

ORDINANCE NO. _____
ORDINANCE OF THE MARIN COUNTY BOARD OF SUPERVISORS
AN ORDINANCE WITH FINDINGS AND CONDITIONS
AMENDING THE MARIN COUNTY DEVELOPMENT CODE (TITLE 22)
FOR APPROVAL OF THE BINFORD ROAD, LLC SELF-STORAGE FACILITY
REVISED PROJECT
REZONING (RZ 01-01) APPLICATION

8190 BINFORD ROAD, NOVATO
ASSESSOR'S PARCELS 125-190-21, -65, and -66

SECTION I: FINDINGS

- I. WHEREAS in July 2000, Binford Road, LLC submitted Countywide Plan Amendment, Rezoning, Land Division, Master Plan, and Tidelands Permit applications requesting approvals for the construction and operation of a multi-purpose, self-storage facility as described below.

2000 Project General Description

The applicant requested approvals of a Countywide Plan Amendment and Rezoning and the development and operation of a multi-purpose self-storage facility on 29 acres of the 47.3-acre project site. The Countywide Plan (CWP) Amendment application proposed to change the CWP Land Use Designation from Recreational Commercial (RC) to Industrial (IND) for proposed Lots 1 and 2 and to Open Space (OS) for proposed Lot 3. The Rezoning application proposed to rezone the property from Resort and Commercial Recreation District (RCR) to Bayfront Conservation - Industrial Planned District (BFC-IP) for proposed Lots 1 and 2 and to Bayfront Conservation - Open Area (BFC-OA) for proposed Lot 3. The Tentative Map application proposed to reconfigure and divide the three existing parcels as follows: Lot 1 (southwestern parcel) 14.1 acres; Lot 2 (northwestern parcel) 14.9 acres; and Lot 3 (eastern parcel) 18.3 acres. Development of the self-storage facility would be located on the western-most portion of the site (Lots 1 and 2). Retention of existing wetlands, additional wetlands restoration, and preservation of open space were proposed on the eastern portion (Lot 3) of the site. Lot 3 was proposed to be dedicated to a public or conservation entity to be held as permanent open space. The applicant proposed to apply a conservation easement over the area within the Novato Canal (approximately 12.75 acres of portions of Lots 1 and 2). The development was proposed on approximately 16.25 dry-land acres of Lots 1 and 2, extending approximately 2,000 feet easterly from Binford Road along the northern and southern levees of the Novato Canal.

The project was proposed to be constructed in three phases over a 5-10 year period resulting in the following floor area of development for each phase: Phase 1 build-out 102,200 square feet of floor area; Phase 2 build-out 66,060 square feet of floor area; and Phase 3 build-out 57,040 square feet of floor area. Upon completion, the project would consist of approximately 685 storage units in 23 buildings totaling approximately 225,300 square feet of floor area as follows: approximately 95,880 square feet of floor area on proposed Lot 1 (28% FAR on approximately 7.73 dry-land acres); and 129,420 square feet of floor area on proposed Lot 2 (35% FAR on approximately 8.52 dry-land

acres) (29% collectively over Lots 1 and 2). The structures range in height from 14 to 24 feet. The finished floor elevations of the building would be approximately 8.0 feet above mean sea level. Buildings would be light construction with metal framing, stucco walls, with occasional split-face concrete block walls for the taller units and metal roofing and would be supported on piles. The finished floor elevations of the buildings would be approximately 8.0 feet above Ultimate build-out of the project would require approximately 85,000 cubic yards of imported fill to be deposited on the existing levee areas. The storage facility would be for personal vehicles, recreational vehicles and trailers, boats, general household items and office storage.

Access to the storage units would be from Binford Road and from two internal roadways extending along the north and south levees. Runoff from buildings and paved areas would be captured in two on-site holding ponds located on Lots 1 and 2. A public viewing area with parking would be provided immediately off Binford Road to provide public viewing of the wetlands running the length of the canal towards the Petaluma River. The project includes the continued restoration of approximately 4.1 acres of tidal marshlands.

