



SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: COMMUNITY DEVELOPMENT

Prepared by: Paul Jensen (RB)
Community Development Director

City Manager Approval: 

TOPIC: NEW 45-UNIT TOWNHOME DEVELOPMENT – 350 MERRYDALE ROAD/3833 REDWOOD HWY

SUBJECT: ACTIONS TO ALLOW THE DEMOLITION OF EXISTING BUILDINGS AND THE CONSTRUCTION OF NINE (9), NEW THREE-STORY BUILDINGS WITH 45 TOWNHOME UNITS INCLUDING NINE (9) BELOW MARKET RATE UNITS PROPERTY LOCATED AT 350 MERRYDALE ROAD AND 3833 REDWOOD HWY. (APNS: 179-041-27 AND 179-041-28), INCLUDING APPROVAL OF:

- A. RESOLUTION ADOPTING AN INITIAL STUDY/MITIGATED NEGATIVE DECLARATION AND APPROVING A MITIGATION MONITORING AND REPORTING PROGRAM (IS18-001);**
- B. CONSIDERATION OF AN ORDINANCE APPROVING A PLANNED DEVELOPMENT REZONING FROM PLANNED DEVELOPMENT (PD) DISTRICT (PD1594) TO A REVISED PD (ZC19-002), INCLUDING THE RESCISSION OF PD 1594, AND CREATION OF A NEW PD DISTRICT, AT 350 MERRYDALE ROAD/3833 REDWOOD HWY; AND**
- C. RESOLUTION APPROVING ENVIRONMENTAL AND DESIGN REVIEW PERMIT (ED18-100), TENTATIVE SUBDIVISION MAP (TS18-006); USE PERMIT (UP18-039); AND SUBDIVISION EXCEPTION (EX19-012)**

EXECUTIVE SUMMARY:

The project proposes to demolish the existing one-story buildings on the site and to construct nine (9) three-story buildings with a total of 45 “for sale” townhome units and stacked flats (a mixture of two-bedroom, three-bedroom and four-bedroom units) with garages and uncovered parking. The project is proposed as a “phased” development with a tentative construction start date of Spring 2020 (25 units, including five (5) BMR units) and a completion date of Summer 2022. The project would provide 20% of the units as affordable (total 9 below-market-rate (BMR) units), in compliance with San Rafael Municipal Code (SRMC) Section 14.16.030.

FOR CITY CLERK ONLY

File No.: _____

Council Meeting: _____

Disposition: _____

The project has been reviewed and recommended for approval by the Design Review Board, and Planning Commission. Staff is supportive of the proposed project and recommends approval. This project proposes a creative redevelopment of an underutilized infill site with much needed housing, on a site that is located near major employment and services and with a variety of transportation options. The project is consistent with the General Plan, Zoning Ordinance, Subdivision Ordinance and Civic Center Station Area Plan and all environmental impacts can be mitigated to less than significant level.

RECOMMENDATION:

Staff recommends that the City Council take the following actions:

1. Adopt the attached Resolution (Attachment 1) Adopting the Initial Study/Mitigated Negative Declaration and Approving the Mitigation Monitoring and Reporting Program (MMRP);
2. Introduce and pass to print the Ordinance (Attachment 2) Rezoning a PD 1594 Planned Development District to a PD ZC19-002 Planned Development District; and
3. Adopt the attached Resolution (Attachment 3) Conditionally Approving the Environmental and Design Review Permit, Use Permit, Tentative Subdivision Map and Subdivision Exception.

BACKGROUND:

In January 2018, the proposed project was reviewed by Planning Division staff as a Pre-Application, where city staff provided technical feedback on compliance with various codes and regulations based on a preliminary design. The project was then reviewed by the Design Review Board as a Conceptual Design on [July 17, 2018](#). At that time, the project proposed 44-units, with building encroachments into the required 25-foot creek setback (a fork of Gallinas Creek abuts the project site). The Board took public comments and provided recommendations for the project including:

- 1) providing a broader range of unit types and sizes,
- 2) providing a community room and outdoor patio complete with furnishings,
- 3) increasing the creek setback to a minimum of 25 ft;
- 4) providing crane pads for creek maintenance;
- 5) increasing the front setback on the Merrydale frontage from 8 feet 1 inch to 15 feet, 2 inches from the Merrydale frontage property line;
- 6) eliminating the proposed roof decks;
- 7) eliminating the proposed ADU's;
- 8) eliminating the California Pepper tree species;
- 9) providing more details on the creek promenade area (which will also have amenities for youth to play); and
- 10) adding bio-retention information to the landscape plan.

On July 25, 2018, the applicant hosted a neighborhood meeting, with staff in attendance. Members of the public in attendance were generally supportive of the proposed project with the changes since the conceptual design was presented and felt that it was good to have an investment in the community. However, they did have questions about traffic circulation and parking impacts to San Rafael Meadows residents, cumulative impacts from the Oakmont development traffic, potential future changes to the Hwy 101 freeway on/offramps, and future plans to widen Redwood Highway.

The applicant revised the project in response to all the Board's comments, as well as to public comments, and addressed the creek setback issue by reducing the side yard setback along the south property line from a 10-foot setback to a setback of 7-9 feet (approximately) and elimination of some proposed street parking spaces. These changes allowed the site plan to provide a 25-foot creek setback on the north side of the property.

On November 8, 2018, the applicant submitted their formal applications to the City for consideration. The Design Review Board reviewed the formal application submittal on [August 6, 2019](#). The Board was supportive of the project and recommended approval with additional minor modifications to relocate A/C units, improve access to the outdoor patio from the Community Room; and improve sustainability by incorporating pre-wiring in the units for PV roof-top solar systems and adding EV charging capacity in the garages.

