

## COMMUNITY DEVELOPMENT AGENCY

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

**SUBJECT: Karuna Land LLC Master Plan, Land Division, and Precise Development Plan and Negative Declaration of Environmental Impact (Project ID 2008-0092)**  
1 Sacramento Avenue, San Anselmo  
(Assessor's Parcel 177-220-10)

Dear Supervisors,

### **RECOMMENDATION:**

Staff recommends the Board take the following actions: (1) adopt a Negative Declaration of Environmental Impact; (2) adopt an Ordinance approving the Master Plan for six residential lots and a remainder private open space parcel; and (3) adopt a resolution denying the Land Division and Precise Development Plan and allowing the submittal of revised applications to vest the Master Plan.

### **BACKGROUND AND PROJECT SUMMARY:**

This project was originally brought before the Marin County Board of Supervisors in August 2009 as a two-lot land division with a remainder parcel with construction of two, 3,500 single-family residences on each of the lots and a future residence on the remainder parcel. The Board denied the application on grounds that it was fundamentally inconsistent with the Countywide Plan policies and development regulations by siting part of the development in the Ridge and Upland Greenbelt and the Stream Conservation Area, utilizing large home designs that are inappropriate for a hillside setting, and requiring considerable amount of site disturbance associated with grading and tree removal.

The applicant filed a lawsuit challenging the County's denial in Marin County Superior Court in November 2009. A Settlement Agreement (see Attachment 9) was subsequently entered into between the applicant and the Board of Supervisors in June 2012. The Settlement Agreement established parameters for the applicant to submit an alternative application along with processing of the application through the planning process by the Community Development Agency.

The project is an alternative proposal to subdivide the 10.6-acre lot into six lots for residential development, an access and utilities parcel, and one remainder lot. The proposal includes a Master Plan application as required by the Planned

District zoning, and a Precise Development Plan, addressing overall subdivision layout, access, infrastructure, and the design of six 1,500 square foot single-family residences, and a Vesting Tentative Map. The Precise Development Plan provides the functional equivalent of Design Review which is required by Marin County Code because the applicant is proposing a Vesting Tentative Map. See attachment 6 for project plans.

The remainder parcel would contain 9.2 acres, which the applicant is proposing to devote to agriculture, recreation, a memorial site, and/or a meditation area. Under the Settlement Agreement, the development potential of the remainder lot may be transferred to a yet-to-be-determined receiver site(s) if the county chooses to expand its Transfer of Development Rights (TDR) program in the future.

Access to the six new residences would be by a new 16-foot wide common driveway which extends from the end of a 20-foot wide private roadway connected to Sacramento Avenue that serves the proposed six new units, 11 Sacramento Avenue, 58 Sacramento Avenue, and the second unit approved for the barn at 11 Sacramento Avenue.

**DISCUSSION:**

Overall, the revised proposal is superior to the one that was denied in 2009 and incorporates design changes which reflect the direction provided by the Board in its previous action. The proposal utilizes a more compact design by relocating development to the base of the hill, reducing the length of the driveway extension, and removing previous encroachments into areas designated as Ridge and Upland Greenbelt and Stream Conservation Area. The overall driveway length has been shortened considerably, from approximately 950 feet to 650 feet. While the amount of grading is still considerable, it is largely balanced onsite, and project refinements, required as a recommended condition of approval, could likely further reduce the overall amount of grading.

The Initial Study determined that the project would not result in significant adverse environmental impacts, and qualifies for a Negative Declaration of Environmental Impact. A number of comments were received in response to the Negative Declaration raising issues that have either been addressed in the Initial Study or that pertain to the merits of the project. Please refer to Attachment 4 for a response to the comments.

