



Ragghianti|Freitas LLP

MEMORANDUM

TO: Board of Directors, Ross Valley Sanitary District
FROM: Riley F. Hurd III
DATE: December 1, 2020
RE: Entitlement Status for 2000 Larkspur Landing Circle

Introduction

The Ross Valley Sanitary District (“District”) owns the approximately 10-acre property located at 2000 Larkspur Landing Circle (“the Property”), which is comprised of two contiguous parcels identified as APNs 018-260-03 (“Mixed Use Parcel”) and 018-260-02 (“Sanitary District Parcel”). Beginning in 2005, a development partner of the District initiated the application process with the City of Larkspur to demolish the then-existing District facilities at the Property and construct a mixed-use development project (“Project”), including a business hotel and 126 for-sale units in multi-family buildings on the Mixed Use Parcel, and replacement facilities for the Sanitary District on the Sanitary District Parcel.

This memorandum addresses the status of the approvals and entitlements related to the Project. This memorandum also briefly addresses the potential amendment of the land use designation of the Property currently being contemplated by the City of Larkspur General Plan 2040 update process.

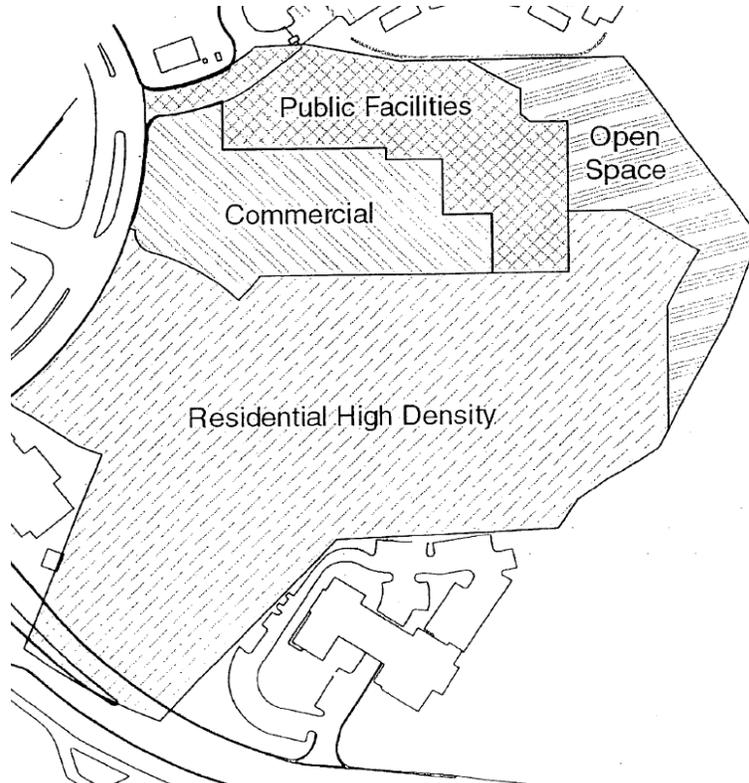
EXECUTIVE SUMMARY: At this time, the Project remains nearly fully entitled. The General Plan amendment, Preliminary Development Plan, Residential Precise Plan, Hotel Precise Plan, and Design Review are all still in effect for the Project. Accordingly, should the District or others want to build this Project, at the density, design, and locations called for in the approvals, only the Parcel Map to subdivide the Mixed Use Parcel would need to be reinstated, as that is the only entitlement that has expired.