The applicant modified the plan to include these revisions and the project was reviewed by the Planning Commission on December 10, 2019. The [staff report](#) and [video](#) streaming from the December 10, 2019 Planning Commission hearing may be viewed here by clicking the “control” key while left clicking each link. Following a public hearing the Commission adopted three resolutions by a vote of 6-0-1 (*with Commissioner Samudzi absent*), recommending approval of the project to the City Council, with two modifications. They added a condition requiring that each garage include pre-wiring for Level 2 electric vehicle chargers and that pre-wiring for solar panels be added on all buildings. These conditions have been incorporated into the Resolution (Attachment 3).

Video proceedings of all five Board or Commission meetings or hearings may be viewed at www.cityofsanrafael.org/meetings by clicking on the applicable hearing body under “archived videos” section and navigating to the date of the meeting or hearing.

PROJECT DESCRIPTION:

Use: The project proposes to construct nine (9) three-story buildings, with 45 “for-sale” townhomes and stacked flat units. Each building will have a garage (1-car and 2-car) and a mix of two-bedroom units (25), three-bedroom units (12) and four-bedroom units (8). The 25 three-bedroom units include two Plan 3 floor plans that are typically four-bedroom units restricted to three-bedroom units with the lower level used as a bonus room. There are four (4) different floor plans each with variations proposed (see Plan Sheets A3 to A12). Unit sizes range from 836 sf to 2,119 square feet. A total of 9 units would be Below Market Rate (BMR) units – Units #4, #9, #18, #19, #24, #29, #30, #36 and #43 (See Plan SP-2 for BMR unit location). Also see the Applicant’s Project Description (Exhibit 8).

Affordability: The project would comply with the City’s affordable housing requirement by providing 20% of the units as affordable - a total of nine (9) below market rate or BMR units. The project will provide five (5) of the 9 BMR units for sale to persons of low-income earning 50-80% of the area wide median income and four (4) of the 9 BMR units to persons of moderate-income earning 80-120% of the area wide median income adjusted for family size.

Density: The project proposes to construct 45 “for sale” townhome units. The underlying General Plan Designation for the property is General Commercial, which allows a residential density of 15-32 units/gross acre. This equates to between 34 units to 72 units allowed on the approximately 2.28 gross acre site. The Civic Center Station Area Plan suggests a density of up to 45 units/acre which results in 102 units. As such, the proposed 45 units would be consistent with the allowable density range under the San Rafael General Plan 2020. State Density Bonuses for affordable housing are allowed if the project qualifies and requests a state density bonus. The applicant is not requesting a State Density Bonus to exceed the maximum number of units permitted for this site; however, the project is entitled to one Concession and an unlimited number of Modifications to standards that would physically preclude the construction of the project. The applicant has proposed that the PD zoning mirror the development and density standards of the High Density Residential (HR1) zoning district, (1 unit per 1,000 sq. ft. of lot area). Based on the HR1 district, the maximum number of units allowed for the base density would

be 99 units on the 99,150 sq. ft. project site. The proposed 45 units is well below the maximum HR-1 base density and the Civic Center Plan density.

Site Plan: The proposed project is designed with nine (9) three-story buildings on the 2.28-acre project site (see Plan Sheet SP-1). Access to the site is proposed from both Merrydale Rd. and from Redwood Highway. The project would enhance the existing creek/maintenance easement area along the north side of the property with pedestrian improvements, landscaping and passive play activities for children. A total of 94 parking spaces are proposed on site. A total of 87 spaces are in garages (including 20 tandem garage spaces), and seven spaces are uncovered parking spaces (including one (1) ADA space). Three units are designed with one-car garages, but each will have access to one of the uncovered spaces on site. Separate guest parking is not required for projects that qualify for parking “concessions” in affordable housing projects, pursuant to SRMC Section 14.16.030.H. Required curb and gutter improvements will allow the creation of an additional four (4) on-street parking spaces along the east side of Merrydale Rd. that will be available as public parking. This is in addition to the existing 5 on-street parking spaces along the property frontage, for a total of nine (9) on-street parking spaces available for public parking.

Architecture: the project is proposing a contemporary architectural style, using a mix of modern and traditional materials: stone, glass, and plaster. Accents of different materials such as horizontal wood-toned siding appear at the projections as well as a neutral colored cut stone that grounds the buildings at the base and provides a rich texture for the pedestrian. Additional details consist of contemporary windows, simple posts, wire mesh railings and composition shingle roofing. The design includes recessed balconies (i.e., that do not extend beyond the building roof) and stepbacks to provide articulation and reduce building mass. Furthermore, each unit attains an identity through varied entry door colors.

Complete project description can be viewed in the [December 10, 2019 Staff Report to the Planning Commission](#).

ANALYSIS:

A complete analysis of the project’s consistency with the applicable plans, regulations and policies can be found in the [December 10, 2019 Staff Report to the Planning Commission](#).

San Rafael General Plan 2020 Consistency:

The project has been reviewed for consistency with the San Rafael General Plan 2020. A complete analysis of the applicable goals and polices of *all* elements of the General Plan was provided as [Exhibit 5 \(General Plan Consistency Table\)](#) to the December 10, 2019 staff report to the Planning Commission.

The General Plan land use designation for the property (General Commercial) allows residential development at the intensity proposed. Furthermore, the project furthers the goal of providing housing, particularly near transit and services. There are numerous policies and programs that are pertinent to the site and the project. The General Plan contains many competing policies that need to be weighed and considered. Consistency with a General Plan is determined by reviewing and weighing the goals and polices of *all* elements of the San Rafael General Plan 2020. Staff has evaluated the project and found it to be consistent or consistent with conditions for the applicable San Rafael General Plan 2020 Policies and Programs, including the following Elements: Land Use, Housing, Neighborhoods, Community Design, Circulation, Infrastructure, Sustainability, Culture and Arts, Parks and Recreation, Safety, Noise, Conservation, and Air and Water Quality. On balance, the proposed residential development would be consistent with the pertinent policies and programs of the General Plan 2020.