The applicant proposes to preserve 10 additional residential units in a transfer of development rights (TDR) bank to be allocated if the County, at its sole discretion, expands the TDR program, a suitable donor site(s) is identified, and if a separate Master Plan application is approved for the TDR project. This approach effectively exhausts the development potential on this property. Utilizing the County's methodology for calculating residential density in effect at the time of the settlement agreement yields a residual density of eight units that would be eligible for the TDR bank. The applicant proposes 10 units for the TDR program utilizing an alternative methodology that: (1) does not count the proposed affordable unit against the total density; (2) utilizes an 11.18-acre lot size based on the Assessor's Parcel Map, as opposed to the actual 10.6-acre lot

size depicted in the application materials; and (3) rounds up the number of units to the next highest whole number.

The applicant disagrees with staff's analysis but has not provided evidence demonstrating how the methodology for determining the proposed 10 units to be banked is consistent with the Development Code.

Access as currently proposed is one of the major development issues raised by the revised proposal. The Department of Public Works and the County Fire Marshal have conditionally accepted the proposed vehicular access, with several important modifications (fire lane signing and vehicular access to/from a barn located on adjoining property owned by the applicant). The applicant has not been willing to accept the required modifications to the barn.

Other unresolved issues include proposed designs for six residences that are inconsistent with the Single-family Residential Design Guidelines, potential development impacts to a healthy Valley oak located on one of the proposed lots (Lot 2), modifications to the number and configuration of the lots to remove development encroachments into the remainder parcel, and the creation of a separate parcel for the access driveway. To ensure that all development potential would be extinguished on the proposed remainder parcel, a recommended condition of approval would require the applicant to submit an offer for dedication of a permanent open space and conservation easement over the remainder parcel.

In the interest of resolving the above issues prior to the Board of Supervisors hearing, staff met and communicated the outstanding application deficiencies with the applicant on numerous occasions. A Board of Supervisors hearing scheduled for November 2013 was continued at the applicant's request to provide more time to respond to project issues. Consequently, staff is recommending that the Board approve the Master Plan to signify the County's support for the general development scheme for the property, and that the Precise Development Plan and Vesting Tentative Map be denied without prejudice in order for the applicant to submit revised applications that incorporate the modifications needed to resolve remaining inconsistencies with County policies, regulations, and development standards. In general, these modifications include: (1) revising the design of the subdivision map to eliminate a separate parcel that contains the driveway and utilities and remove all improvements from the remainder parcel; (2) revise the plans to incorporate required modifications to an off-site barn and fire lane signing; (3) revising the lot design and/or home design for Lot 2 to enhance the long-term survival of a heritage oak tree; and (4) revising the design for all the homes to comply with the Single-family Residential Design Guidelines and the hillside setting.

**FISCAL/STAFFING IMPACT:** None.

**REVIEWED BY:** *(These boxes must be checked)*

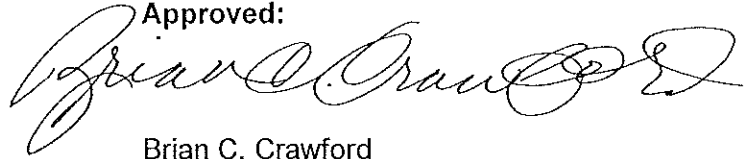
- Department of Finance  N/A
- County Counsel  N/A
- Human Resources  N/A

**SIGNATURE:**



Ben Berto  
Principal Planner

**Approved:**



Brian C. Crawford  
Director

- Attachments: 1. Resolution adopting a Negative Declaration of Environmental Impact
2. Ordinance approving the Karuna Land LLC Master Plan
  3. Resolution denying the Karuna Land LLC Land Division and Precise Development Plan
  4. Response to comments on Initial Study
  5. Draft Open Space and Conservation Easement

*In the interest of conserving resources, the following attachments are provided to the Board of Supervisors only. These are available for public inspection at the Community Development Agency between the hours of 8:00am and 4:00pm Monday through Thursday.*

6. Project plans
7. Initial Study (*previously circulated under separate cover*)
8. Department of Public Works memorandum, 1/9/14 and revised 1/9/14
9. Planning Commission letter, 10/14/13
10. Settlement Agreement, 6/19/12
11. Public comment letters