



**STAFF REPORT TO THE MARIN COUNTY
PLANNING COMMISSION]**

O'Donnell Financial Group LLC Master Plan Amendment and Design Review

- Recommendation:**
- 1. Recommend adoption of a Negative Declaration of Environmental Impact to the Board of Supervisors**
 - 2. Recommend approval of the O'Donnell Financial Group Master Plan Amendment and Design Review to the Board of Supervisors**

Hearing Date: 9/9/2021

Application No(s): P2662

Agenda Item: []

Last Date for Action: N/A

Owner(s): O'Donnell Financial Group LLC

Assessor's Parcel No(s): 052-371-03
Property Address: 150 Shoreline Highway, Mill Valley

Project Planner: Immanuel Bereket
Signature:

Countywide Plan Designation:

Community Plan Area:

Zoning District:

Environmental Determination:

GC-General Commercial/Mixed Use

Tamalpais Community Plan

CP-Planned Commercial

Mitigated Negative Declaration (MND)

PROJECT SUMMARY

The applicant requests a Master Plan Amendment and Design Review approval to construct a two-story, mixed-use development consisting of 3,914 square feet of rental housing units, 4,379 square feet of commercial space, and approximately 3,029 square feet of common areas (i.e., hallways, lounge area, lobby, etcetera), and 463 square feet of enclosed front porch on a vacant lot located in Mill Valley. The proposed development would result in a building floor area of 11,322-square-foot and a floor area ratio (FAR) of 44.3-percent on the 25,557-square-foot lot. The proposed building would reach a maximum height of 30 feet above surrounding grade, and the exterior walls would have the following setbacks: 33 feet from the west front property line; 23 feet from the south side property line; and 49 feet from the north (side) and east (rear) property lines.

The proposed infill project would be contained in one, two-story structure, with the residential units located on the ground floor, while hotel rooms would be located on the second floor. The

residential component of the project would consist of ten rental studio apartments, two of which (or 20 percent) would be reserved for very low-income households in perpetuity. The residential rental units would range in size from 331 square feet to 466 square feet, and all the dwelling units will be studio apartments. The commercial component of the project would consist of 11 extended-stay hotel rooms, ranging in size from 331 square feet to 542 square feet. The main entrance would lead to the residential lounge, lobby, and common area. Each residential unit would have a private patio enclosed area. The upper-level hotel rooms would have a small private balcony enclosed by painted metal posts, handrails, and frames. The metal balconies would be complemented by metal framed and mullioned windows throughout the building.

The exterior finish would consist of cement plaster-clad in tan color. The two-story structure would be constructed on a raised 3-foot-high concrete plinth base to protect it from flooding during a 100-year storm event. The main entrance would feature a projecting bay topped by a hipped roof, creating a tower-like effect. At the rear entrance, a flat-topped roof projection over the rear entrance is proposed. These elements would be covered with a standing-seam painted metal roof system and reach a maximum height of 30 feet above the surrounding grade. The main body of the building would feature a flat roof with a parapet system, which would reach a maximum height of 25 feet two inches above the surrounding grade. The parapets would conceal roof-mounted solar panels.

The proposed project would include asphalt pavement, sidewalks, a paver patio, and 2,858 square feet of landscaped areas, including a bio-retention drainage area and a bio-swale. The bio-swale would drain towards the loading zone driveway and a new drain inlet with a pipe leading to the existing catch basin. The landscaping would be integrated into an onsite stormwater treatment system consisting of bioswales and a vegetated bio-retention basin, capturing and treating all stormwater runoff from the site's impervious surfaces, including rooftops. Various other site improvements would also be entailed in the proposed development, including a new concrete curb, sidewalk, 20 onsite parking spaces, three of which would be EV charging spaces.

Additionally, the applicant requests the following incentives, concessions, and waivers of development standards under Government Code Section 65915–65918 (known as the State Density Bonus Law):

- A. Relief from the requirement of the Multi-Family Design Guidelines Policy DG-20, for reduction of windows and fenestration from 25 percent to 20 percent on the east elevation;
- B. Relief from the requirement of the Multi-Family Design Guidelines Policy DG-80, for a reduction in tree canopies from 25 percent to 5 percent;
- C. Relief from the Multi-Family Design Guidelines Policy DG-29 to reduce the required open space from 1,000 square feet to zero square feet; and
- D. Relief from the Marin county Code Section 24.04.340(a) to reduced required residential parking from 12 spaces to eight spaces.

A Master Plan Amendment under Marin County Code Section 22.44.040 is required to amend the service station use designated for this property by the Howard Johnson's Master Plan and the project does not qualify for waiver of Master Plan. In addition, Design Review is required pursuant to the Marin County Code Section 22.42.020(A) because the project is located in a planned zoning district.