The subject property is located at 8190 Binford Road, Novato and is further identified as **Assessor's Parcels 125-190-21, -65, and -66.**

- II. Prior to submittal of the proposed development applications and plans, the applicant submitted an *Environmental Assessment for 8190 Binford Road, Novato, California (EA)*, dated February 28, 2000 and prepared by LSA, Inc. and RJ Planning in accordance with Marin Countywide Plan (CWP), Policy EQ-2.49, and Marin County Code, Section 22.14.060 (C). The EA was prepared for the applicant for the purpose of developing a self-storage facility on the property. The EA assessed existing environmental conditions, capabilities, and constraints (geology and soils, hydrology and drainage, biological resources, cultural and historic resources, traffic and circulation, and relevant Countywide Plan and reviewing agency plan policies and regulations) relative to the potential development of the 47.3-acre property. The use of the EA was intended to provide the highest degree of environmental protection while permitting reasonable development on the project site, consistent with the goals, objectives, and policies of the CWP. The EA proposed recommendations for siting and design of potential development to avoid adverse environmental impacts. The EA acknowledged that designation of the site as open space would most fully implement CWP policies; however, this could only be accomplished with public acquisition. Alternatively, approving development on a portion of the property, with dedication of open space and restoration of wetlands on the remainder of the property, would achieve a high level of compliance with CWP Bayfront Conservation Area policies (Policies EQ-2.42 through EQ-2.74) The EA found that the western portions of the property could be developed with low intensity uses under appropriate measures. The EA was accepted by the Marin County Planning Commission on April 10, 2000. (Planning Commission Resolution PC 00-015). The applicant based the development proposal on the capabilities and constraints of the project site as evaluated in the EA.
- III. WHEREAS the Marin County Community Development Agency - Planning Division prepared an Initial Study for the project as described in Finding I. above, pursuant to the requirements of the California Environmental Quality Act (CEQA), which determined that potential physical impacts relating to land use and planning, geophysical, water, air

quality, biological resources, aesthetics and visual resources were avoided or mitigated to a point where no significant adverse environmental impacts would occur because mitigation measures to the project, as described in Finding I. above, and as agreed to by the applicant, would be incorporated as conditions of project approval, and there was no evidence that the project, as conditioned, would have a significant effect on the environment.

- IV. WHEREAS the Marin County Environmental Coordinator recommended a Mitigated Negative Declaration of Environmental Impact for the project, as described in Finding I. above, pursuant to the California Environmental Quality Act (CEQA). All project-related, potentially significant and adverse effects and appropriate mitigation measures were discussed in the Initial Study. With mitigation measures incorporated into conditions of approval, the proposed project as described in Finding I. above would have no significant adverse environmental impacts, and no conditions described in the CEQA Guidelines were identified in the Initial Study that would require the preparation of an Environmental Impact Report.
- V. WHEREAS on July 11, 2006, a Draft Mitigated Negative Declaration of Environmental Impact was completed and distributed to agencies and interested parties to commence a 30-day public review period for review and comment on the Draft Mitigated Negative Declaration of Environmental Impact and a Notice of the public review period and hearing date to consider approval of the Draft Negative Declaration of Environmental Impact was published in a general circulation newspaper pursuant to CEQA requirements.
- VI. WHEREAS after the close of the public review period on August 10, 2006, the Marin County Airport Land Use Commission held a duly-noticed public hearing on August 28, 2006, to consider the Binford Road LLC Self-Storage Facility, Countywide Plan Amendment, Rezoning, Master Plan, Land Division (Tentative Map), and Tidelands Permit applications because the project site is located within the referral area boundary (Designated Area 5) of the Airport Land Use Plan as shown on the Gness Field Safety Zones Map (Figure 3.1, Marin County Airport Land Use Plan).
- VII. WHEREAS the Airport Land Use Commission found that the Binford Road LLC Self-Storage Facility project is consistent with the Marin County Airport Land Use Plan for the following reasons:
 - A. The proposed development site of the Binford Road LLC Self-Storage Facility project is located outside of the Airport Clear Zone as shown on the Gness Field Safety Zones Map (Figure 3.1, Marin County Airport Land Use) and no development component or uses are located within the Clear Zone.
 - B. The proposed development component of the Binford Road LLC Self-Storage Facility project is located within the Approach Zone, the Traffic Zone and the Overflight Zone as shown on the Gness Field Safety Zones Map (Figure 3.1, Marin County Airport Land Use Plan), in which land use and/or zoning restrictions are established to protect public safety on the ground and to minimize risk by limiting exposure to humans.