Property Data

Parcel 1: APN 018-260-03, Mixed Use Parcel	Parcel 2: APN 018-260-02, Sanitary District Parcel
Size: 9.18 acres	Size: 1.5 acres
General Plan Land Use Designation: Residential; Commercial; Open Space	General Plan Land Use Designation: Public Facilities
Zoning: Planned Development (P-D)	Zoning: Planned Development (P-D)

Chronology of Entitlements

Resolution No. 34/05. On August 17, 2005, the Larkspur City Council adopted Resolution No. 34/05 "A Resolution of the City Council of the City of Larkspur Adopting Amendments to the Larkspur General Plan Land Use Element and Map," which changed the land use designation for the Property from "Administrative and Professional Offices and Medium Density Residential," to "Commercial, High Density Residential, Public Facilities, and Open Space." The different land use designations correspond to specific portions of the Property, as shown on the following General Plan land use designation map:



Ordinance No. 948. On September 21, 2005, the Larkspur City Council adopted Ordinance No. 948, “An Ordinance of the City of Larkspur Approving the Preliminary Development Plan for the 2000 Larkspur Landing Circle Mixed-Use Development Project” (“Ord. 948” or “Preliminary Plan”). Ord. 948 adopted the Mitigated Negative Declaration (“MND”) prepared for the Project pursuant to CEQA, and established the following permitted uses for the Property:

1. 126 multi-family residential dwelling units in nine structures, with at least 25 affordable units;
2. Hotel; and,
3. Administration and maintenance facility for the District.

The Preliminary Plan also approved a Circulation Assessment Permit, which determined that the Project will generate an additional 112 PM peak hour trips. Therefore, as part of the Circulation Assessment Permit, any future Project sponsor is required to pay Traffic Impact Fees of \$380,688 (based on Resolution 39/92, which established a per trip fee of \$3,399). The fees are intended to cover the Project’s proportionate share of the funds needed for the City of Larkspur’s adopted improvement plan for improvements to Sir Francis Drake and East Sir Francis Drake Boulevard. Ordinance No. 948 is attached as **Exhibit A.**

Ordinance No. 951. On December 12, 2006, the Larkspur City Council adopted Ordinance No. 951, “An Ordinance of the City of Larkspur Amending Ordinance No. 948 and Approving the Precise Development Plan and Design Review for the Residential Component of the 2000 Larkspur Landing Circle Mixed-Use Development Project” (“Ord. 951”). This Precise Development Plan permitted: 126 multi-family residential dwelling units, including at least 25 affordable units, in 9 structures; accessory buildings and uses, including home occupations; community clubhouse; and public utility buildings and uses on the portion of the Mixed Use Parcel with the land use designation High Density Residential. Ordinance No. 951 is attached as **Exhibit B.**

Subdivision Application 06-63. On February 13, 2007, the Larkspur Planning Commission approved application SUB 06-63, for a Tentative Parcel Map to subdivide the Mixed Use Parcel into four separate lots. SUB 06-63 did not affect the Sanitary District Parcel. Per a City of Larkspur letter dated March 12, 2015, the then-project sponsor had “intended to submit the Final Parcel Map in phases. The first Final Parcel Map would split off the hotel parcel. The remaining three parcels would be included in a Vesting Tentative Map to further subdivide the Greenway Townhouse units and for

condominium subdivision of the Tam View and Parkside buildings.” These later steps did not occur.

After an extension, SUB 06-63 expired by law on February 16, 2016. Accordingly, there is no approved Tentative Parcel Map for the Mixed Use Parcel. SUB 06-63 is attached as **Exhibit C**.

Ordinance No. 954. On April 18, 2007, the Larkspur City Council adopted Ordinance 954, “An Ordinance of the City of Larkspur Amending Ordinance 948 and Approving the Precise Development Plan and Design Review for the Hotel Component of the 2000 Larkspur Landing Circle Mixed-Use Development Project” (“Ord. 954”). This Precise Development Plan permitted a 100-room, four story, approximately 64,001 square foot hotel with swimming pool and spa to be located on the portion of the Mixed Use Parcel with the land use designation of Commercial. The Precise Development Plan further established that 76 parking spaces would be provided on the hotel site, and 26 spaces would be provided on the adjacent Sanitary District parcel, subject to a recorded Shared Parking Easement Agreement. Ordinance 954 is attached as **Exhibit D**.

