COUNTY OF MENDOCINO
DEPARTMENT OF PLANNING AND BUILDING SERVICES
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MEMORANDUM

DATE: MAY 19, 2016

TO: PLANNING COMMISSION

FROM: JOHN SPEKA

SUBJECT: MS_2014-0010/U_2015-0003 (MARIETTA VINEYARDS)

On April 21, 2016, the Planning Commission reviewed the applicant's request for a Minor Subdivision of a 269 +/- acre parcel to create four parcels of approximately 40, 28, 161 and 40 acres. A use permit was also requested as part of the project to implement a Planned Development (PD) on the subject property as was an exception to "flag lot" standards with a proposed access driveway over 300 feet in depth.

Section 66473.5 of the California Subdivision Map Act states that, "[n]o local agency shall approve a tentative map…unless [it] finds that the proposed subdivision, together with the provisions for its design and improvement, is consistent with the general plan…"

In addition, Section 20.196.020 of the County Code requires the following with respect to use permits:

> *Before any use permit may be granted or modified, it shall be shown:*
> *(A) That the establishment, maintenance or operation of a use or building applied for is in conformity to the General Plan;*
> *(B) That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided;*
> *(C) That such use will not, under the circumstances of that particular case, constitute a nuisance or be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in or passing through the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the county; provided, that if any proposed building or use is necessary for the public health, safety or general welfare, the finding shall be to that effect;*
> *(D) That such use preserves the integrity of the zoning district.*

FINDINGS FOR DENIAL: At the April 21 hearing, the Commission directed staff to develop findings for denial of the request based on conflicts with agricultural uses on or around the property as well as the fragmentation of agricultural lands.

The subdivision as proposed is inconsistent with General Plan policies. Specifically, policies regarding the land use classification and resource land protection (see below). Section 66473.5 of the California Subdivision Map Act states that, "[n]o local agency shall approve a tentative map…unless [it] finds that

the proposed subdivision, together with the provisions for its design and improvement, is consistent with the general plan…"

In addition, approval of the use permit to implement a planned development would allow for a less than conforming lot size in exchange for development standards intended to be compatible with adjacent land uses and to harmonize with natural and topographic features of the property. The following required findings per Section 20.196.020 of the County Zoning Code cannot be met:

a) *The establishment, maintenance or operation of a use or building applied for is in conformity to the General Plan.* The subdivision design is not consistent with General Plan policies regarding the land use classification and resource land protection (see below).

d) *That such use preserves the integrity of the zoning district.* Allowance for substandard parcel sizes would allow home sites to be developed on lands with typical minimum acreages of 40 acres, which are more appropriately zoned for the "raising of crops or animals."

The attached resolution as revised would include findings based on the following:

General Plan Development Element Policy DE-16, states, in pertinent part, that lands classified Agricultural are intended *"to be applied to lands which are suited for and are appropriately retained for production of crops…Permitted non-agricultural uses, to the greatest extent possible, should not occur on lands that might otherwise be devoted to crop production. The policy of the County and the intent of this classification shall be to protect these lands from the pressures of development and preserve them for future use as designated."*

Resource Management Policy RM-108 states, in pertinent part, that *"[d]iscretionary projects shall not undermine the integrity and economic viability of agricultural operations by causing or contributing to piecemeal land use conversion, land fragmentation…[or] the introduction or concentration of incompatible uses on lands adjoining or within agricultural areas…"*

Resource Management Policy RM-109 states, in pertinent part, that *"[d]iscretionary projects and parcels created by land divisions shall be designed and sized to be compatible with contiguous lands classified Agricultural Lands or Range Lands. Criteria include but are not limited to the following:*

- *The number of ownerships and land use intensities adjacent to parcels classified Agricultural Lands or Range Lands shall be minimized…*

Approval of the subdivision would cause a larger piece of agricultural land to be broken up into pieces not suitable for agriculture. In addition, the increase in allowable homesite development could lead to conflict with respect to agricultural activities in the surrounding area. The California Subdivision Map Act states under Section 66473.5 that, "[n]o local agency shall approve a tentative map…unless [it] finds that the proposed subdivision, together with the provisions for its design and improvement, is consistent with the general plan…"

The inconsistencies with the above General Plan policies support a denial of the requested actions.

CONSISTENCY WITH PAST APPROVALS: It was acknowledged during the April 21 hearing that past approvals on the property included a General Plan Amendment and Rezone in 2011 (#GP 3-2006/#R 4-2006). One concern raised by the Commission was whether the past approval could be considered consistent with what the current application was seeking.