Zoning Ordinance Consistency:

The project has been reviewed for consistency with SRMC Title 14, the San Rafael Zoning Ordinance. A complete analysis of the pertinent regulations (requirements, standards and criteria) was provided in [Exhibit 6](#) (*Zoning Consistency Table*) to the December 10, 2020 report to the Planning Commission. Overall, the project would be consistent with all applicable regulations of the Zoning Ordinance, including property development standards, affordable housing requirements, creek setbacks, parking requirements and design, and design and review criteria.

Subdivision Ordinance:

The project proposes to subdivide the property into individual lots for each townhome unit, and therefore requires the approval of a Tentative Subdivision Map. The project has been reviewed for consistency with SRMC Title 15, the San Rafael Subdivision Ordinance. Overall, the project would be consistent with all applicable regulations of the Subdivision Ordinance, including the provision of an indoor "Community Room". However, the proposed street width is not consistent with the requirements per Section 15.06.050 (Street classification and requirements). The City standard per Section 15.06.050(c) is that local streets provide a minimum right-of-way of 60 feet and a minimum pavement width of 40 feet. This project is requesting an exception to allow a private street with an easement of 30 feet and a minimum pavement width of 20 feet and also providing at least one sidewalk. This requires approval of an Exception request, pursuant to Section 15.01.120(c). The City Engineer has reviewed the project and is in support of the Exception request. A complete analysis of the pertinent regulations (standards, criteria and findings) is presented in the *Subdivision Ordinance Consistency Table* ([Exhibit 7](#) of December 10, 2019 Planning Commission report). Findings necessary to approve the Subdivision Exception are discussed in the Resolution recommending approval of the Tentative Subdivision Map (Attachment 3).

California Environmental Quality Act (CEQA):

As noted above, the project is subject to environmental review. An Initial Study (IS) was completed for the project, which resulted in preparation of a Mitigated Negative Declaration (MND). The Initial Study/Mitigated Negative Declaration (IS/MND) document has been prepared in consultation with local, and state responsible and trustee agencies and in accordance with Section 15063 of the CEQA Guidelines. Furthermore, the IS/MND will serve as the environmental compliance document required under CEQA for any subsequent phases of the project and for permits/approvals required by a responsible agency. The MND was circulated for a 30-day public review period commencing on November 9, 2019 and concluded on December 10, 2019. The MND was distributed to the Planning Commission and City Council under a separate cover at the start of the review period and a copy of the document can be found [here](#).

The IS/MND concluded that the proposed project would result in potentially significant impacts in Aesthetics, Air Quality, Biological Resources, Cultural Resources, Geology and Soils, Hydrology and Water Quality, Noise, Transportation, and Tribal Resources. The IS/MND, along with copies of all studies used in preparing the Initial Study, are provided on the project webpage (www.cityofsanrafael.org/350merrydale). The project impacts would be mitigated to a less-than-significant level through implementation of recommended mitigation measures or through compliance with existing Municipal Code requirements or City standards. Recommended measures are summarized in the Mitigation Monitoring and Reporting Plan (MMRP) (Attachment 1).

The City received two comments on the MND just before the December 10, 2019 Planning Commission hearing. The first letter from Caltrans noted: 1) any proposal to signalize US SB 101/Merrydale intersection would require review by Caltrans; and 2) concern with aesthetics of the site and consistency with the City's General Plan policies.

The second comment email was from Department of Toxic and Substance Control (DTSC) and noted 1) conflict in two statements in Section IX of the Initial Study on use of hazardous materials; 2) Clarification on the underground storage tank mentioned to be suspected on site; 3) need to include discussion on nearby contaminated site, and 4) difficulty in finding the project location on a map.

Staff provided verbal responses to these comments at the Planning Commission hearing. A staff response, the letters from Caltrans and DTSC and photo simulations of the project, are provided as Attachment 4.

The resolution adopting the Mitigated Negative Declaration and approving the Mitigation Monitoring and Reporting Program is attached as Attachment 1. All mitigation measures prescribed by the IS/MND have also been incorporated as conditions of approval of the project entitlements in the Resolution conditionally approving the Design Review Permit, Use Permit, Tentative Map and Subdivision Exception (Attachment 3).

COMMUNITY OUTREACH:

Notice of all public hearings on the project, for the Design Review Board and Planning Commission (15-day review), the Initial Study/Mitigated Negative Declaration (CEQA) public comment period/Planning Commission hearing (30-day review), and the City Council hearing (15-day review) were conducted in accordance with the public review period and noticing requirements contained in Chapter 29 of the Zoning Ordinance. All notices of public meeting or hearing on the project were mailed to all property owners and occupants within a 400-foot radius of the site and the representing neighborhood groups (San Rafael Meadows) at least 15-30 days prior to each meeting or hearing. In addition, notice of each meeting/hearing was posted at two locations on the site, along the Merrydale Road frontage and the Redwood Highway at least 15-30 days prior to each meeting or hearing.

All public comments received by staff on the project through Design Review Board review are included as [Exhibit 9](#) of the December 10, 2019 Planning Commission packet. Staff received two (2) additional letters prior to the Planning Commission meeting on December 10, 2019. These two (2) letters are also included in this staff report as Attachment 5. There have been no comments received as a result of the City Council public hearing notice.