Current State of Entitlements

General Plan amendments do not expire. Accordingly, Resolution No. 34/05 remains applicable along with the general plan map set forth above. As discussed below, a new General Plan designation for the Property is currently being proposed.

Pursuant to Larkspur Municipal Code §18.55.150, “If, within two (2) years after the establishment of a P-D District and the approval of the **preliminary development plan** by the City Council, the precise development plan has not been submitted in the required form to the City for approval, the Planning Commission may review with the applicant(s) the reasons for not submitting the precise development plan, and may initiate consideration of reclassification, hold public hearings, and make a recommendation to the City Council to reclassify all or part of the area.”

The record does not contain any applications for a precise development plan concerning the replacement administration and maintenance facility to be located on the Sanitary District Parcel. Precise development plans were approved for the hotel and residential portions of the Project, and there is no record of the Larkspur Planning Commission initiating consideration to reclassify the Property due to failure to submit a precise plan for the Sanitary portion of the Project. Accordingly, Ordinance No. 948, and the Preliminary Development Plan it approved, remain valid.

Pursuant to Larkspur Municipal Code §18.55.150, "...[I]f, within three (3) years after the approval of a **precise development plan** by the City Council, the construction specified in the precise development plan has not commenced, the Planning Commission may review with the applicant(s) the reasons for not starting the construction, and may initiate consideration of reclassification, hold public hearings, and make a recommendation to the City Council to reclassify all or part of the area. As long as the precise development plan is valid, so are all related approvals." (Emphasis added).

There is no record of the Larkspur Planning Commission initiating consideration to reclassify the Property due to this issue. Accordingly, the precise development plans and related approvals for the residential component and the hotel components of the Project remain valid.

Conditions of Approval

Some of the conditions of approval established in the Preliminary Plan and Ord. 951 that remain in effect are generally detailed below:

Tubb Lake.

- a. If a legal nexus is found, any future project sponsor may be required to share in the costs to repair the Tubb Lake Dam, pending a determination by the City Attorney.
- b. Any future project sponsor shall pay a lump sum to cover the cost of funding ongoing maintenance at Tubb Lake for a period of five years. The sum shall be determined by the Director of Public Works based on past maintenance costs with an inflation factor. The funding method shall be reviewed and approved by the City Attorney. This maintenance shall include: 1. Ongoing removal of floating parrot feather vegetation from the lake; 2. Ongoing removal of French and Scotch Broom from the lakeshore; and 3. Allowing natural growth of willows and cattails along the shore.

Parks/Recreation.

- a. The dedication in the northeast corner of the site of 1.06 acre of open space for an expansion of Miwok Park.
- b. The payment of Park Improvement Fees.
- c. The provision of pedestrian path to create pedestrian access from Lincoln Village Circle to Miwok Park.

Connector Road.

Any future project sponsor must provide a connector road from Larkspur Landing Circle through the residential area up to the Drake's Cove residential development.

Tree Mitigation.

There are multiple conditions of approval concerning tree remediation for the Project, including, without limitation, planting native species throughout the project site except along Larkspur Landing Circle and along the spine road to its intersection with the spur road at the entry to the project site. Replacement trees shall be planted either at a ratio of 2:1 (planted: removed) or 4:1 depending on size as set forth in the Preliminary Plan.

Environmental Remediation.

Per Ord. No. 951, construction could not begin until after the remediation for the Property proposed in the *Phase II* report prepared by Questa Engineering had been completed.

Conclusion re Entitlements

The Preliminary Plan and Precise Development Plan approvals for the mixed-use residential and hotel Project authorized by Ordinances 948, 951, and 954 remain in effect and are valid at this time. In a letter dated March 12, 2015, the City of Larkspur determined that **"assuming no changes in the approved design, density and uses are proposed, all [outstanding permits required for the Project] could be processed in reliance on the adopted MND."** However, the City did state that due to the length of time that had elapsed, it may be necessary to consider and adopt an addendum to confirm the validity of the MND and address any new requirements not previously analyzed. A final determination regarding the appropriate process to evaluate the new impacts, which were not previously addressed in the existing MND, can only be made once the City has been provided with additional information and the approved remediation plan by the EPA.