- C. While the height of the Approach Surface over the site varies, because the topography of the site varies, in accordance with Marin County Airport Land Use Plan (ALUP) Policies AH-1.2 (FAR Part 77 Penetration Areas) and AH-1.3 (FAR Part 77 Non-penetration Areas), no structures will be located within the height limits of the adopted Approach and Clear Zone Plan that would penetrate the FAR. The proposed height of the structures, 14 feet to 24 feet, will not penetrate the Approach Surface as the proposed heights do not exceed the height limits of the proposed zoning and the structures are not located in FAR Part 77 penetration areas as defined by the shaded topographic areas and the approach profiles on the Approach and Clear Zone Plan.
 - D. The proposed industrial land use is compatible with airport operations both in terms of noise impacts and general land use considerations and the proposed use is not considered a noise sensitive development. (Policy NC-1.1 Land Use Compatibility).
 - E. In accordance with Table 3.3 "Land Use Guidelines for Noise Compatibility" of the ALUP, the proposed industrial use is satisfactory at designated noise levels of the airport use within the airport generated noise contours reading at 55, 60, and 65 dB CNEL on the project site.
 - F. A Clear Zone Easement and an Approach Zone Easement were recorded on the central and eastern portions of the site in 1966 and 1967, respectfully and Department of Public Works staff has determined that additional Clear Zone Easements are not needed. However per Department of Public Works requirements, Plan Policy SZ-6.1 (Easement in the Clear Zone and Approach Zone) and Plan Policy SZ-6.2 (Easement-Traffic Pattern Zone and Overflight Zone), conditions of project approval will require recordation of: (1) an additional aviation easement to be offered to the County for Gness Field; and (2) an airport disclosure document to be recorded concurrently before recordation of a Parcel Map or issuance of construction permits, including grading or building, which ever comes first. No development is proposed or shall be permitted within the Clear Zone Easement.
- VIII. WHEREAS after the close of the public review period on August 10, 2006, the Marin County Planning Commission held a duly noticed public hearing on August 28, 2006 to review and consider testimony in favor of, and in opposition to, the proposed Draft Mitigated Negative Declaration of Environmental Impact and to review and consider testimony in favor of, and in opposition to, the merits of the proposed Binford Road, LLC Self-Storage Facility Countywide Plan Amendment, Rezoning, Master Plan, Land Division and Tidelands Permit applications.
- IX. WHEREAS, clarifications and corrections to the Initial Study were part of the August 28, 2006 Planning Commission staff report as part of the administrative record. The clarifications and corrections were minor in nature and only clarified the recommended Negative Declaration of Environmental Impact. These clarifications and corrections did not require re-circulation of the Initial Study. As part of the administrative record, responses to the Initial Study received during the 30-day public comment and review period were addressed in the August 28, 2006 Planning Commission staff report.

