

MEMORANDUM

TO: Planning Commission
FROM: Immanuel Bereket
DATE: September 8, 2021
RE: O'Donnell Financial Group LLC Master Plan Amendment and Design Review

On September 1, 2021, the County received a letter signed by Mr. Alan Jones, chair of the Tamalpias Design Reviews Board (TDRB), regarding the O'Donnell Financial Group LLC Master Plan Amendment and Design Review. The letter raises several issues, which can be grouped into three categories: lack of documentation for the Howard Johnson Master Plan, height limits mandated by the Tamalpias Area Community Plan, and the project's overall inconsistency with the Tamalpias Area Community Plan. This memorandum addresses these issues.

A. The Howard Johnson Master Plan:

As stated in the staff report, the Planning Commission approved Resolution No. 2562 approving a Master Plan and Development Plan for the 5.26 acre site on September 29, 1969. The approved plans indicate a gasoline service station use on the property. The gas station was built in accordance with the Master Plan but subsequently removed. While certain kinds of new development may qualify for a Master Plan Waiver, pursuant to Development Code section 22.44.040.1, Master Plan Amendment approval cannot be waived for the proposed hotel and residential development because the project is inconsistent with the Countywide Plan and the Tamalpais Community Plan.

B. Density Bonus Law

The applicant has submitted the proposed project under the State Density Bonus Law (Gov. Code § 65915 et seq.) and sets aside two units, or 20% of the ten residential units, for Very Low-Income Households, i.e., households with an annual income of less than 50% of Area Median Income. This entitles the applicant to three concessions and unlimited numbers of waivers or reductions of development standards and design requirements (i.e., reduction in setbacks, height, etc.) that would otherwise preclude the development of the density bonus project.

To streamline the review process, the State Density Bonus Law expressly prohibits the County from requiring a Countywide Plan Amendment, a Tamalpias Area Community Plan Amendment, Zoning Amendment, or similar discretionary approval for a project that qualifies for a density bonus, or any requested development waiver(s) (See Gov. Code §65915 (f)(5)). Essentially, this allows the applicant to propose a project that may be inconsistent and in conflict with County plans and ordinances without requiring an amendment to those policies and regulations.

C. Consistency with the Tamalpais Area Community Plan:

The staff report to the Planning Commission identified several waivers or reductions of development standards the applicant has requested. Staff omitted that the project also requires a waiver of Tamalpais Area Community Plan Policy LU 33.1b(h), which only allows a maximum of two stories or 25 feet above finished grade.

As stated in the staff report, 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 body of the building would feature a flat roof with a parapet system, which would reach a maximum height of 25 feet and two inches above grade. The primary and rear entrances would feature projecting roof peaks, which reach a maximum height of 30 feet above grade.

The proposed roof peaks qualify for a height exception without under the Marin County Code section 22.20.060(E)(4) because these two architectural elements would cover less than one percent of the lot where the Code allows up to a maximum of 15 percent, and the area of the base of the structures would measure approximately 650 square feet where a maximum of 1,600 square feet is permitted. Additionally, the proposed architectural elements would not provide sleeping or eating quarters and would not exceed the maximum height 150 feet. However, since this height exception is not referred to in the Tamalpais Community Plan, the 30 foot height of the roof peaks could be considered to exceed the 25 foot height allowed by the Tamalpais Community Plan. At 25 feet and two inches in height, the main body of the building would require a two-inch height reduction to comply with the 25 feet maximum height required by the Tamalpais Area Community Plan.

Staff recommends granting a reduction in this development standard to allow the height to exceed the standard established by the Tamalpais Community Plan. However, in acknowledgment of the fact that the proposed project is inconsistent with Tamalpais Area Community Plan Policy LU 33.1b(h), the resolution for the project should clearly indicate that the proposed height of the building is inconsistent with the Tamalpais Community Plan, as provided in the attached revised Resolution.

MARIN COUNTY PLANNING COMMISSION

RESOLUTION NO. _____

**A RESOLUTION RECOMMENDING TO THE BOARD OF SUPERVISORS APPROVAL OF
THE O'DONNELL FINANCIAL GROUP LLC MASTER PLAN AMENDMENT
AND DESIGN REVIEW
150 SHORELINE HIGHWAY, MILL VALLEY
ASSESSOR'S PARCEL 052-371-03**

SECTION I: FINDINGS

1. **WHEREAS**, the applicant, Mr. Benjamin Jones, on behalf of the owners, O'Donnell Financial Group LLC, has submitted applications for 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 11,321-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.

The property is located at 150 Shoreline Highway, Mill Valley, and is further identified as Assessor's Parcel 052-371-03.

2. **WHEREAS**, on September 9, 2021, the Marin County Planning Commission held a duly noticed public hearing to take public testimony to consider the project, and make its recommendation to the Board of Supervisors.

3. **WHEREAS**, the Planning Commission is an advisory body to the Board of Supervisors pursuant to Marin County Code Section 22.44.070(A)(1), where, due to the application for a Master Plan Amendment, the Board of Supervisors is the highest review authority for the proposed project, and, accordingly, all review by other bodies with approval authority over the application is in the form of a recommendation to the Board of Supervisors.

4. **WHEREAS**, the Marin County Planning Commission reviewed and considered testimony related to the proposed project, including the proposed Mitigated Negative Declaration and determined, subject to the conditions of project approval contained herein, that this project will not result in any potentially significant environmental impacts, and qualifies for a Mitigated Negative Declaration of Environmental Impact in compliance with the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the County's CEQA process.