To help clarify, staff offers that the previous approvals changed the classification and zoning of the property from Range Land to Agricultural Land with a Planned Development (PD) Combining District, ultimately allowing for at least 40 acre minimum lot sizes and, in certain cases, less than 40 acres based on provisions of the PD. The project description from the 2011 staff report states that "[t]he long-range plans to subdivide by the property owner are specifically stated in the application materials…" and a conceptual design was provided at that time showing the split to be similar in size and form as that of the current application. The record of the past approval hearings before the Planning Commission shows that on July 21, 2011, the Planning Commission voted 6-0 to recommend approval to the Board of Supervisors (see attached). The Board voted 5-0 to approve on August 23, 2011.

REQUEST FOR CONTINUANCE: The applicant has also requested that the Planning Commission consider at a future hearing an alternative revised tentative map to address concerns raised at the April 21 hearing. Included as part of these proposed revisions are 1) new lot configurations resulting in parcels of 40, 44, 133 and 52 acres (removing the non-conforming Parcel 2 originally proposed to be approximately 28 acres), 2) revised building envelopes ensuring that all structures are a minimum of 200 feet from newly proposed lot lines, and 3) remaining open to a conservation easement along the riparian region of proposed Parcel 1 between Old River Road and the Russian River. In order to allow time for Planning staff to evaluate proposed revisions, the request includes that the case be continued to a date uncertain also allowing the County Subdivision Committee an opportunity to review any proposed changes. An official request as well as conceptual revisions to the tentative map have been attached for review by the Planning Commission.

RECOMMENDATION: The Planning Commission continues the case to a date uncertain so that revisions to the project can be prepared.

ATTACHMENTS:

A. July 11, 2011 PC Minutes
B. Revised Resolution
C. Request for Continuance
D. Conceptual Revisions to Tentative Map

Upon motion by Commissioner Ogle, seconded by Commissioner Calvert and carried by the following roll call vote (6-0), IT IS ORDERED:

ENVIRONMENTAL RECOMMENDATION: No significant adverse environmental impacts are anticipated in conjunction with the adoption of #GP 4-2010 and #R 5-2010 given the existing level of development on the subject property as well as overall development within the project area.

GENERAL PLAN CONSISTENCY RECOMMENDATION: Staff finds #GP 4-2010/#R 5-2010 to be consistent with the General Plan including but not limited to Resource Management Policies RM-106, RM-107, RM-108 and RM-109 with respect to the conversion of County Agricultural Lands.

PROJECT RECOMMENDATION: Staff recommends the Planning Commission recommend to the Board of Supervisors approval of #GP 4-2010/#R 5-2010 (Savings Bank of Mendocino County) amending the General Plan Land Use classification from Agricultural Lands (AG) to Industrial (I) and Rezone from Agricultural (AG:AZ:FP) to Limited Industrial (I-1:AZ:FP), for inclusion in the 2011 Russian River Watershed General Plan Amendment Group and associated Rezonings, finding:

1. That an initial study has been prepared and no significant environmental impacts have been identified as stated in the Staff Report.

2. The project is consistent with the Mendocino County General Plan as stated in the Staff Report.

CONDITIONS OF A CONTRACT REZONE: The I-1:AZ:FP rezoning is recommended to be a Contract Rezone (CR) to exclude Religious Assembly as a permitted use due to the location of the property in the B-2 Airport Compatibility Zone which is intended to prohibit uses of assembly and/or higher density use.

AYES: Little, Calvert, Nelson, Holtkamp, Hall, Ogle
NOES: None
ABSENT: Warner

4c. CASE#: GP 3-2006/R 4-2006

DATE FILED: 2/15/2006
OWNER: MARIETTA HOPLAND LLC
APPLICANT: CHRIS BILBRO
AGENT: ANDY GUSTAVSON-LANDMARK PLANNING
REQUEST: Change the General Plan land use designation of AP# 047-310-09, 047-370-11 and 047-380-05 totaling 257.20+- acres from Range Lands 160 (RL-160) to Agriculture– 40 acre minimum (AG-40). In addition a Planned Development Combining District is also requested adding a PD designation to the zoning district.
LOCATION: Approximately 3.9 +/- miles northeast of Hopland, lying on the east side of Old River Road (CR# 201) (formerly Eastside Road) approximately 3+/- miles north of its intersection with University Road (CR# 116B) also known as Mendocino Hill Event Center, located at 9801, 10275 and 10501 Old River Road; AP#'s 047-310-09, 047-370-11, 047-380-05 and 047-310-05.
PROJECT COORDINATOR: MARY LYNN HUNT