- X. WHEREAS at the August 28, 2006 Planning Commission hearing, the Commission directed staff to return to a continued public hearing on September 11, 2006, with a prepared draft Resolution with findings to support recommending to the Board of Supervisors denial of the applications without environmental review. In addition, the Planning Commission directed staff to return with some possible land use alternatives for the Commission to consider.
- XI. WHEREAS the Marin County Planning Commission conducted a continued public hearing on September 11, 2006, considered additional information presented by the applicant in response to the Commission's concerns and the possible land use alternatives presented by staff, and adopted a Resolution (Planning Commission Resolution No. PC 06-024) recommending that the Board of Supervisors deny the Binford Road, LLC Self-Storage Facility Marin Countywide Plan Amendment (PA 01-01), Rezoning (RZ 01-01), Master Plan (MP 01-02), Land Division (LD 01-01), and Tideland's Permit (TP 01-03) applications without environmental review.
- XII. WHEREAS the Marin County Board of Supervisors held a duly noticed public hearing on December 5, 2006 to review the administrative record and consider the Planning Commission's recommendation and to hear testimony in favor of, and in opposition to, the Draft Mitigated Negative Declaration of Environmental Impact and the merits of proposed project.
- XIII. WHEREAS at the December 5, 2006 continued public hearing, the applicant presented a modified project, which reduced the size of development and increased the amount of acreage for wetlands restoration and open space. The Board directed Planning staff to review this revised proposal and return with a recommendation to the Board at a continued public hearing on December 19, 2006.
- XIV. WHEREAS on December 6, 2006, Planning staff met with the applicant to discuss the revised proposal, at which time the applicant proposed a second alternative revision that would reduce further the amount of development and increase the acreage of wetlands restoration and open space than what was presented at the December 5, 2006, Board hearing. The revised smaller development project would be constructed in one phase and would result in almost a balanced cut and fill project. Subsequently, the applicant submitted revised plans to the Community Development Agency for the revised project as described below.

2006 Revised Project General Description

The revised Binford Road, LLC self-storage facility project, to be used for storage of personal vehicles, recreational vehicles and trailers, boats, general household items, and office storage, requests approval of a Countywide Plan Amendment and Rezoning for the development and operation of a multi-purpose self-storage facility on 19.34 acres of the 47.3-acre project site. The proposal would reconfigure and divide the property into the following three lots: Lot 1 (southwestern parcel fronting Binford Road) 9.47 acres; Lot 2 (northwestern parcel fronting Binford Road) 9.87 acres; and Lot 3 (eastern parcel) 27.96 acres. The Countywide Plan (CWP) Amendment proposes to change the CWP Land Use Designation from Recreational Commercial (RC) to Planned Industrial District (IND) (allowable Floor Area Ratio (FAR) 0.04 to 0.35) for proposed Lots 1 and 2 and to Open Space (OS) for proposed Lot 3. Rezoning is requested for the property

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from Resort and Commercial Recreation District (RCR) to Bayfront Conservation - Industrial Planned District (BFC-IP) for proposed Lots 1 and 2 and to Bayfront Conservation - Open Area (BFC-OA) for proposed Lot 3.

On proposed Lot 3, wetlands restoration on 4.1 acres of former uplands and seasonal wetlands restored to tidal marsh in 2001 as part of the U. S. Army Corp of Engineers permit would continue, an additional 8.25 acres of previously filled area would be restored to tidal marsh habitat, and the entire area of Lot 3 would be preserved as open space. Lot 3 is proposed to be dedicated to a public or conservation entity to be held as permanent open space. The Novato Canal would naturally restore to wetlands. The applicant proposes to apply a conservation easement over the area within the Novato Canal (approximately 9.3 acres of portions of Lots 1 and 2).

Development of the self-storage structures would be located on 9.54 acres of dry land at the western-most portion of the site (Lots 1 and 2), extending approximately 1,100 feet easterly from Binford Road along the northern and southern levees of the Novato Canal. Water runoff retention ponds would extend an additional approximately 400 feet easterly along the northern and southern levees. Roof water run-off would drain to grassy swales and then to the canal.