5. **WHEREAS**, the application is submitted under the State Density Bonus Law (Government Code Section 65915). The applicant is proposing to build ten residential units, and has submitted an affordable housing plan indicating that two (or 20% of the units) would be reserved for very-low income households in perpetuity. Therefore, the project is considered a qualifying project under State Density Bonus Law (Government Code Section 65915) because it would contain five or more residential units.

6. **WHEREAS**, the Countywide Plan designates the project site as General Commercial with a 0.05 to 0.35 percent floor area ratio. Under the State Density Bonus Law, the high end of the maximum floor area range prevails where applications are submitted under the State Density Bonus Law.

7. **WHEREAS**, the Planned Commercial zoning district does not establish a maximum floor area ratio, while residential density and development standards are established by Chapter 22.32.150. The proposed ten residential units would result in a density of 18 units per acre, where a maximum of 30 units per acre is permitted by the Marin County Code Section 22.32.150(A)(4).

8. **WHEREAS**, the proposed ten residential units would be within the 100-unit cap imposed for the for properties within the area covered by the Tamalpais Area Community Plan, as required by the Marin County Code Section 22.32.150(A)(5).

9. **WHEREAS**, the proposed project would be developed in full compliance with the development standards prescribed by the Marin County Code Section 22.32.150 (Residential Requirements in Commercial/Mixed Use Districts).

10. **WHEREAS**, Government Code Section 65915(f)(5) that the granting of a density bonus over the otherwise maximum allowable density or floor area shall not require, or be interpreted, in and of itself, to require a Countywide Plan Amendment, zoning change, or other discretionary approval.

11. **WHEREAS**, Government Code Section 65915(q) requires that each component of any density calculation, including base density and bonus density, resulting in fractional units shall be separately rounded up to the next whole number.

12. **WHEREAS**, the project is consistent with the requirements of the State Density Bonus law. The project site measures approximately 25,559 square feet in size. Applying the maximum 0.35 FAR would yield 8,946 square feet of development on the site. 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.

Since the project would set aside 20 percent of all units (or two residential units) to 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 floor area. Therefore, the applicants are entitled to 6,575 square feet of residential development but are proposing only 3,914 square feet of residential development, excluding residential common areas. With 1,516 square feet of apportioned common areas at the ground floor, the project is proposing a total of 5,430 square feet of residential development, 1,145 square feet below its entitled residential floor area. Similarly, the applicants are also seeking additional commercial floor area. 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 an additional 20 percent commercial floor area, 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.

13. **WHEREAS**, Government Code Section 65915(f)(5), mandates that the "...granting of a density bonus shall not require, or be interpreted, in and of itself, to require a general plan amendment, local coastal plan amendment, zoning change, or other discretionary approval."

14. **WHEREAS**, in addition to the increase in floor area, as a qualifying project, the applicant is entitled to receive up to three project concessions, an unlimited number of waivers and reductions in development standards, and reduced parking ratios regardless of whether additional floor area than would normally be allowed are proposed for the project. In this case, the applicants are requesting the following waivers of development standards under Government Code Section 65915(E):

- 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; ~~and~~ -
- D-E. Relief from the Tamalpais Area Community Plan Policy LU33.1b(h) to increase maximum allowable building height above the 25 foot height limit established by this community plan policy..

In accordance with Density Bonus Law, the County cannot request the applicant to provide technical reports or studies in support of the requested waivers, and the County bears the burden of proof in the event it declines to grant a requested concession or waiver. Additionally, the County cannot deny a requested waiver if such a denial would physically preclude the construction of a "housing development" project (Section 65915(e)(1)). Based upon the substantial evidence in the record, the County finds that the requested waivers cannot be denied as the waivers to development standards: (a) would not result in a specific adverse impact upon health and safety; If the applicant were to redesign or modify the project without the benefit of waivers from development standards, the development would be rendered unaffordable to very low-income households; (b) the property is not listed on the California Register of Historic Places; therefore, a potential adverse impact to such a resource does not apply to the project; and (c) the requested waivers are not contrary to State or federal law. Therefore, the Planning Commission finds that the proposed development is a qualifying project under State Density Bonus Law and, as such, the requested waivers to development standards must be granted as the project does not meet the threshold to deny such waivers under Section 65915(e)(1) of the Government Code.

15. **WHEREAS**, the Government Code Section 65589.5 (the State Housing Accountability Act) states that the lack of housing in California is a "critical problem...that threatens the economic, environmental and social quality of life..." in the State. The Act further states that "California has a housing supply and affordability crisis of historic proportions...the absence of meaningful and effective policy reforms to significantly enhance the approval and supply of housing affordable to Californians of all income levels is a key factor...."