Mary Lynn Hunt, Project Coordinator, reviewed the staff report and discussed the request for a General Plan Amendment and Rezone from a Rangeland designation to Agriculture/Planned Development (AG/PD). She noted that a portion of the property was already zoned agriculture and used for as vineyard. Ms. Hunt discussed the conceptual subdivision plan proposal to divide the property into 4 parcels ranging in size from 28+/- acre to 160+/- acres; noting there would be smaller parcels created in exchange for the PD designation. She noted that access improvements and an archaeological survey would be discussed at the minor subdivision stage and discussed existing conditions of expired permits and illegal dwellings that would be addressed by the applicant. Ms. Hunt commented that the Ag Commission had responded in support of the project, while Air Quality was against the project and noted the memo attached to the staff report. Last, Ms. Hunt noted that staff as recommending approval with findings and conditions attached and noted that no second residential units would be allowed with the Contract Rezoning.

Andy Gustavson, agent, noted the property was currently split zoned between rangeland and agriculture and the rezone would create a single zoning for the property, which was being used for

agricultural purposes. He noted the purpose of the conceptual subdivision was to create value in the property and split the parcel appropriately for various allocations so that the winery facility and tasting room were on one parcel and the vineyards on another.

Jake Bilbro, owner, commented that he and his father hoped to increase business in Mendocino County while increasing the value of their property, which was prime vineyard land. He stated the intent was not development.

Commissioner Holtkamp asked if the reservoirs would be split between the parcels for fire protection.

Mr. Bilbro noted the original intent of the ponds was for irrigation, but that had become costly and now irrigation was mostly from storage tanks.

The public hearing was declared open, seeing no one come forward, the public hearing was declared closed.

Upon motion by Commissioner Hall, seconded by Commissioner Holtkamp and carried by the following roll call vote (6-0), IT IS ORDERED to recommend approval to the Board of Supervisors of GP 3-2006/ R 4-2006 per the findings and conditions of approval contained in the staff report.

ENVIRONMENTAL RECOMMENDATION: The AG 40: PD should be a Contract Rezone (CR) to restrict future uses of potential subdivided property limiting to one single-family residence per parcel and to ensure compliance of those unpermitted uses and structures currently on site. A Negative Declaration is recommended based on the following mitigations:

1. Mitigations 2 through 6 shall be set forth in a Contract Rezone to be executed by the Board of Supervisors for recordation in conjunction with the approval of Rezone #R 4-2006.

2. This entitlement does not become effective or operative and no work shall be commenced under this entitlement until the California Department of Fish and Game filing fees required or authorized by Section 711.4 of the Fish and Game Code are submitted to the Mendocino County Department of Planning and Building Services. Said fee of $2,094.00 (or the current fee in effect at the time of approval) shall be made payable to the Mendocino County Clerk and submitted to the Department of Planning and Building Services prior to August 5, 2011, (within 5 days of the end of any appeal period). Any waiver of the fee shall be on a form issued by the Department of Fish and Game upon their finding that the project has *"no effect"* on the environment. If the project is appealed, the payment will be held by the Department of Planning and Building Services until the appeal is decided. Depending on the outcome of the appeal, the payment will either be filed with the County Clerk (if the project is approved) or returned to the payer (if the project is denied). Failure to pay this fee by the specified deadline shall result in the approved entitlement becoming null and void. **The applicant has the sole responsibility to insure timely compliance with this condition.**

3. A use permit shall be applied for through the Planning and Building Services Department to address those uses previously permitted by the expired Use Permit #U 48-90 to the satisfaction of said department.

4. Building permit shall be secured for the unpermitted mobile home on-site used as farm employee housing (shall also be addressed under Condition Number 3 above).

5. If at any future date, further subdivision of this property is to occur, no second residential units shall be allowed on any newly created parcel.

GENERAL PLAN CONSISTENCY RECOMMENDATION: Staff finds #GP 3-2006 / #R 4-2006 (AG 40/ AG:40:PD:CR) is consistent with General Plan goals and policies related to water quality, wildlife, hazards associated with earth movement, air quality, energy, transportation, and erosion as discussed in detail in the "Evaluation of Environmental Impacts and General Plan Consistency" section of this report.