If a future project sponsor elects to propose new or alternative uses that are not in conformance with the current land use designations or Ordinance No. 948, the project sponsor would be required to request a General Plan amendment and apply for new Preliminary and Precise Development Plan approvals. The proposal of new uses will likely trigger additional environmental review.

Larkspur General Plan 2040

The City of Larkspur is in the process of amending its General Plan, including its Land Use element. The Land Use element of the General Plan identifies patterns in land development, where change may occur, and establishes goals and policies by which the City may guide such change. The Land Use element of the current administrative draft sets forth the City's vision of vibrant mixed-use and mixed density developments, achieved in part, by promoting the redevelopment of underutilized properties.

To that end, and despite recognizing that in 2007 the City approved plans for the Project, the City has identified the Property as a vacant/underutilized site per Policy LU-7 "Revitalization of underutilized or marginal commercial, industrial, and residential sites."

"Policy LU-7.1: Establish guidelines for the use and development of sites where change is expected to occur.

Action Program LU.7.1.a: Apply the Mixed Use I Land Use Designation and encourage the implementation of a Planned Development District for the 2000 Larkspur Landing Circle (Ross Valley Sanitary District) site, maintaining a mix of uses that encourages economic vitality, meets the City's housing goals, and provides connectivity between the Drake's Cove neighborhood and Larkspur Landing Circle."

The new "Mixed Use I" land use category specifically created for the Property is set forth below:

"MIXED USE I

This designation applies to the largely vacant Ross Valley Sanitary District land located at 2000 Larkspur Landing Circle and within walking distance of significant transit facilities (SMART train and Larkspur Ferry). This category provides for predominantly high-density residential use, with limited commercial and/or office uses to serve both local and regional needs, and/or public facilities. Residential uses are multiple dwelling units up to 21 units (about 42 persons) per acre on sites of less than 10 percent slope, with a minimum density of 18 units per acre. Commercial uses have a maximum FAR of 0.4, and hotels may be allowed to a maximum FAR of 1.0 subject to specific or master plan approval. Offices shall have a maximum FAR of 0.35. Affordable housing is encouraged, and maximum densities may be increased for affordable housing projects in compliance with State requirements for density bonus.

Development should occur in an integrated development pattern to assure connectivity through the site and the adjoining neighborhood at Drake's Cove, efficient use of land resources, a pedestrian and bicycle friendly environment, and minimization of the visual impact of parked automobiles."

The District should determine what its goals and plans for the Property are, if different from the approved Project, in order to be able to collaborate with the City of Larkspur regarding uses and standards set forth in the proposed Mixed Use I designation.

LIST OF ATTACHED EXHIBITS:

- A. **Ordinance No. 948** -- An Ordinance of the City of Larkspur Approving the Preliminary Development Plan for the 2000 Larkspur Landing Circle Mixed-Use Development Project.
- B. **Ordinance No. 951** -- An Ordinance of the City of Larkspur Amending Ordinance No. 948 and Approving the Precise Development Plan and Design Review for the Residential Component of the 2000 Larkspur Landing Circle Mixed-Use Development Project.
- C. **SUB 06-63** -- A Tentative Parcel Map to subdivide the Mixed Use Parcel into four separate lots.
- D. **Ordinance 954** -- An Ordinance of the City of Larkspur Amending Ordinance 948 and Approving the Precise Development Plan and Design Review for the Hotel Component of the 2000 Larkspur Landing Circle Mixed-Use Development Project.

(Due to the size of these Exhibits, they will be made available individually.)