Section 65589.9 (L)(3)(d) of the Act states that a "local agency shall not disapprove a housing development project...for very low, low- or moderate-income households...including through the use of development review standards, unless it makes written findings, based upon a preponderance of the evidence in the record..." that one of the provisions outlined in Sections 65589.9(L)(3)(d)(1) through (5) applies. The project does not meet the threshold for denial under the Act as follows:

1. Section 66589.9(L)(3)(d)(1)- the County has not met its share of the regional housing need allocation pursuant to Government Code Section 65584;
2. Section 66589.9(L)(3)(d)(2). As discussed in more detail above, the project would not result in a "specific, adverse impact upon the public health or safety";
3. Section 66589.9(L)(3)(d)(3). The development would comply with State and Federal law;

4. Section 66589.9(L)(3)(d)(4). The site is not zoned for agriculture or resource preservation. Water and sewer service for the project would be provided by the Marin Municipal Water District and Sausalito-Marin City Water District, respectively; and
5. Section 66589.9(L)(3)(d)(5). Notwithstanding modifications requested under the State Density Bonus Law, the project is otherwise consistent with the Countywide Plan, the Tamalpais Community Area Plan, and the Development Code.

Thus, in accordance with the State Housing Accountability Act, the Planning Commission finds that the project doesn't meet the threshold for denial as required under Sections 66589.9(L)(3)(d)(1) through (5) and recommends approval.

16. **WHEREAS**, except for the floor area ratio bonus, the project is consistent with the goals and policies of the Marin Countywide Plan for the following reasons:

- A. The project site was previously developed as a gasoline service station, and onsite vegetation is limited to non-native invasive species and several trees on the rear of the site on or close to the property line. Project plans indicate that these trees would be retained and incorporated into the resident garden and adjacent parking areas. Therefore, the proposed infill project is consistent with the CWP woodland preservation policy (BIO-1.3) because the project would not entail the irreplaceable removal of a substantial number of mature, native trees.
- B. As examined in the proposed Mitigated Negative Declaration and the response to comments, the project site lacks natural habitat that could support special-status plants or wildlife species. There is a sensitive Baylands ecosystem to the north and northwest of the site, approximately 350 feet away offsite. The Baylands, situated between historic high and low tide elevations, form a complex ecosystem of aquatic and upland habitats, including open water, tidal marshes, mudflats, rocky shorelines, seasonal wetlands, and adjacent areas uplands. Since the infill project will occur entirely within the property boundaries, the construction of the proposed infill project would not affect these resources located offsite. Therefore, the proposed infill project is consistent with the CWP special-status species protection policy (BIO-2.2) because the subject property does not provide habitat for special-status species of plants or animals, and no offsite impacts are anticipated due to the project.
- C. The infill project would occur on a site previously developed as a gasoline service station, and site disturbance would be limited to the site. Therefore, the proposed infill project is consistent with the CWP natural transition and connection policies (BIO 2.3 and BIO 2.4) because the project would not substantially alter the margins along riparian corridors, wetlands, Baylands, or woodlands.
- D. As described above, there is a sensitive Baylands ecosystem to the north and northwest of the site, approximately 350 feet of the site. There are no riparian habitats on the property. The project would not encroach into a Wetland Conservation Area (WCA). Therefore, the project is consistent with the CWP stream and wetland conservation policies (BIO-3.1 and BIO-4.1) because the proposed development would not encroach into any Stream Conservation Areas (SCA) or Wetland Conservation Areas (WCA).
- E. The applicant has provided a Storm Water Pollution and Prevention Plan (SWPPP) for the project prepared in accordance with the Bay Area Storm Water Management

Agency Association (BASMAA) requirements. The plan includes details regarding the capture of project-related stormwater and runoff and release into an existing storm drain, employment of erosion control measures (straw wattles) during construction, and the installation of bioretention planters that would capture and treat stormwater runoff prior to release into storm drains. The County's Department of Public Works (DPW) has reviewed the project plans and will continue to review more detailed construction plans prior to the issuance of a building permit for the project. In addition, the building permit issued for the project will require the implementation of best management practices during construction. Therefore, the infill project is consistent with CWP water quality policies and would not result in substantial soil erosion or discharge of sediments or pollutants into surface runoff (WR- 1.3, WR-2.2, WR-2.3).

- F.** The applicant has provided a geotechnical report that states no active faults traverse the project site. The report also indicates that a large earthquake centered on any of the active faults in the region, including the San Andreas Fault (approximately 5 miles to the southwest) or Hayward Fault (approximately 11 miles to the northeast) could impact the project site. The geotechnical report includes recommendations for site preparation and grading, placement and compaction of engineered fill, foundation design, parameters for slabs-on-grade and concrete flatwork, drainage, and more.

The Marin County Building and Safety Division will ensure that the project design incorporates the recommendations in the geotechnical report and that it complies with the current California Building Standards Code, which includes detailed structural design requirements intended to provide adequate structural integrity to withstand the maximum credible earthquake and the associated ground motion acceleration. Compliance with the applicable building codes will maximize the structural stability of the proposed building and minimize the potential for damage and injury during an intense seismic event. As such, the project is consistent with CWP seismic hazard policies (CWP Policies EH-2.1, EH-2.3, and CD-2.8) because it would be constructed in conformance with County earthquake standards, as verified during the review of the Building Permit application.

- G.** The proposed infill project is consistent with CWP fire hazard management policies (EH-4.1, EH-4.2, EH-4.5) because it would meet all fire safety requirements, as verified by the local fire protection district during the review of the Building Permit application.
- H.** The proposed infill project is consistent with CWP aesthetic policies and programs (DES-4.1 and DES- 4.e) because it would protect scenic quality and views of ridgelines and the natural environment from adverse impacts related to development.
- I.** The proposed infill project site is included on the CWP Map 6.1.41 (Tamalpias Area Land Use Policy Map), which designates the site as GC/Mixed-Use Designation with a potential density of 0.05 to 0.35 percent floor area ratio (FAR). The Tamalpais Area Community Plan designates the project site as Multiple Residential-Visitor Commercial (MRVC) with no specific floor area ratio prescribed for the site. In instances where density allowed under the zoning ordinance is inconsistent with the density allowed under the Countywide Plan's land use element, the general plan density prevails under Government Code Section 65915(o)(4). Therefore, the project

is consistent with the CWP community development policies and programs, in particular policy CD-8.7.