In general, the public was generally supportive of the proposed project. Comments in support wish to see housing close to transit, investment in enhancing the residential neighborhood and improvements to the creek. Comments in opposition focused on potential traffic congestion and increase in bulk and mass along Merrydale Road and lack of an improved bike/pedestrian connection to SMART.

FISCAL IMPACT:

The costs associated with processing the planning applications for this project are borne by the applicant and are subject to 100% cost recovery of staff time, and therefore would have no direct fiscal impact on the City budget. The project would generate 17 am and 19 pm net new peak hour vehicle trips, which would be subject to the payment of a Traffic Mitigation Fee of \$152,856 (36 trips x \$4,246/new peak hour traffic trip) to assist in funding needed off-site transportation improvements. All utility connections (sewer, water, gas/electric) will be constructed at the cost of the property owner. Further, all public improvements along the site frontages will be constructed at the cost of the property owner.

OPTIONS:

The City Council has the following options:

1. Approve the applications to the City Council as presented (*staff recommendation*)
2. Approve the applications with certain modifications, changes or additional conditions of approval.
3. Continue the applications to allow the applicant to address any of the Council's comments or concerns
4. Deny the project and direct staff to return with a revised Resolutions.

RECOMMENDED ACTION:

Staff recommends that the City Council:

1. Adopt Resolution adopting the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program (Attachment 1);
2. Pass Ordinance to print approving the Rezoning from Planned Development District (PD) to a revised PD District (Attachment 2); and
3. Adopt Resolution Conditionally Approving the Environmental and Design Review Permit, Use Permit, Tentative Parcel Map and Subdivision Exception applications for the project (Attachment 3).

ATTACHMENTS:

1. Resolution Adopting a Mitigated Negative Declaration and Approving the Mitigation Monitoring and Reporting Program
2. Ordinance Adopting a Planned Development (PD) Rezoning
3. Resolution Conditionally Approving the Design Review Permit, Use Permit, Tentative Subdivision Map and Subdivision Exception applications
4. Memo to file on response to those comments received on Initial Study/Mitigated Negative Declaration, with attached comments (Caltrans and DTSC) and photo simulations of project
5. Public comments
6. Public Hearing Notice

RESOLUTION NO. _____

RESOLUTION OF THE CITY OF SAN RAFAEL CITY COUNCIL ADOPTING AN INITIAL STUDY/ MITIGATED NEGATIVE DECLARATION AND APPROVING THE MITIGATION MONITORING AND REPORTING PROGRAM FOR A REZONING (ZC19-002), ENVIRONMENTAL AND DESIGN REVIEW PERMIT (ED18-100), TENTATIVE MAP (18-006), MASTER USE PERMIT (UP18-039), AND SUBDIVISION EXCEPTION (EX19-012) FOR THE DEMOLITION OF THE EXISTING ONE-STORY BUILDINGS ON SITE AND CONSTRUCTION OF NINE (9) THREE-STORY RESIDENTIAL BUILDINGS WITH A TOTAL OF 45 “FOR SALE” MULTI FAMILY RESIDENTIAL UNITS (INCLUDING 9 BELOW-MARKET-RATE (BMR) UNITS), 94 PARKING SPACES, WITH NEW LANDSCAPING AND CREEKSIDE ENHANCEMENTS ON AN EXISTING 2.28 ACRE PARCEL LOCATED AT 350 MERRYDALE RD/3833 REDWOOD HWY (MERRYDALE TOWNHOMES) (APN’S: 179-041-27 AND 179-041-28)

WHEREAS, on October 16, 2017, Michael Hooper of Campus Properties, on behalf of the property owner, Ridgewood Properties, submitted plans for a Pre-Application review of a proposed demolition of existing buildings and redevelopment of a 2.28 acre site at 350 Merrydale Road/3833 Redwood Hwy with nine new buildings containing a total of 44 residential townhome units, including parking, landscaping and creekside enhancements; and

WHEREAS, on January 18, 2018, City Planning staff provided comments on the pre-application, with additional comments from other City departments and relevant outside Agencies; and

WHEREAS, on April 25, 2018, Michael Hooper of Campus Properties, on behalf of the property owner, Ridgewood Properties, submitted an application for a Conceptual Design Review for the construction of 45 for-sale townhome units, and associated site improvements; and

WHEREAS, on July 17, 2018, the Design Review Board held a duly noticed public hearing on the conceptual design of the proposed project and provided recommendations to the applicant; and

WHEREAS, on November 8, 2018, Michael Hooper of Campus Properties, on behalf of the property owner, Ridgewood Properties, submitted a formal application for Planned Development (PD) Rezoning (ZC18-002), Environmental and Design Review Permit (ED18-100), Tentative Map (TS18-006), Master Use Permit (UP18-039) and Subdivision Exception (EX19-012); and

WHEREAS, on July 25, 2019, the applicant held a Neighborhood Meeting at the project site, which was duly noticed by the City to residents and property owners within 400 feet of the project site; and

WHEREAS, on August 6, 2019, the Design Review Board held a duly noticed public hearing on the proposed project, accepting all oral and written public testimony and the written report of the Department of Community Development; and

WHEREAS, as required by the California Environmental Quality Act (CEQA) Guidelines, staff determined that the proposal is defined as a ‘project,’ making it subject to environmental review. Pursuant to CEQA Guidelines Section 15063, an Initial Study was prepared to determine the potential environmental impacts of the project. The Initial Study is supported by several technical studies and reports (traffic, noise, biological, geotechnical, air quality, cultural resources, hydrology, fire flow analysis, and storm water control plan); and