Pursuant to Marin County Development Code Section 22.44.070.A.1, the Commission may recommend approval, conditional approval, or denial of an application to the Board of Supervisors who will make the final decision on this application.

PROJECT SETTING

Characteristics of the site and surrounding area are summarized below:

Total Lot Area: 25,557 square feet.
Adjacent Land Uses: Office buildings, hotel, and restaurant
Topography and Slope: The site has a gradual slope of less than 5% to the southwest.
Existing Vegetation: Vegetation is limited to turf and shrubs.
Environmental Hazards: No seismically active fault crosses the project site or is in proximity to the site. The nearest earthquake faults are the San Andreas fault, located about 5 miles southwest of the project site, and the Hayward fault, located about 11 miles to the northeast. The site is not located within an Alquist-Priolo fault zone as mapped by the State Geologist. A small portion of the site is subject to flooding where the FEMA base flood elevation is 9.0 feet NAVD.

The project site is within a mix-use development known as the Howard Johnson's Master Plan area. The Howard Johnson's Master Plan is subdivided into several small lots, with each lot designated for specific use. The Master Plan designated the project site as a gasoline service station and was used by Exxon as a gas station until 1994. In 1996, the San Francisco Bay Regional Water Quality Control Board issued a letter confirming the completion of site clean-up and remedial actions for the underground fuel storage tanks. The project site abuts a Holiday Inn Express on the northwest, and five small, two-story buildings housing offices and commercial businesses are located on the northeast and southeast of the project site. Access to the site is provided via a shared driveway off Shoreline Highway. The site is rectangular in shape and consists of hard-packed dirt and gravel surface. It is currently used for the storage of construction equipment and materials, including several storage containers. It is fully enclosed by low cyclone fencing.

BACKGROUND

Prior to submitting an application to the County, the applicant made an informal presentation to the Tamalpais Design Review Board (TDRB) at their regular meeting of October 17, 2018. The TDRB expressed concerns about the proposed FAR, design compatibility, and potential traffic congestion. On November 14, 2018, the applicant submitted a Master Plan Amendment and Design Review application. On December 5, 2018, the TDRB reviewed the application and expressed concerns about the project's compliance with the Tamalpais Area Community Plan, FAR, height, and design incompatibility with area's rural character.

On December 5, 2019, staff deemed the application "incomplete" and requested additional materials from the applicant within 60 days. The deadline to resubmit was extended by 120 days upon the applicant's request. On June 4, 2019, the applicants submitted the requested materials, which were posted online and routed to all regulatory agencies. On July 2, 2019, the application was again deemed incomplete due to missing documents. On July 3, 2019, the TDRB reviewed the application and expressed similar concerns as it had previously on two occasions. On October 16, 2019, the application expired due to inactivity by the applicant.

On November 21, 2019, the project proponents applied to restart the project. On December 4, 2019, the TDRB reviewed the application for the fourth time and deemed it incomplete, requesting clarification about the use of the State Density Bonus Law to exceed FAR limitations. On December 5, 2019, staff deemed the application "incomplete" and requested additional information. On January 4, 2020, the applicant submitted the requested materials, but the application was again deemed incomplete on January 29, 2020, pending clarification of information in the geotechnical study. A geotechnical study was resubmitted with the requested materials on the same day. The application was deemed complete on February 4, 2020.

ENVIRONMENTAL REVIEW:

An initial study was prepared pursuant to the California Environmental Quality Act (CEQA) and the Marin County Environmental Impact Review Guidelines, by Douglas Herring & Associates. Per State CEQA Guidelines Section 15070, the initial study found that there was no substantial evidence, in light of the whole record before the agency, that the project may have a significant effect on the environment that could not be mitigated to a level of less than significant. Therefore, Environmental Planning prepared a mitigated negative declaration for the project that was initially circulated with the initial study for a 30-day public review period, from January 13, 2021 to February 16, 2021. The deadline was extended to March 3, 2021 at the request of the Sierra Club, bringing the total public review period to 45 days. The Initial Study concluded that the only resources that may be significantly impacted due to the project are cultural resources during construction, primarily because of the possibility of the unexpected discovery of archeological resources during excavation. To eliminate any potential impacts to archeological resources, a mitigation measure is included, requiring the applicant to engage the services of a Tribal Preferred Archaeologist to conduct subsurface exploration of the site to determine whether archaeologically sensitive resources are present within the confines of the site. In the event that archaeologically sensitive resources are confirmed on the site, the Tribal Preferred Archaeologist must coordinate to implement a Tribal Cultural Resources (TCR) testing and recovery program. With implementation of this mitigation measure, the potential impact is reduced to less than significant.