17. **WHEREAS**, except for the floor area ratio bonus, the project is consistent with the goals and policies of the Tamalpais Area Community Plan for the following reasons.

- A. The Tamalpais Area Community Plan designates the project site as Multiple Residential-Visitor Commercial (MRVC) land use. The MRVC land use category is "intended to provide an area within the community where visitors to Marin County and its recreation resources can find lodging and meals, and take advantage of transit options to the recreation areas of Mount Tamalpais and west Marin" (page III-86). Further, "Multiple family housing is also an appropriate and acceptable use within this land use designation." Therefore, the proposed multi-family residential and hotel uses are consistent with the Tamalpais Area Community Plan.
- B. The proposed infill project site is included on the CWP Map 6.1.41 (Tamalpais Area Land Use Policy Map), which designates the site as GC/Mixed-Use Designation with a development potential of 0.05 to 0.35 percent floor area ratio, and the Tamalpais Area Community Plan provides no floor area regulations for the MRVC land use category. Therefore, the project infill project is consistent with the Tamalpais Area Community Plan regarding floor area limitations.
- C. The properties within the area covered by the Tamalpais Area Community Plan, the residential units on sites developed under Marin County Code section 22.32.150.B are limited to 100 residential units or less, excluding units with valid building permits issued prior to the date of adoption of the Countywide Plan update (November 6, 2007). The proposed residential units would be well within this cap.
- D. The proposed infill project would not adversely impact the surrounding natural environment relative to vegetation, habitats, or drainage.
- E. The proposed infill project would not adversely impact the surrounding built environment relative to views from adjacent properties, privacy for the subject and surrounding properties.

18. **WHEREAS**, the project is consistent with the mandatory findings for Master Plan Amendment (Marin County Code Section 22.44.070(3)).

- A. **The Master Plan or Master Plan amendment is consistent with the goals, policies, objectives, and programs of the Countywide Plan and any applicable Community Plan.**

The proposed infill project would further the commercial, office, and mixed-use composition of the Howard Johnson Master Plan. The project would locate residential units and extended-stay hotel rooms near public transit and alternative modes of transportation, thereby taking advantage of available public transportation and alternative modes of transportation. By providing residential rental development, including two units restricted to very low income households, the proposed infill project would provide public benefit and would be consistent with the policies of the Countywide Plan for infill development near existing roads, bicycles, and pedestrian paths, and public transportation routes.

Because the proposed infill project is located on a lot less than two acres in size that was legally created before January 1, 2007, the density restrictions mandated by the Baylands Corridor do not apply in this case. Additionally, the residential density of ten rental units on a 25,557 square foot parcel would be 18 units per acre, where 30 units per acre are permitted by the Marin County Code Section 22.32.150(A)(4). This density would be consistent with the GC, General Commercial/Mixed Use, and Baylands Corridor land use designation of the Countywide Plan.

Further, the proposed infill project, involving extended-stay hotel rooms and multiple residential units, is principally permitted on the property consistent with the Multiple Residential-Visitor Commercial land use category of the Tamalpais Area Community Plan. Therefore, the proposed infill project would be consistent with the Marin Countywide Plan and the Tamalpais Area Community Plan policies and standards.

Furthermore, the infill project would continue to be accessed from the existing driveway to Shoreline Highway. It would maintain adequate setbacks from adjacent buildings and provide an improvement to the neighborhood. The architecture and finish materials would blend into the surroundings eclectic architectural heritage of the neighborhood.

B. The Master Plan or Master Plan amendment is consistent with all standards of the governing conventional zoning district, if applicable.

A planned zoning district governs the subject property; therefore, this finding does not apply.

C. The Master Plan or Master Plan Amendment is suitable for the site, and the future development would be able to conform to the Discretionary Development Standards.

The proposed infill project is suitable for the mixed-use Howard Johnson Master Plan area, which includes offices, hotels, and restaurant uses. The project design would be 30 feet in height and compatible with the surrounding built-in and natural environments. The exterior materials would consist of stucco in tan color, light-gray metal roof and gray trim with a variety of textures. The window arrangements would enhance the building's architecture and create patterns of relief in the facades. The building design includes variations in wall plane and building materials, deeply recessed windows, enclosed private areas at the ground level and balconies at the upper level, which provide further building articulation, a reduced perceived mass, and increased visual interest.

Due to the project's location in a Commercial Planned (CP) district, the Municipal Code has no minimum setback requirements that apply to the project. Nevertheless, the project provides a minimum of 23 feet setback from the nearest property line, which provides sufficient distances between adjacent properties and buildings. The existing shared driveway would provide vehicular access, which the Department of Public Works has determined meets its standards. Therefore, the proposed project's design is consistent with the discretionary standards and further the Multi-family Design Guideline's policies that promote quality and attractive design.