WHEREAS, as demonstrated in the preparation of an Initial Study, all potentially significant effects on the environment identified in the Initial Study can be mitigated to less-than-significant levels with implementation of the recommended mitigation measures; including impacts to Air Quality, Biological Resources, Cultural Resources, Hydrology and Water Quality, Noise, Transportation, and Tribal Resources. Therefore, consistent with CEQA Guidelines Section 15070, the Initial Study supports and recommends the adoption of a Mitigated Negative Declaration; and

WHEREAS, consistent with the requirements of the CEQA Guidelines, a Mitigation Monitoring and Reporting Program (MMRP) has been prepared, which outlines the procedures/steps and requirements for implementing all mitigation measures identified in the Initial Study/Mitigated Negative Declaration. The MMRP is attached hereto as Attachment A and incorporated by reference; and

WHEREAS, the subject site was posted with a public notice regarding the Mitigated Negative Declaration prepared for this project and notices were published in a local newspaper of general circulation in the area and mailed to surrounding property owners within 400 feet, pertinent agencies (including responsible and trustee agencies), organizations and special interest groups pursuant to CEQA Guidelines Section 15072; and

WHEREAS, copies of the Initial Study/Mitigated Negative Declaration were submitted to the State Office of Planning and Research (OPR) and made available for a 30-day review period by pertinent agencies and interested members of the public, commencing on November 8, 2019 and concluding on December 10, 2019; and

WHEREAS, the City has evaluated the comments received by public agencies, utilities, organizations, special interest groups and persons who have reviewed the Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program, including two letters/emails received from California Department of Transportation (Caltrans) and State Department of Toxic and Substance Control (DTSC), commenting on the adequacy of the Initial Study/Mitigated Negative Declaration. Staff responded to these comments verbally at the hearing on December 10, 2019 and summarized the responses in a memo to file dated December 10, 2019. No changes or modifications were deemed necessary to the Initial Study/Mitigated Negative Declaration; and

WHEREAS, on December 10, 2019, the Planning Commission held a public hearing on the proposed project, the planning applications for the 45-unit residential townhome development at 350 Merrydale Road/3833 Redwood Hwy and the Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program, accepting all oral and written public testimony and the written report of the Department of Community Development. On a vote of 6-0-1 (Commissioner Samuzdi absent), the Planning Commission adopted Resolution No. 19-11, recommending that the City Council adopt the IS/MND and approve a Mitigation Monitoring and Reporting Program; and

WHEREAS, on February 3, 2020, the City Council held a duly-noticed public hearing on the proposed project, accepting and considering all oral and written public testimony and the written report of the Department of Community Development; and

WHEREAS, the custodian of documents which constitute the record of proceedings upon which this decision is based is the Community Development Department of the City of San Rafael;

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of San Rafael does hereby adopt the Mitigated Negative Declaration and approves the Mitigation Monitoring and Reporting Program as presented in Attachment "A" based on the findings that:

- a) The City exercised its independent judgment in evaluating the Mitigated Negative Declaration and the Mitigated Negative Declaration has been considered in conjunction with comments received during the public review period and at the public hearings. Based on this review, the City Council finds and determines that: 1) there is no substantial evidence that the project will have a significant impact on the environment; and 2) revisions have been made to the project and have been included in the project as mitigation measures which reduce the potential impacts to a less-than-significant level.

- b) A Mitigation Monitoring and Reporting Program has been prepared for adoption to ensure implementation of, and compliance with, all conditions required to mitigate any impact to a level of less than significant. All mitigation measures have also been included as conditions of the project's approval by separate Resolution.

I, Lindsay Lara, Clerk of the City of San Rafael, hereby certify that the foregoing Resolution was duly and regularly introduced and adopted at a regular meeting of the San Rafael City Council held on the 3rd day of February 2020, by the following vote to wit:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

LINDSAY LARA, City Clerk

Attachment A Mitigation Monitoring and Reporting Program

Attachment A

MITIGATION MONITORING AND REPORTING PROGRAM

<p>MITIGATION MONITORING AND REPORTING PROGRAM 350 Merrydale Road</p>
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Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring / Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record (Name/Date)
I. AESTHETICS					
<p>I(d). Mitigation Measure AES-1: Prior to the Building Permit final inspection, the project applicant shall submit to the satisfaction of the Community Development Department Director, a post-installation photometric lighting study showing that the lighting on site complies with the approved lighting levels per ED18-100 and the requirements of SRMC 14.16.227. The project applicant shall also demonstrate to the Building Department that outdoor lighting fixtures meet the requirements of the California Energy Code (known as Part 6, Title 24 of the California Code of Regulations)</p>	<p>Require as a condition of approval</p>	<p>Planning Division</p>	<p>Incorporate as condition of project approval</p>	<p>Deny project</p>	
		<p>Building Division</p>	<p>Planning Division verifies appropriate plan/study obtained prior to issuance of building permit</p>	<p>Deny issuance of building permit</p>	
III. AIR QUALITY					
<p>III (b). Mitigation Measure AQ-1: Include basic measures to control dust and exhaust during construction. During any construction period ground disturbance, the applicant shall ensure that the project contractor implement measures to control dust and exhaust. Implementation of the measures recommended by BAAQMD and listed below would reduce the air quality impacts associated with grading and new construction to a less-than-significant level.</p>	<p>Require as a condition of approval</p> <p>Project sponsor obtains approvals from appropriate agencies prior to issuance of building permits</p>	<p>Planning Division</p>	<p>Incorporate as condition of project approval</p>	<p>Deny project</p>	
		<p>Building Division</p>	<p>Building Division verifies appropriate approvals obtained prior to issuance of building permit</p>	<p>Deny issuance of building permit</p>	