ISSUES RAISED

The Density Bonus is a State mandate, and an application that meets the requirements of the State law is entitled to receive the density bonus, change in use, increase in floor area ratio, and other benefits as a matter of right. The applicant is requesting an increase in the allowable residential and commercial floor areas in order to offset some of the costs of providing affordable housing in conjunction with the commercial development. Together, these two requests qualify the project for the protections and benefits mandated by the State Density Bonus Law in return for setting aside two units of rental housing for very low-income households in perpetuity. A more detailed discussion of the density bonus framework and its effect on the project is provided below.

Calculating Density: Under the Countywide Plan, the development limit on the site is expressed in terms of FAR, with a range of 0.05 to 0.35 percent. Pursuant to the State Density Bonus Law, where a range of floor area ratio is permitted, the maximum permissible floor area controls. Therefore, the project's FAR limit is 0.35, as required by the State Density Bonus Law.

Based on the lot size of 25,559 square feet, the 35 percent floor area ratio results in a maximum allowable floor area of 8,946 square feet of development on the site. For purposes of calculating

the amount of bonus floor area, the residential and commercial floor areas are first proportionately calculated to exhaust the maximum allowable floor area, or base floor area. Of the 8,946 square feet of development, 49 percent (or 4,384 square feet) would constitute residential uses, while 51 percent (or 4,562 square feet) would be designated as commercial use. Combined, this "base" project fits within the maximum 0.35 FAR, including common areas (i.e., lobby, staircase elevator shaft areas, etc.), apportioned among the residential and commercial areas. Tables 1 and 2 below demonstrate how the amount of additional floor area is calculated.

Table 1: Residential FAR calculations

| Base Project | Residential Base | Affordable Units | Density Bonus Earned | Total Floor Area | Proposed Residential Floor Area |
|--|--|-------------------------|------------------------|------------------|---|
| Project without Density Bonus (25,559x.35) | 49% of Base project (rounded up per 65915 (q)) | Very Low Income <50 AMI | 50% (Per 65915 (f)(2)) | Base+Bonus | Proposed residential areas (excluding common areas) |
| 8,946 | 4,384 | 20% | 2,192 | 6,575 | 3,914 |

Because the project would set aside 20 percent of the residential units for very low-income households, the project is entitled to receive 50 percent (or 2,192 square feet) additional residential floor area above the otherwise maximum allowable FAR under the State Density Bonus Law. Therefore, the applicant is entitled to 6,575 square feet of residential development. With 1,516 square feet of apportioned common areas, the project is proposing a total of 5,430 square feet of residential development, approximately 1,145 square feet less than the maximum permissible under the State Density Bonus Law.

Similarly, the applicant is seeking an additional commercial floor area, as detailed in Table 2 below.

Table 2: Commercial FAR calculations

| Base Project | Base FAR | Affordable Units | Density Bonus Earned | Total Floor Area | Proposed Commercial Floor Area |
|--|--|-------------------------|---------------------------------|------------------|---|
| Project without Density Bonus (25,559x.35) | 51% of Base project (rounded up per 65915 (q)) | Very Low Income <50 AMI | 20% project (per 65915.7(b)(2)) | Base+Bonus | Proposed Project (excluding common areas) |
| 8,946 | 4,562 | 20% | 913 | 5,475 | 4,379 |

Because the project includes both (1) residential development, with 20 percent of the units reserved for very low-income households and (2) commercial development where the units would be constructed on the site and would be built by the applicants, the project is eligible to receive a 20 percent increase in additional commercial FAR, as provided for under Government Code section 65915.7(b). Therefore, the applicant is entitled to 5,475 square feet of commercial development. With 1,516 square feet of apportioned common areas, the project is proposing a total of 5,895 square feet of commercial development, 1,516 square feet less than the maximum permissible under the State Density Bonus Law.

Residential Requirements in Commercial/Mixed Use Districts. The Planned Commercial zoning district does not establish a maximum floor area ratio, while residential density and development standards are established by Chapter 22.32. As proposed, the proposed ten residential units would result in a density of 18 units per acre, where the Marin County Code Section 22.32.150(A)(4) allows a maximum residential density of one unit per 1,450 square feet of lot area (or 30 units per acre). Furthermore, as discussed above and required by the Marin County Code Section 22.32.150(A)(2), the combined residential and commercial floor area ratio would be consistent with the Countywide Plan, except as modified through the State Density Bonus Law.