D. The proposed Master Plan or Master Plan amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the County.

The proposed infill mixed-use project would not interfere with the use and enjoyment of adjacent developments, nor would it be detrimental to the public health, safety, or welfare because the proposed extended-stay hotel rooms and residential units are consistent with permitted uses in both the General Plan and Commercial Planned zoning district. Additionally, the proposed infill mixed-use project would be compatible in scale with existing and planned development in the area because the project would include site-specific design features to encourage compatibility with the built-in environment.

Furthermore, the infill project would benefit the public by offering opportunities for affordable rental units near the Manzanita Park and Ride, which is served by multiple fixed bus routes. It would also provide two lower-income and market-rate rental housing units for residents wishing to live in an area near parks, trails, and recreational resources. These features could help reduce overall vehicle trips throughout the County and furthering the County's efforts to encourage sustainable and environmentally-friendly land use and development principles.

19. **WHEREAS**, the project is consistent with the mandatory findings for Design Review approval (Marin County Code Section 22.42.060).

A. The proposed development complies with either the Single-family or Multi-family Residential Design Guidelines, as applicable, and the design and locational characteristics listed in Chapter 22.16 (Planned District Development Standards).

The Multi-Family Residential Design Guidelines include policies that apply for mixed-use projects to encourage developments that enhance Marin's character and protect natural resources and the local community's character, as discussed below.

The proposed building is consistent with policy DG-13, which encourages the placement of mixed-use buildings towards the streets and plazas to help define these spaces and create a sense of activity and place. The proposed building would provide articulated façades, second-floor balconies, and enclosed private spaces at the ground level, accessible from the residential units.

The project is consistent with the Planned District Development Standards because it is designed to avoid adversely affecting natural resources or the local community's character. The project would comply with the site planning standards regarding property line setbacks by providing a minimum 23-foot setback from the nearest property line where no setback is required. The floor area ratio of 44.2% with application of the State Density Bonus Law, the 30-foot maximum height, and other design components would comply with the development standards detailed in section 22.16.

The façade of the building fronting Shoreline Highway would be similar in mass and scale to other buildings within the mixed-use center where the project is located. The exterior materials would be stucco in tan finish color, light-gray metal roof and gray

trim with a variety of textures. The window arrangements would enhance the building's architecture and create patterns of relief in the facades.

B. The proposed development provides architectural design, massing, materials, and scale appropriate to and compatible with the site surroundings and the community.

In general, buildings in the vicinity are nondescript, one- to two-story commercial uses, hotels, multi-family residential (Fireside) structures. The proposed building, at two stories and approximately 30 feet in height, is similar to the existing development in the area. The project would introduce a mixed-use development designed in a mix of modern architectural styles. The design of the building incorporates cement plaster, standing seam metal roof, metal accents that are reflective of and complimentary to finish materials found on surrounding buildings. The application of said materials to functional features of the proposed building, including operable upper story doors with balconies, and enclosed ground-level private spaces for each residential unit, results in an overall building design that is sensitive to and complementary to the surrounding neighborhood ambiance and architecture. Each facade is modulated in various ways with projected balconies, a variety of finishes, consistent fenestration placement patterns, and various façade face projections that capture shadows and change during the day, further building articulation, and increase visual interest. The neutral color palette would be appropriate for a mixed-use project in the modern architectural style, and it would serve to accentuate the architectural features, contributing to a project that is responsive to the site and neighborhood context.

Therefore, the proposed layout of the site and design of the proposed buildings, structures, and landscaping are compatible and aesthetically harmonious with

C. The proposed development results in site layout and design that will not eliminate significant sun and light exposure or result in light pollution and glare; will not eliminate primary views and vistas; and will not eliminate privacy enjoyed on adjacent properties.

As documented in the proposed Mitigated Negative Declaration, there are no scenic vistas available from the project site, and no scenic vistas are available from nearby properties that would be affected by the proposed infill project. Views available from the site frontages include the commercial properties surrounding the site, the nearby U.S. 101 freeway overpass, a tree-covered hillside south of Shoreline Highway with large motel and apartment buildings at its base, and a developed residential hillside to the west (Marin City). From the front of the site, the upper portions of Mount Tamalpais are just visible in the west over the top of the roofs of the adjacent Holiday Inn. However, this scenic mountain is barely visible from the project site, and it comprises such a tiny portion of the overall viewshed from this location, that it is not considered a scenic vista.

Additionally, the proposed building is sited 23 feet away from the nearest (south) property line. The two-story building to the south is further removed 10 feet from the common property line, thereby creating adequate separation between buildings and allowing direct and indirect access to sunlight from each building. Therefore, due to the project's location and orientation on the site, coupled with the distance to other

properties surrounding the site, it would not obstruct any views from the surrounding area or affect sun exposure or privacy enjoyed on neighboring properties.

Further, exterior light will be required to be shielded and downward facing. The project would be required to comply with County Code Section 24.04.410, which mandates the use of shielded lighting fixtures so as not to produce an obtrusive glare on the public right-of-way or adjoining properties.

D. The proposed development will not adversely affect and will enhance where appropriate those rights-of-way, streetscapes, and pathways for circulation passing through, fronting on, or leading to the property.

The proposed project would be functionally integrated with the rest of the Howard Johnson Master plan area while also being adequately separated from surrounding properties. The development would be accessed from the shared existing driveway that complies with Marin County Code Section 24.04.240. Further, the project would occur entirely onsite and would not interfere with public rights-of-way.