Attachment A

**MITIGATION MONITORING AND REPORTING PROGRAM
350 Merrydale Road**

Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring / Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record (Name/Date)
<p>The contractor shall implement the following best management practices that are required of all projects:</p>					
<ol style="list-style-type: none">1. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.2. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.3. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.4. All vehicle speeds on unpaved roads shall be limited to 15 miles per hour (mph).5. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.6. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.7. All construction equipment shall be maintained and properly tuned in accordance with					

File #: ZC19-002/ED18-100/TS18-006/EX19-012/UP18-039/
Title: Resolution Recommending Adoption of Mitigated
Negative Declaration
Attachment 1. A-2

Attachment A

**MITIGATION MONITORING AND REPORTING PROGRAM
350 Merrydale Road**

Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring / Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record (Name/Date)
<p>manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.</p> <p>8. Post a publicly visible sign with the telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.</p>					
<p>III(b). Mitigation Measure AQ-1a: All diesel-powered off-road equipment, larger than 25 horsepower, operating on the site for more than two days continuously shall, at a minimum, meet U.S. EPA particulate matter emissions standards for Tier 2 engines with CARB-certified Level 3 Diesel Particulate Filters or equivalent.</p> <ul style="list-style-type: none"> • The use of equipment meeting U.S. EPA Tier 4 standards for particulate matter would also meet this requirement. • Use of equipment that includes alternatively fueled equipment (i.e., non-diesel) would meet this requirement. • Other measures may be the use of added exhaust devices, or a combination of measures, provided that these measures are approved by the City and 	<p>Require as a condition of approval</p> <p>Project sponsor provides equipment list prior to issuance of building permits</p>	<p>Planning Division</p> <p>Public Works Division / Building Division</p>	<p>Incorporate as condition of project approval</p> <p>Building Division verifies appropriate approvals obtained prior to issuance of building permit</p>	<p>Deny project</p> <p>Deny issuance of building permit</p>	

Attachment A

**MITIGATION MONITORING AND REPORTING PROGRAM
350 Merrydale Road**

Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring / Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record (Name/Date)
demonstrated to reduce community risk impacts to less-than-significant.					
III(c) Mitigation Measure AQ-2: Include high-efficiency particulate filtration systems in residential ventilation systems.	Require as a condition of approval	Planning Division	Incorporate as condition of project approval	Deny project	
The significant exposure for new project receptors is judged by two effects: (1) increased cancer risk, and (2) annual PM2.5 concentration. Exposure to cancer risk from U.S. Highway 101 are significant. Cancer risk is based on exposure to exhaust emissions while annual PM2.5 concentrations are based on the exposure to PM2.5 resulting from emissions attributable to truck and auto exhaust, the wearing of brakes and tires and re-entrainment of roadway dust from vehicles traveling over pavement. PM2.5 exposure drives the mitigation plan. Reducing PM2.5 exposures to less than significant would also reduce cancer risk to less than significant levels. The project shall include the following measures to minimize long-term annual PM2.5 exposure for new project occupants:	Project sponsor obtains approvals from appropriate agencies prior to issuance of building permits	Building Division	Building Division verifies appropriate approvals obtained prior to issuance of building permit	Deny issuance of building permit	
1. Install air filtration in residential dwellings. Air filtration devices shall be rated MERV 13 or higher. To ensure adequate health protection to sensitive receptors (i.e., residents), this ventilation system, whether mechanical or passive, all fresh air circulated into the dwelling units shall be					

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**MITIGATION MONITORING AND REPORTING PROGRAM
350 Merrydale Road**

Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring / Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record (Name/Date)
<p>filtered, as described above.</p> <p>2. As part of implementing this measure, an ongoing maintenance plan for the buildings' heating, ventilation, and air conditioning (HV AC) air filtration system shall be required.</p> <p>3. Ensure that the use agreement and other property documents: (1) require cleaning, maintenance, and monitoring of the affected buildings for air flow leaks, (2) include assurance that new owners or tenants are provided information on the ventilation system, and (3) include provisions that fees associated with owning or leasing a unit(s) in the building include funds for cleaning, maintenance, monitoring, and replacements of the filters, as needed.</p>					

IV. BIOLOGICAL RESOURCES

<p>IV(a). Mitigation Measure BIO-1: Pre-construction nesting bird and bat surveys</p>	<p>Require as a condition of approval.</p>	<p>Planning Division</p>	<p>Incorporate as condition of project approval. Project applicant conducts pre-construction survey before permit issuance.</p>	<p>Deny project</p>	
<p>The nesting season is defined here as being from February 1 to August 31 and therefore work should commence between September 1 and January 31.</p> <ul style="list-style-type: none"> If this is not possible, and project activities are initiated during the nesting season, then a nesting bird survey shall be conducted by a qualified wildlife biologist no more than 14 days 	<p>Project sponsor designates qualified professional prior to start of construction and obtains approvals from appropriate agencies prior to issuance of</p>	<p>Planning / Building Division</p>	<p>Planning / Building Division verifies survey conducted</p>	<p>Deny issuance of building permit</p>	

File #: ZC19-002/ED18-100/TS18-006/EX19-012/UP18-039/
 Title: Resolution Recommending Adoption of Mitigated Negative Declaration
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**MITIGATION MONITORING AND REPORTING PROGRAM
350 Merrydale Road**

Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring / Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record (Name/Date)
<p>prior to the start of project activities.</p> <ul style="list-style-type: none"> • If nests are identified, a no-disturbance buffer should be implemented to avoid impacts to nesting birds and should remain in place until all young are fledged or the nest otherwise becomes inactive. • Buffers typically range from 25 feet to 500 feet depending on the species. • If work is to be initiated within the bat breeding/ winter roosting season, an assessment of existing buildings should be performed prior to construction activities to determine if a roost is present. • If a roost is observed, construction activities should be postponed until a qualified biologist determines the bats are excluded from the roost location. 	building permits		prior to issuance of building permit		