The project would consist of approximately 386 storage units in 13 buildings totaling approximately 133,540 square feet as follows: 61,650 square feet of floor area on proposed Lot 1 (31% FAR on approximately 4.57 dry-land acres) and 71,890 square feet of floor area on proposed Lot 2 (33% FAR on approximately 4.97 dry-land acres). The one-story structures would range in height from 14 to 24 feet. The finished floor elevations of the building would be approximately 8.0 feet above mean sea level. Buildings would be light construction with metal framing, stucco walls, with occasional split-face concrete block walls for the taller units, and metal roofing. Construction of the reduced improvements and the expanded wetlands restoration would be executed in one phase and would involve excavation of fill used on existing levees (approximately 55,198 cubic yards) to be used as fill (approximately 54,847 cubic yards) on the development site, resulting in rebalancing the existing fill, except for approximately 350 cubic yards of off-haul.

Access to the storage units would be from Binford Road, with the construction of two internal roadways extending along the north and south levees. Beyond these roadways, a gravel road on the northern levee providing access to the KCBS towers would be realigned into a 20-foot wide access easement. Similarly, an existing access easement on the southern levee would be realigned to a 20-foot wide access easement. Landscaping would be installed along the northern and southern property boundaries to provide screening of the proposed structures and buffering between the development and adjacent dry lands and wetlands. A public viewing area with parking would be provided immediately off Binford Road to provide public viewing of the wetlands running the length of the canal towards the Petaluma River.

The subject property is located at **8190 Binford Road, Novato** on property further identified as **Assessor's Parcels 125-190-21, -65, and -66.**

- XV. WHEREAS on December 19, 2006 at a continued public hearing, the Marin County Board of Supervisors reviewed and considered the information contained in the Draft

Mitigated Negative Declaration of Environmental Impact and the comments and responses thereto and took testimony in favor of, and in opposition to, the Draft Mitigated Negative Declaration of Environmental Impact and the merits of proposed revised project.

- XVI. WHEREAS at the close of the December 19, 2006, continued public hearing, the Marin County Board of Supervisors continued the public hearing and directed staff to review the proposed revised project presented to the Board at the December 19, 2006 hearing and the Draft Mitigated Negative Declaration of Environmental Impact for the original project and return to the Board at a continued public hearing on February 13, 2007 with a recommendation.
- XVII. WHEREAS upon review of the Draft Mitigated Negative Declaration of Environmental Impact prepared for the original project, the Marin County Environmental Coordinator determined that, pursuant to Section 15073.5 (Recirculation of a Negative Declaration Prior to Adoption) of the California Environmental Quality Act Guidelines, a revised Mitigated Negative Declaration of Environmental Impact needed to be prepared and recirculated to address the revised project.
- XVIII. WHEREAS the Marin County Community Development Agency - Planning Division prepared a Revised Initial Study and Negative Declaration of Environment Impact for the 2006 revised project as described in Finding XIV above, including a Mitigation Monitoring and Reporting Program, pursuant to the requirements of the California Environmental Quality Act (CEQA) for the project, which determined that potential physical impacts relating to land use and planning, geophysical, water, air quality, biological resources, aesthetics and visual resources are avoided or mitigated to a point where no significant adverse environmental impacts will occur because mitigation measures to the project, as described in Finding XIV. above, and as agreed to by the applicant, have been incorporated as conditions of project approval, and there is no evidence that the project, as conditioned, will have a significant effect on the environment.
- XIX. WHEREAS on January 31, 2007, a Revised Draft Mitigated Negative Declaration of Environmental Impact was completed and distributed to agencies and interested parties to commence a 30-day public review period for review and comment on the Draft Mitigated Negative Declaration of Environmental Impact and a Notice of the public review period and a hearing date of March 27, 2007 to consider approval of the Negative Declaration of Environmental Impact was published in a general circulation newspaper pursuant to CEQA requirements.
- XX. WHEREAS after the close of the public review period on March 5, 2007, the Marin County Board of Supervisors further continued the hearing date to April 3, 2007, to consider the Revised Draft Mitigated Negative Declaration of Environmental Impact for the Binford Road LLC Self-Storage Facility, Countywide Plan Amendment, Rezoning, Master Plan, Land Division (Tentative Map), and Tidelands Permit applications for the proposed project.
- XXI. WHEREAS the Marin County Board of Supervisors held a duly-noticed continued public hearing on April 3, 2007 to consider the Binford Road LLC Self-Storage Facility Revised Draft Mitigated Negative Declaration of Environmental Impact on the revised project and

Countywide Plan Amendment, Rezoning, Master Plan, Land Division (Tentative Map), and Tidelands Permit applications and to hear testimony in favor of, and in opposition to, the Draft Mitigated Negative Declaration of Environmental Impact and the merits of the 2006 revised project.