Further, the conceptual landscape plan for the project indicates that the garden and all other landscaped areas would have a groundcover, along with shrubs and trees, that would bind the soil and substantially limit post-construction erosion. The most visible area of landscaping would be along the southern property line, while some trees also proposed along the west elevation, as it is the primary entrance to the project. Thus, the proposed architecture, site and landscape design would not interfere with pathways for circulation and would enhance the streetscape.

E. The proposed development will provide appropriate separation between buildings, retain healthy native vegetation and other natural features, and be adequately landscaped consistent with fire safety requirements.

The building would be placed at least 23 feet from the nearest property (south) side property boundary, thereby providing appropriate separation from adjacent properties. The two-story building would be compatible with the massing of the nearby motels and apartments, all of which are two-story buildings. The contemporary architecture style would be compatible with the similar architecture system employed at the adjacent Holiday Inn. Therefore, the project would not result in a substantial alteration of the character or functioning of the existing community and, as discussed above, it would be consistent with the planned use for the area.

Further, the site was until recently used to store construction materials, pipes, boxes, equipment, storage drums, trucks, storage containers, and other miscellaneous items. There are no trees on the site, no landscaping, and no natural resources that might improve the aesthetics of the site. The visual clutter is partially mitigated by a low cyclone construction fence surrounding the site that is faced with mesh fabric providing partial screening of the site's interior as viewed from nearby public vantage points. Implementation of the proposed project would improve the site.

Additionally, the site layout and design of the proposed structure is adjacent is compatible with the buildings in the area, as required by the Marin County Code Section 23.32.150(B)(2). The proposed building, at two stories and approximately 30 feet in height, is similar to the existing development in the area where one- to two-

story commercial uses, hotels, and offices are common. The design of the building incorporates design elements found on the area. In compliance with the Marin County Code Section 23.32.150(B)(2), the residential component of the project is designed and sited in a manner that does not conflict with the commercial uses in the area, while maintaining visual interest.

SECTION II: ACTION

NOW, THEREFORE, BE IT RESOLVED that the Marin County Planning Commission hereby recommends to the Board of Supervisors the approval of the O'Donnell Financial Group LLC Master Plan Amendment and Design Review application.

SECTION III: CONDITIONS OF PROJECT APPROVAL

CDA-Planning Division

1. This O'Donnell Financial Group LLC Master Plan Amendment and Design Review approval authorizes the construction of a two-story, 11,579-square-foot mixed-use development consisting of 3,836 square feet of rental housing units and 4,379 square feet of commercial space on a vacant lot located in Mill Valley. The proposed development shall result in a building floor area of 11,579-square-foot and a floor area ratio (FAR) of 44.2-percent on the 25,557-square-foot lot. The proposed shall reach a maximum height of 30 feet above surrounding grade, and the exterior walls shall 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 shall be contained in one, two-story structure, with the residential units located on the ground floor, while hotel rooms located on the second floor. The residential component of the project shall consist of ten rental studio apartments, two of which (or 20 percent) shall be reserved for very low-income households in perpetuity. The residential rental units shall range in size from 331 square feet to 466 square feet, and all the dwelling units shall be studio apartments. The commercial component of the project shall 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 shall have a private patio enclosed area. The upper-level hotel rooms shall be provided a 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 and two inches above the surrounding grade. The parapets would conceal rRoof-mounted solar panels.

The proposed infill 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.

2. Plans submitted for a Building Permit shall substantially conform to plans identified as Exhibit A, entitled "150 Shoreline Highway," consisting of 25 sheets prepared by Benjamin Jones Architecture, received in final form on November 21, 2019, and on file with the Marin County Community Development Agency, except as modified by the conditions listed herein.
3. PRIOR TO CERTIFICATE OF OCCUPANCY, the applicant shall pay the required affordable housing in-lieu fee for the non-residential component of the project in accordance with Marin County Code Section 22.22.100.
4. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall enter into a Regulatory Agreement with an Affirmative Marketing Plan, as prepared by the County, and paid for by the applicant. The Agreement shall comply with applicable requirements in Chapter 22.22 of the Marin County Code. The Agreement shall acknowledge that the project includes two rental units that are income-restricted in perpetuity. The units shall be offered at an affordable rent not exceeding 30 percent of the gross income of households earning at most 50 percent of Area Median Income, adjusted for household sizes. The rental prices shall be established by the County or its designee and shall be based on the number of bedrooms. See Marin County Development Code Article VIII for definitions of Affordable Rent and Area Median Income.

The Agreement shall specify provisions for income certification and screening of potential renters of units, and specify resale control mechanisms, including the financing of ongoing administrative and monitoring costs, and comply with the requirements of Marin County Code Section 22.22.120.C. In addition, the following provisions shall apply:

- a. Maximum rent shall be adjusted for the family size appropriate for the unit pursuant to California Health & Safety Code Section 50052.5 (h);
 - b. Rent shall include a reasonable allowance for utilities, as published and updated by the Housing Authority, including garbage collection, sewer, water, electricity, gas, and other heating, cooking, and refrigeration fuels. Such allowance shall consider the cost of an adequate level of service. Utilities do not include telephone service. Rent also includes any separately charged fees or service charges assessed by the lessor, which are required of all tenants, other than security deposits; and
 - c. The income restrictions shall run with the land.
5. In the event the extended stay-hotel room are converted to rental housing units, the applicant shall provide inclusionary units as required by the Marin County Code in effect at the time of conversion.
 6. The project shall conform to the Planning Division's "Uniformly Applied Conditions 2021" with respect to all of the standard conditions of approval.

BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall submit a detailed written plan for mitigation measure compliance for review and approval by the Marin County Community Development Agency Director prior to each subsequent stage of project approval and development. The mitigation compliance plan shall serve a dual purpose of verifying compliance with required mitigation measures for the approved project and of generating information on the effectiveness of the mitigation measures. This plan should describe the steps the project sponsor (and project contractor) will take to assure compliance with project conditions and shall include the reporting checklist verifying compliance with required mitigation measures. County staff and/or hired consultants under contract to the County shall verify mitigation measure compliance through the reporting checklist. If necessary, the project sponsor shall agree to fund any additional County costs for mitigation compliance verification by registered professionals. In addition, the applicant shall adhere to the following Mitigation Measure:

- a. Mitigation Measure CUL-1: Conduct Supplemental Archaeological Testing. Prior to issuance of a grading permit, the Project Sponsor shall retain the services of a Tribal Preferred Archaeologist, to be approved by the Federated Indians of Graton Rancheria (FIGR), 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 shall coordinate with FIGR to plan and implement a Tribal Cultural Resources (TCR) testing and recovery program, subject to approval by FIGR, to recover and document the cultural materials encountered. A FIGR representative shall be provided the opportunity to monitor the work performed by the Tribal Preferred Archaeologist in accordance with this mitigation measure. A professional report documenting the findings of the testing and recovery program shall be prepared by the Tribal Preferred Archaeologist and submitted to FIGR and the Marin County Planning Division.

SECTION VI: VOTE

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the County of Marin held on this 9th day of September 2021 by the following vote:

AYES: COMMISSIONERS

NOES:

ABSENT:

CHRISTINA L. DESSER, CHAIR
MARIN COUNTY PLANNING COMMISSION

Attest:

Ana Hilda Mosher
Planning Commission Recording Secretary



MARIN COUNTY GROUP

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scmaringroup@gmail.com

Subsidence and Liquefaction:

Bay mud is notorious for subsidence over time when cut off from natural tidal action. Maps produced by larger Bay Area agencies show this location as being subject to liquefaction in an earthquake. There is a potential for this cement-based building to impact other buildings nearby due to subsidence and resulting displacement force from shear stress.⁹

This area was a marsh historically. The county's own *BayWave* document recommends this area be restored to marsh in order to help protect areas further upstream from SLR. In fact, this entire area may be forced to retreat in the future. It makes little economic sense to build more in a known floodplain that is already impacted by floodwaters and high tides making roadways impassable. (See Appendix A for our recent, on the ground survey.)

The current buildings in this area were constructed in the 1970s, on a marsh, filled in at a time when sea level rise was unthinkable. Today we know better. Sea level rise will happen, we just don't know *exactly* when but the *Bothin Marsh* document points to the mid 2030's. We can no longer afford to be timid about making the hard decisions, or push these issues off onto the next generation to deal with. We call on the Planning Commission to again reject this project as unwise and unsound given what is known.

Sincerely,

Jinesse Reynolds
Chair, Sierra Club Marin Group

Cc: Board of Supervisors

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<http://www.cwejournal.org/vol10noSpecial/evaluation-of-the-effective-components-in-the-survey-of-types-of-liquefaction/>



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Appendix A

Current local flooding conditions **must** be considered for public health and safety. Below are some observations from this year and past years regarding existing conditions “on the ground” in this area:

- Sea level response. Currently 6.4’ to 6.9’ tides are occurring at night during June, July, and August, covering the Bothin Marsh Pedestrian/Bike Path up to several inches. Wind has not been an issue recently so there has not been any wave action. This tidal flooding is occurring during our severe drought conditions.
- On July 21st, the projected 6.8’ high tide was about 10:01 PM. Bridgeway traffic heading northbound on US 101 at Gate 6 Road was inches shy of flooding. Kappas Marina Green between West and East Piers had areas 6” deep and their parking lots were also flooded. Gate 6 Road from A Dock to Richardson Marina had varying amounts of flooding 15+ minutes after high tide.
- Between Yellow Ferry Harbor and Richardson Bay Boat Marina there is a spit of land that affords protection from heavy waves from the south. The spit was partially planted years ago and a large metal saucer with succulents sits on a dirt/rock/concrete pile. During the January 7, 2005 super storm (weeks of heavy rain, snowmelt and the low pressure directly overhead) the saucer and plants were swept off the platform. On Aug. 19-20, 2021, quiet nights with high tides of 6.5’ to 6.6’, seawater was lapping the bowl that sits at the same height. Many residents in the Floating Home community and live-aboards in Richardson Bay Marina use these markers as signs of already significant sea level rise, reminiscent of past high water flooding during storm events.
- During the high tide, before 8 AM on Aug 21, there were wet areas that had both partially or completely covered the Bothin Marsh Pathway. There were also wet areas and some standing water near Manzanita Parking and on Hwy 1 where both northbound and southbound 101 exits join together to continue toward Tam Valley.
- The 3’ platform that O’Donnell shoreline proposes as a mitigation and a resilience measure will not protect any vehicle belonging to long or short term residents of the O’Donnell project. Vehicles will basically be on par with either the concrete slab or existing parking of the surrounding buildings from the motel and restaurant to the north or the existing 2-story commercial buildings bayside and south. Warning signs will need to be posted to avoid liability issues, especially if Hwy 1 floods. Any vehicle trying to enter or leave could be swamped and critical electronics destroyed. This happened to multiple vehicles in the Floating Homes community in 2005.
- With sea level rise, the parking lots and Hwy 1 could flood more frequently. Ultimately this commercial area along with over one-half of the Manzanita bus stop parking will be untenable at