The project also complies with development standards required by Chapter 22.32. The residential floor area would be approximately 48 percent of the total development, where the Marin County Code Section 22.32.150(A) mandates at least 25 percent of the new floor area to be dedicated for residential purposes. Further, the proposed residential units would range in size from 331 square feet to 466 square feet, where the Municipal Code Section 22.32.150(A)(3) requires a minimum unit size of 220 square feet and less than a maximum size of 1,000 square feet per unit. Additionally, the proposed ten residential units would be well within the 100-unit cap imposed for the for properties within the area covered by the Tamalpais Area Community Plan. Finally, as conditioned herein, the two affordable housing units would be provided in compliance with the Affordable Housing Regulations. Therefore, the proposed project is consistent with the Countywide Plan and the Residential Requirements in Commercial/Mixed Use Districts.

Concessions and Waivers: Since the project would set aside 20 percent of the units for very low income households, the applicant is entitled to request relief from local development standards in the form of concessions, incentives, waivers, and modification of development standards. Incentives typically involve financial measures or changes in use intended to achieve identifiable and actual cost reductions for a project and modification of development standards. Waivers typically involve reducing site development standards or modifying zoning code or architectural design requirements in order to accommodate the project.

The applicant has applied for waivers and reductions in development standards as described above. There is no evidence in the record that the requested waivers will result in a specific adverse impact, cause a public health or safety problem, cause an environmental problem, harm historical property, or be contrary to law. Therefore, the County is required to grant concessions or waivers proposed by the developer.

Countywide Plan Policies:

The CWP includes policies that restrict development to the lowest end of the density range for certain projects based on location. These policies include properties within the Baylands Corridor, areas designated as congested roadway segments under the Transportation Policy (CWP Implementation Program TR-1.e), and annexation of properties to nearby judications (CWP Implementation Program CD-6.a).

The Community Development and Planning Areas chapters of the CWP together form the Land Use Element of the CWP. Therefore, density restrictions imposed by the Baylands Corridor, and the Transportation Element of the CWP are inapplicable in this case because the land use element of the general plan density prevails for density bonus projects under Government Code Section 65915(o)(4). Further, the CWP Implementation Program CD-6.a encourages annexation

by calculating density at the lowest end of the Countywide Plan designation range, unless there is an adopted community plan. As stated above, the project site is in the Tamalpais Area Community Plan, which specifies that the project is subject to the policies and development standards contained in the CWP and development code. Since the Tamalpais Area Community Plan prescribes no specific floor area ratio for the project site, floor area restrictions imposed by Countywide Plan Implementation Program CD-6.a do not apply to the project.

Historically, members of the public have expressed concerns related to parking and circulation in this area of the County. Under the County Code Section 24.04.340(A), studio apartments are required to provide one off street parking space per unit, plus one guest space per 5 dwelling units, a total of 12 spaces. Additionally, hotel rooms are required to provide one off street parking spaces, plus one per shift employee under Marin County Code Section 24.04.340(B). In total, the project would be required to provide 24 off street parking spaces. The project provides only 20 off street parking spaces. However, the County's ability to impose parking ratio are limited by the State Law. More specifically, the State Density Bonus Law states that the County cannot impose a parking ratio that exceeds one off-street parking spaces per studio unit (Section 65915(p)), and may also request further parking reduction to offset the cost of providing affordable housing (Section 65915(e)(1)). The applicants have requested parking waiver to reduce residential parking to eight spaces.

RECOMMENDATION

Staff recommends the Planning Commission review the administrative record, conduct a public hearing, and adopt the attached resolutions recommending the Board of Supervisors adopt the proposed Mitigated Negative Declaration and approve the O'Donnell Financial Group Master Plan Amendment and Design Review (P2662)

Attachments:

1. Proposed Resolution recommending to the Board of Supervisors the certification of a Mitigated Negative Declaration of Environmental Impact for the O'Donnell Financial Group Master Plan Amendment and Design Review
2. Proposed Resolution recommending to the Board of Supervisors the approval of the O'Donnell Financial Group Master Plan Amendment and Design Review
3. The Howard Johnson Master Plan
4. Perkins Coie LPP letter with Affordable Housing Plan, dated November 14, 2019
5. DPW Land Use Land Development Division, dated January 1, 2020
6. Southern Marin Fire Protection District memorandum, dated June 20, 2019
7. Sausalito-Marin City Sanitary District letter, dated July 11, 2019
8. Marin Water District, letter dated January 21, 2021
9. Tam Design Review Board, Design Review minutes
10. Government Code sections 65915 and 65915.7(b) (State Density Bonus Law)
11. Correspondences
12. Project Plans
13. Proposed Mitigated Negative Declaration and Response to comments available online at: <https://www.marincounty.org/depts/cd/divisions/environmental-review/current-eir-projects/o-donnell-mitigated-negative-declaration>