- XXII. WHEREAS at the April 3, 2007 continued public hearing, the Marin County Board of Supervisors found that the 2006 revised project, submitted in response to issues raised at the public hearings and analyzed in the Revised Draft Mitigated Negative Declaration of Environmental Impact, was an environmentally superior project to the original project and did not raise any new substantive issues that were not addressed adequately by the Airport Land Use Commission at its hearing on August 28, 2006.
- XXIII. WHEREAS at the April 3, 2007 continued public hearing, the Marin County Board of Supervisors found that the Revised Negative Declaration of Environmental Impact, together with the comments and responses, provided an adequate and complete environmental document for purposes of approving the 2006 revised Binford Road, LLC Self-Storage Facility and adopted the Revised Mitigated Negative Declaration of Environmental Impact and Mitigation, Monitoring and Reporting Program ("Exhibit A") for the Binford Road, LLC Self-Storage Facility Marin Countywide Plan Amendment (PA 01-01), Rezoning (RZ 01-01), Master Plan (MP 01-02), Land Division (LD 01-01), and Tidelands Permit (TP 01-03) applications for the 2006 revised project.

SECTION II: AN ORDINANCE WITH FINDINGS AND CONDITIONS RELEVANT TO THE BINFORD ROAD, LLC SELF-STORAGE FACILITY REZONING FOR APPROVAL OF THE 2006 REVISED PROJECT

- I. WHEREAS the Binford Road, LLC Self-Storage Facility proposes to rezone the project site, which is currently governed by the Resort and Commercial Recreation District (RCR) as follows:
- A. Rezone the 19.34-acre western portion closest to Binford Road (Lots 1 and 2) Bayfront Conservation -Planned Industrial (BFC-IP); and
 - B. Rezone the 27.96-acre eastern portion (Lot 3) Bayfront Conservation-Open Area (BFC-OA).

SECTION III: ACTION

NOW, THEREFORE, BE IT RESOLVED that the Marin County Board of Supervisors hereby adopts an Ordinance amending the Marin County Development Code (Title 22) and Zoning Map, with findings contained in "Exhibit 1", attached to this ordinance and incorporated herein by reference, and depicted in "Exhibit A" (Rezoning Map), attached herein, and subject to the conditions of approval contained in "Exhibit 2", attached to this ordinance and incorporated herein by reference, thereby approving the rezoning of Assessor's Parcels 125-190-21, -65, and -66 as part of the Binford Road, LLC Self-Storage Facility Countywide Plan Amendment, Rezoning, Land Division, Master Plan, and Tidelands Permit 2006 revised project as follows:

- A. Rezone the 19.34-acre western portion closest to Binford Road (Lots 1 and 2) Bayfront Conservation -Planned Industrial (BFC-IP); and
- B. Rezone the 27.96-acre eastern portion (Lot 3) Bayfront Conservation-Open Area (BFC-OA).

SECTION IV: EFFECTIVE DATE

This Ordinance shall be, and is hereby declared to be, in full force and effect as of thirty (30) days from and after the date of its passage, and shall be published once before the expiration date of fifteen (15) days after its passage, with the names of the Supervisors voting for and against the same in the Marin Independent Journal, a newspaper of general circulation published in the County of Marin.

SECTION V: VOTE

PASSED AND ADOPTED at a regular meeting of the Board of Supervisors of the County of Marin held on this ____th day of _____ 2007 by the following vote:

AYES: SUPERVISORS

NOES:

ABSENT:

PRESIDENT, BOARD OF SUPERVISORS

ATTEST:

CLERK