PROJECT RECOMMENDATION: That the Planning Commission recommends to the Board of Supervisors approval of #GP 3-2006 / #R 4-2006 (AG 40/AG:40:PD:CR) for inclusion in the *2011 Russian River Watershed Amendment Group* of general plan amendments finding:

1. **Environmental Findings:** That an initial study has been prepared and a Negative Declaration of environmental impacts is recommended for adoption finding that no significant environmental impacts are anticipated given mitigation as discussed in the staff report.

2. **General Plan Findings:** The project is consistent with the Mendocino County General Plan due to the limited development potential of this proposal.

AYES: Little, Calvert, Nelson, Holtkamp, Hall, Ogle
NOES: None
ABSENT: Warner

Ms. Hunt asked the Commission to make an overall recommendation on the 2011 Russian River Watershed Group, noting the motion on page PC 2.

Upon motion by Commissioner Calvert seconded by Commissioner Holtkamp and carried by a voice vote of (6-0), it is ordered to recommend approval to the Board of Supervisors of the 2011 Russian River Watershed General Plan Amendment Group.

4e. CASE#: UR 49-85/2009 (U 15-2009)

DATE FILED: 7/27/2009
OWNER: DAVID & KATHRYN LOWE
APPLICANT: KATHRYN LOWE for NORTH AMERICAN ORGANICS
REQUEST: Use Permit to establish a commercial dog kennel and breeding business for up to 20 dogs. Also, a Use Permit Renewal to allow for the continuing operation of the packaging, processing and sale of pre-composted materials and amendments as well as a modification to allow for the on-site composting of 3,000 tons of grape pomace per year. No additional materials will be composted on-site. Request includes alteration of previous conditions to allow the business to operate on Sunday's and to reduce an established 100 foot buffer between stored materials and the northern property line to 20 feet.
LOCATION: 1 mile north of Redwood Valley town center, lying at the terminus of Held Road (CR# 230C), 0.2 miles west of its intersection with East Road (CR# 230), located at 1790 Held Road; AP# 1691-120-25.
PROJECT COORDINATOR: DUSTY DULEY

Dusty Duley, Project Coordinator, reviewed the staff report and discussed the request for a commercial dog kennel and renewal of a use permit to allow for the composting of grape pomace and sale of precomposted material. He noted the applicant was requesting extended hours of operation to include Sunday and a reduced buffer to the northern property line. Mr. Duley presented a power point presentation and discussed the permit history of the site adding that the applicant had requested that grape pomace be allowed to compost at the site. Correspondence had been received from Pinoleville Head Start, Martin Fuller, Julie Drunkard, South Valley High School and Peggy Backup in support of the project and opposed to the project from Michelle Champi and Janet Wolfe Savides concerned with odors and noise. Mr. Duley stated that the applicant had hired a consultant to create an Odor Impact Minimization Plan, OIMP, and purchased a system to aerate static piles to compost pomace and minimize odors. He commented that testimony from the neighbors indicated that odor has been a problem at the site and Mr. Duley noted that pre-composted material should not have a smell. He discussed the conditions of approval in the staff report and noted potential changes to Condition #8, #21, #33 and #34. Last, Mr. Duley noted that the use permit for the commercial dog kennel was intended for personal use by the Lowe's and no boarding of other peoples dogs was intended.

Commissioner Calvert noted she was concerned with the back-up alarms in loaders and wondering if they should be allowed on Sundays.

Commissioner Ogle noted on page PC 7, Condition #11 that she would prefer it to read cleaned annually or "more frequently as needed" and noted that the Department of Fish and Game had not returned a comment from the referral; however the fee was required and asked if the Commission had the authority to control the fee.

Resolution Number _____

County of Mendocino
Ukiah, California
May 19, 2016

MS_2014-0010/U_2015-0003 MARIETTA VINEYARD LLC

RESOLUTION OF THE PLANNING COMMISSION, COUNTY OF MENDOCINO, STATE OF CALIFORNIA, DENYING A MINOR SUBDIVISION AND USE PERMIT WITHOUT PREJUDICE FOR A PLANNED DEVELOPMENT FOUR PARCEL SUBDIVISION OUTSIDE OF HOPLAND

WHEREAS, the applicant, MARIETTA VINEYARD LLC, filed an application for Minor Subdivision and Use Permit with the Mendocino County Department of Planning and Building Services to subdivide a 269 +/- acre parcel creating 4 parcels of 40, 28, 161 and 40 acres, respectively, and implement a Planned Development (PD); and

WHEREAS, a Mitigated Negative Declaration (MND) was prepared for the Project and noticed and made available for agency and public review on March 20, 2016, in accordance with the California Environmental Quality Act (CEQA) and the State and County CEQA Guidelines; and

WHEREAS, in accordance with applicable provisions of law, the Planning Commission held a public hearing on April 21, 2016, at which time the Planning Commission heard and received all relevant testimony and evidence presented orally or in writing regarding the MND and the Project. All interested persons were given an opportunity to hear and be heard regarding the MND and the Project; and

WHEREAS, an exception was considered to allow the lot design of Parcel 4 to exceed the standards of Section 17-52(K) of the County Code with regards to “flag lots,” as Parcel 4 would include a flag lot whose stem exceeds the maximum 300 feet in depth.

