fire flow.

Another location could possibly accommodate a relocated lot is in the area served by Forest Glen Court. The County’s biological consultant has advised that the overall Forest Glen development area should not be expanded in size because any additional Oak woodland removal beyond that associated with the Modified Master Plan may result in a situation that cannot be mitigated. Given that limitation it is still possible to reconfigure lots within the overall development area to create at least one or possibly two additional lots. For example the total land area encumbered by lots 32-36 is 183,066 square feet. Mathematically eight half-acre lots can be accommodated within this area. The applicant is requesting house sizes in this area ranging from 5,500 square feet to 7,900 square feet. Clearly, there is an opportunity to add one or two half-acre lots in this area without expanding the overall development boundary. This may result in smaller house sizes than that requested by the applicant. Furthermore, there are no new or more severe environmental impacts that would result from the relocation of lots to this area because the lots would be located within areas of disturbance already studied in the Final EIR.

The ability to relocate three to four lots and still maintain the same development area boundaries identified in the Modified Master Plan presents a number of opportunities to better achieve the policies and goals of the Marin Countywide Plan. There is an opportunity to reduce the impact of the proposed project on special status species (Serpentine bunchgrass) by possibly relocating lots 1, 26 and 27. There is also an opportunity to reduce the visual impacts of the project by relocating proposed lots 19 and 20. There also appears to be an opportunity to reduce grading and a significant amount of slope repair by relocating lots 22 through 25. These are just a couple of examples of layout alternatives the Board might consider.

STAFF RESPONSE TO APPLICANT’S LETTER

Marin CDA – Planning Division received two letters from the Martha Company’s attorney, Michael Zischke. The first letter inaccurately describes the reason Martha Company bifurcated their application and raises a number of arguments, questions, and issues regarding the staff report presented to your Board on September 19, 2017.

The second letter sets forth the Martha Company’s objection to the staff recommendation denying the 2008 Precise Development Plan/Tentative Map application. The staff recommendation to deny the Precise Development Plan/Tentative Map is based on the premise that the Board of Supervisors will approve a modified master plan for the Easton Point project.

The Martha Company submitted a Precise Development Plan and Tentative Map application in December 2008 and the County of Marin deemed these applications complete on May 28, 2008. Although the Martha Company submitted a Modified Master Plan on June 6, 2017 and

amended said plan on August 4, 2017; the Precise Development Plan and Tentative Map have not been modified and remain as originally submitted and deemed complete.

The EIR prepared for the 2008 Easton Point Residential Development Project found that the proposed site plan, including the precise plan and tentative map resulted in significant adverse environmental and unmitigated impacts to special status species and resulted in severe public safety impacts resulting from inadequate fire flow to protect proposed higher elevation residential lots.

Under the statutes of the California Subdivision Map Act, specifically Section 66452.1(b)&(c) once a public agency either certifies an EIR or approves a negative declaration that agency must take action of a tentative map application within 50 days of the certification. If the public agency does not take action within the required time frame the tentative map shall be deemed to be approved. Therefore it is prudent for Marin County to take immediate action on the Precise Development Plan/Tentative Map filed by the Martha Company and deemed complete by the County of Marin.

Under Sections 66474 (e)&(f) of the Subdivision Map Act the legislative body of the County of Marin shall deny a tentative map if the agency finds that the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat, or the design of the subdivision or type of improvements is likely to cause serious public health problems. The Final EIR prepared on the original application found that the design of the Easton Point subdivision would result in substantial environmental damage to special status species and create a public health hazard due to inadequate fire flow to serve the proposed design. Therefore the County of Marin by statute must deny the Precise Development Plan/Tentative Subdivision Map applications in their current configuration.

In the first half of 2017, when the applicant was considering revising its application, County staff advised the Martha Company's representatives that processing a master plan would take less time than processing a Tentative Map/ Precise Development Plan and that it was possible under the Marin Development Code to submit a master plan without an accompanying Tentative Map/ Precise Development Plan. Martha Company made a unilateral decision to bifurcate the process; staff did not direct Martha to bifurcate its application.

The applicant cites the 2007 Stipulated Judgment as providing basis for its objection to the denial of the Precise Development Plan/Tentative Subdivision Map applications. While the 2007 Stipulated Judgment requires the County to diligently process Martha Co.'s application, reflects the County's acknowledgment that it must process a subdivision map for this project, it does not mandate that the County keep on file Precise Development Plan/Tentative Subdivision Map applications that are inconsistent with the Modified Master Plan. (The 2007 Stipulated Judgment assumed that the Master Plan, Tentative Map, and Precise Development Plan would be approved together. Since they are not being presented to the County this way, the Stipulated Judgment does not provide specific mandates on this issue.) Conforming the tentative map and Precise Development Plan applications will take a significant amount of work that cannot be accomplished in the 50 day time frame noted above. Accordingly, staff is recommending that the Board deny the Precise Development Plan/Tentative Map currently on file with Marin CDA. If approved, as per the bifurcated process selected by the applicant, the County will process Precise Development Plan/Tentative Subdivision Map applications from the applicant that are consistent with the modified master plan and rezoning in accordance with 1976 and 2007 Stipulated Judgments. and the County is obligated, pursuant to the

Stipulated Judgments, to continue to diligently process any applications submitted pursuant to the Stipulated Judgments.

The applicant also requests that the County modify the condition that states the master plan would be valid for three years, to instead grant the three-year extension allowed under Marin County Development Code section 22.70.050.B.3 at this time, without requiring an additional action by the applicant. Given the complexity of this project and the additional entitlement required before a Final Map can be recorded for the Easton Point Project, the request for six years is not unreasonable. Accordingly, staff recommends that this condition be modified so that the Modified Master Plan, if approved, would be valid for six years.

REVIEWED BY:

<input type="checkbox"/> Department of Finance	<input checked="" type="checkbox"/> N/A
<input checked="" type="checkbox"/> County Counsel	<input type="checkbox"/> N/A
<input type="checkbox"/> Human Resources	<input checked="" type="checkbox"/> N/A

SIGNATURE:



John E. Roberto
Contract Planner

Brian C. Crawford
Director, CDA

- Attachments:
1. Resolution Certifying Final Environmental Impact Report
 2. Ordinance Rezoning the Easton Point Property
 3. Ordinance Approving the Modified Master Plan
 4. Resolution Denying Precise Development Plan/Tentative Map
 5. Memorandum Responding to Letter From Martha Company