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MHW and MHHW. As the sea level continues to rise, the flooding of adjacent buildings will likely occur. Eventually every building on a 6" concrete base will have to be torn down and removed. Who will get stuck with the cost of mitigation? Meanwhile, the O'Donnell structure may be sitting circa 2-feet more above the floodplain, but their parking lot will be frequently underwater, and with no place nearby to move their cars to.

- The O'Donnell Shoreline property has been priced for sale at \$1,995,000 for over 128 days. Rockstar Energy Drink, Building E, 150 Shoreline sits NE of the O'Donnell project, with 20 private offices, 20 parking spaces, a conference room and ground floor fully equipped kitchen. The company was purchased by Pepsi Cola in March 2020, and is listed for lease or sale. It appears empty at this point. If current properties are empty, for sale and having trouble finding buyers or tenants, we question the wisdom of adding more buildings to an already problematic site.

Appendix B:

*From the **Bothin Marsh Geomorphology, Ecology, And Conservation Options Report:***

"This report was produced on behalf of the Marin County Parks based on review of the science related to restoration and protection of tidal marshes in upper Richardson Bay, Marin County, California.

"The authors are thankful for the opportunity to produce this report. We were able to apply our collective century of experience as investigative wetland and watershed scientists to a familiar locale, and in the process learn from each other's expert perspectives... We produced this report as six standalone Chapters with two Appendices. This approach separates an otherwise massive report into a set of six technical references that we hope will be useful to current and future environmental planners, scientists, and engineers working in Richardson Bay and beyond. This report covers the following major subjects:

- Tidal marsh formative processes
- Sea level rise and adaptation management strategies
- History and causes of physical environmental change
- Ecological response to environmental change
- Conservation options
- Synthesis of key findings
- Review of regional tidal marsh plant and wildlife technical literature
- Guide to common vascular plants in the Bothin Marsh Complex

"...Understanding the short and long-term costs and benefits of different adaptation strategies, as well as the costs of not taking action, is critical to choosing a strategy that is optimal. The choice is not based solely on economics. Other factors to consider include community culture, ecological benefits, and administrative and legal aspects...

“Sea level rise can negatively impact values of properties and industries within the expected areas of migration (Pew Center 2000, California Climate Change Center 2009). Disadvantaged communities may be especially threatened due to their relative lack of access to financial resources necessary to mitigate the threat through structural or landscape engineering (Martinich *et al.* 2013, Stutz 2017).”

Cascading traffic Impacts in the Bay Area due to low elevation flooding in Berkeley

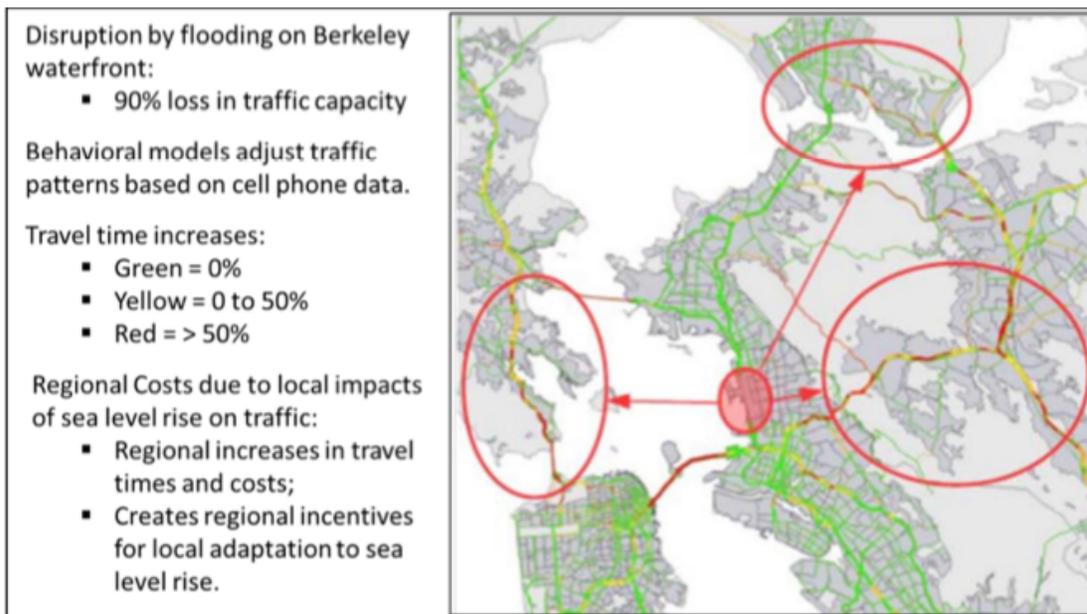


Figure 2.8: The expected effects of tidal flooding in Berkeley on travel times at major highways elsewhere in the region, illustrating the regional scope of inter-relations among local vulnerabilities. Figure courtesy of Mark Stacey (Stacey 2017).