WHEREAS, the project was continued to May 19, 2016, in order for alternative findings for denial to be prepared; and

WHEREAS, the Planning Commission has had an opportunity to review this Resolution and finds that it accurately sets forth the intentions of the Planning Commission regarding the MND and the Project.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission makes the following findings, based on the memorandum accompanying this resolution;

1. Subdivision Findings: The subdivision as proposed is inconsistent with General Plan policies. Specifically, policies regarding the land use classification and resource land protection (see below). Section 66473.5 of the California Subdivision Map Act states that, “[n]o local agency shall approve a tentative map…unless [it] finds that the proposed subdivision, together with the provisions for its design and improvement, is consistent with the general plan…”
2. Use Permit Findings: Approval of the use permit to implement a Planned Development would allow for a less than conforming lot size in exchange for development standards intended to be compatible with adjacent land uses and to harmonize with natural and topographic features of the property. The following required findings per Section 20.196.020 of the County Zoning Code cannot be met:

    a) *The establishment, maintenance or operation of a use or building applied for is in conformity to the General Plan.* The subdivision design is not consistent with General Plan policies regarding the land use classification and resource land protection (see below).

d) *That such use preserves the integrity of the zoning district.* Allowance for substandard parcel sizes would allow home sites to be developed on lands with typical minimum acreages of 40 acres, which are more appropriately zoned for the "raising of crops or animals."

3. General Plan Findings: The subject property is classified Agricultural Lands (AG) under the General Plan. The project is not consistent with the General Plan per Policy DE-16 with respect to lands classified Agricultural being protected "from pressures of development and preserve them for future use as designated."

   Nor can the project be found to be consistent with Resource Management Policy RM-108 with respect to "piecemeal land use conversion, land fragmentation…[or] the introduction or concentration of incompatible uses on lands adjoining or within agricultural areas…"; or RM-109 with respect to limiting the "number of ownerships and land use intensities adjacent to parcels classified Agricultural…"

BE IT FURTHER RESOLVED that the Planning Commission hereby denies the requested Minor Subdivision and Use Permit without prejudice.

BE IT FURTHER RESOLVED that the Planning Commission designates the Secretary as the custodian of the document and other material which constitutes the record of proceedings upon which the decision herein is based. These documents may be found at the office of the County of Mendocino Planning and Building Services, 860 North Bush Street, Ukiah, CA 95482.

BE IT FURTHER RESOLVED that the Planning Commission action shall be final on the 11th day after the date of the Resolution unless an appeal is taken.

I hereby certify that according to the Provisions of Government Code Section 25103 delivery of this document has been made.

ATTEST: ADRIENNE M. THOMPSON
Secretary to the Planning Commission

By:_____

BY: STEVEN D. DUNNICLIFF
Director

MOLLY WARNER, Chair
Mendocino County Planning Commission

_____ _____

Marietta

May 3, 2016

Mendocino County Planning Commission

Ukiah, CA 95482

To Whom It May Concern:

We would like to formally request a continuance of our application for subdivision located at 10501 Old River Road, Hopland, CA 95449 based on the fact that we would like to address concerns of the board that have recently been brought to our attention.

Thank you,

Ben Kaisi

Post Office Box 800, Geyserville, CA 95441
(707) 433-2747
www.mariettacellars.com

MAP CHANGES

Parcel #1 -

- Add note – natural riparian habitat along river will remain undisturbed

Parcel #2

- Northern property line was straightened to correct 200' set back requirement for existing buildings
- Added existing well and water tank locations
- Southern property line was moved to create 44 acre parcel

Parcel #3

- Changed to 133 acres because of change to parcel #2
- Added existing well and water tank locations

Parcel #4

- Removed flag lot and created easement along existing driveway
- Moved northern property line to accommodate 200' setback for primary building envelope
- Note – Indicated vineyard, existing well and irrigation water tank

Pond #2 was a non-permitted pond that was removed several years ago.