V. CULTURAL RESOURCES

<p>V(b). Mitigation Measure CULT-1: Protect Archaeological Resources Identified during Construction: The project sponsor shall ensure that construction crews stop all work within 100 feet of the discovery until a qualified archaeologist can assess the previously unrecorded discovery and provide recommendations. Resources could include</p>	<p>Require as a condition of approval</p> <p>Project sponsor designates qualified professional pursuant to NAHC requirements and obtains approvals from</p>	<p>Planning Division</p> <p>Planning /Building Division</p>	<p>Incorporate as condition of project approval</p> <p>Project sponsor to halt work immediately upon discovery of unknown resources</p>	<p>Deny project</p> <p>Deny issuance of building permit</p>	
			<p>File #: <u>ZC19-002/ED18-100/TS18-006/EX19-012/UP18-039/</u> Title: <u>Resolution Recommending Adoption of Mitigated Negative Declaration</u> <u>Attachment 1. A-6</u></p>		

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**MITIGATION MONITORING AND REPORTING PROGRAM
350 Merrydale Road**

Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring / Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record (Name/Date)
<p>subsurface historic features such as artifact-filled privies, wells, and refuse pits, and artifact deposits, along with concentrations of adobe, stone, or concrete walls or foundations, and concentrations of ceramic, glass, or metal materials. Native American archaeological materials could include obsidian and chert flaked stone tools (such as projectile and dart points), midden (culturally derived darkened soil containing heat-affected rock, artifacts, animal bones, and/or shellfish remains), and/or groundstone implements (such as mortars and pestles).</p>	<p>appropriate agencies prior to issuance of building permits</p>		<p>Planning / Building Division verifies appropriate professionals/approvals obtained prior to issuance of building permit</p>		
<p>V(c). Mitigation Measure CULT-2: Protect Human Remains Identified During Construction: The Project proponent shall treat any human remains and associated or unassociated funerary objects discovered during soil-disturbing activities according to applicable State laws. Such treatment includes work stoppage and immediate notification of the Marin County Coroner and qualified archaeologist, and in the event that the Coroner's determination that the human remains are Native American, notification of NAHC according to the requirements in PRC Section 5097.98. NAHC would appoint a Most Likely Descendant ("MLD"). A qualified archaeologist, Project proponent, County of Marin, and MLD shall make all reasonable efforts to develop an agreement for the treatment, with appropriate dignity, of any human remains and associated or unassociated funerary</p>	<p>Require as a condition of approval</p> <p>Project sponsor designates qualified professional pursuant to NAHC requirements and obtains approvals from appropriate agencies prior to issuance of building permits</p>	<p>Planning Division</p> <p>Planning /Building Division</p>	<p>Incorporate as condition of project approval</p> <p>Project sponsor to halt work immediately upon discovery of unknown resources</p> <p>Planning / Building Division verifies appropriate professionals/approvals obtained prior to issuance of building permit</p>	<p>Deny project</p> <p>Deny issuance of building permit</p>	

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**MITIGATION MONITORING AND REPORTING PROGRAM
350 Merrydale Road**

Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring / Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record (Name/Date)
<p>objects (CEQA Guidelines Section 15064.5[d]). The agreement would take into consideration the appropriate excavation, removal, recordation, analysis, custodianship, and final disposition of the human remains and associated or unassociated funerary objects. The PRC allows 48 hours to reach agreement on these matters.</p>					
VII. GEOLOGY AND SOILS					
<p>VII(a)(ii). Mitigation Measure GEO -1: Prior to a grading or building permit submittal, the project sponsor shall prepare a design-level geotechnical investigation prepared by a qualified and licensed geotechnical engineer and submit the report to the City Engineer. Minimum mitigation includes design of new structures in accordance with the provisions of the current California Building Code or subsequent codes in effect when final design occurs. Recommended seismic design coefficients and spectral accelerations shall be consistent with the findings presented in Section 4 of the May 8, 2018 ENGEO report.</p>	<p>Require as a condition of approval</p> <p>Project sponsor prepare a design-level geotechnical investigation prepared by a qualified and licensed geotechnical engineer and submit the report to the City Engineer</p>	<p>Planning Division</p> <p>Public Works Division</p>	<p>Incorporate as condition of project approval</p> <p>Public Works / Building Division verifies appropriate design-level report prior to issuance of building permit</p>	<p>Deny project</p> <p>Deny issuance of building permit</p>	
<p>VII(a)(iii). Mitigation Measure GEO-2: Prior to a grading or building permit submittal, the project sponsor shall prepare a design-level geotechnical investigation prepared by a qualified and licensed geotechnical engineer and submit the report to the</p>	<p>Require as a condition of approval</p> <p>Project sponsor prepare a design-level geotechnical</p>	<p>Planning Division</p> <p>Public Works Division</p>	<p>Incorporate as condition of project approval</p> <p>Public Woks /</p>	<p>Deny project</p> <p>Deny issuance of building</p>	

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**MITIGATION MONITORING AND REPORTING PROGRAM
350 Merrydale Road**

Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring / Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record (Name/Date)
<p>City Engineer for review and approval. In order to reduce the effects of the potentially expansive soils and/or liquefaction settlement, foundations should be designed to withstand minimum differential movements. Foundation design recommendations are presented in Section 4 of the May 8, 2018 ENGEO report.</p>	<p>investigation prepared by a qualified and licensed geotechnical engineer and submit the report to the City Engineer</p>		<p>Building Division verifies appropriate design-level report prior to issuance of building permit</p>	<p>permit</p>	
<p>VII(b). Mitigation Measure GEO-3: Prior to a grading or building permit submittal, the project sponsor shall prepare a site drainage system prepared by a qualified and licensed civil engineer and submit the report to the City Engineer. The site drainage system will demonstrate the ability to collect surface water and discharge into an established storm drainage system. The project Civil Engineer of Architect is responsible for designing the site drainage system and, an erosion control plan shall be developed prior to construction per the current guidelines of the City of San Rafael Public Works Department (DPW) Grading and Construction Erosion and Sediment Control Plan Permit Application Package and the Regional Water Quality Control Board standards.</p>	<p>Require as a condition of approval Project sponsor prepare a design-level drainage system design prepared by a qualified and licensed civil engineer and submit the report to the City Engineer</p>	<p>Planning Division Public Works Division</p>	<p>Incorporate as condition of project approval Public Works / Building Division verifies appropriate design-level report prior to issuance of building permit</p>	<p>Deny project</p>	<p>Deny issuance of building permit</p>
<p>VII(c). Implementation of GEO-1 & GEO-2</p>	<p>See MM GEO-1 and GEO-2 above</p>			<p>Deny project</p>	
<p>VII(d). Mitigation Measure GEO-4: Soils shall be moisture conditioned to above the optimum moisture</p>	<p>Require as a condition of approval</p>	<p>Planning Division</p>	<p>Incorporate as condition of project</p>	<p>Deny project</p>	

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 Title: Resolution Recommending Adoption of Mitigated Negative Declaration
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**MITIGATION MONITORING AND REPORTING PROGRAM
350 Merrydale Road**

Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring / Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record (Name/Date)
content during site grading and maintained at this moisture content until imported aggregate base and/or surface flatwork is completed.	Project sponsor obtains approvals from appropriate agencies prior to issuance of building permits	Building Division	approval Public Works / Building Division verifies appropriate approvals obtained prior to issuance of building permit	Deny issuance of building permit	
<p>VII(f). Mitigation Measure GEO-5: Should paleontological resources be encountered during project subsurface construction activities located in previously undisturbed soil and bedrock, all ground-disturbing activities within 25 feet shall be halted and a qualified paleontologist contacted to assess the situation, consult with agencies as appropriate, and make recommendations for the treatment of the discovery. For purposes of this mitigation, a “qualified paleontologist” shall be an individual with the following qualifications: 1) a graduate degree in paleontology or geology and/or a person with a demonstrated publication record in peer-reviewed paleontological journals; 2) at least two years of professional experience related to paleontology; 3) proficiency in recognizing fossils in the field and determining their significance; 4) expertise in local geology, stratigraphy, and biostratigraphy; and 5) experience collecting vertebrate fossils in the field.</p>	Require as a condition of approval	Planning Division	Incorporate as condition of project approval	Deny project	
	Project sponsor shall designate qualified paleontologist, consult with agencies as appropriate prior to issuance of building permits	Building Division	Should paleontological resources be encountered during project subsurface construction activities located in previously undisturbed soil and bedrock, all ground-disturbing activities within 25 feet shall be halted. Planning / Building Division contacted and appropriate agencies alerted to discoveries	Halt building permit	

If the paleontological resources are found to be

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**MITIGATION MONITORING AND REPORTING PROGRAM
350 Merrydale Road**

Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring / Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record (Name/Date)
<p>and make recommendations for the treatment of the discovery. Project personnel shall not collect or move any paleontological materials. Fossils can include plants and animals, and such trace fossil evidence of past life as tracks or plant imprints. Marine sediments may contain invertebrate fossils such as snails, clam and oyster shells, sponges, and protozoa; and vertebrate fossils such as fish, whale, and sea lion bones. Vertebrate land mammals may include bones of mammoth, camel, saber tooth cat, horse, and bison. Contractor acknowledges and understands that excavation or removal of paleontological material is prohibited by law and constitutes a misdemeanor under California Public Resources Code, Section 5097.5.”</p>					

IX. HAZARDS AND HAZARDOUS MATERIALS

<p>IX(a). Mitigation Measure HAZ-1: Prior to submittal for a demolition permit, the project sponsor shall use a qualified and licensed professional to prepare a hazardous building materials survey for all structures proposed for demolition or renovation as part of the project. All lead-based paint and asbestos-containing materials (ACM) shall be abated by a certified contractor in accordance with local, state, and federal requirements. All hazardous materials shall be removed from buildings prior to demolition in</p>	<p>Require as a condition of approval</p>	<p>Planning Division</p>	<p>Incorporate as condition of project approval</p>	<p>Deny project</p>
	<p>Project sponsor obtains approvals from appropriate agencies prior to issuance of building permits</p>	<p>Building Division</p>	<p>Building Division verifies appropriate approvals obtained prior to issuance of building permit</p>	<p>Deny issuance of building permit</p>

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**MITIGATION MONITORING AND REPORTING PROGRAM
350 Merrydale Road**

Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring / Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record (Name/Date)
<p>accordance with California Division of Occupational Safety and Health (DOSH) and California Department of Toxic Substances Control (DTSC) regulations. A completion of abatement activities report shall be prepared by a qualified professional and submitted to the City prior to permit approval.</p>					
<p>IX(b). Mitigation Measure HAZ-2: Prior to submittal for a demolition permit, the project sponsor shall use a qualified and licensed professional to prepare a Soil Management Plan to develop protocols and procedures for handling potentially impacted soils or underground structure/equipment that may be encountered during grading operations and other construction activities as part of the project. If impacted soils or underground structure/equipment are encountered during construction activities, all construction shall stop, and a qualified and licensed professional shall be contacted to conduct a site visit to make observations and prepare recommendations for proper handling of soils and/or structures/equipment</p>	<p>Require as a condition of approval</p> <p>Project sponsor obtains approvals from appropriate agencies prior to issuance of building permits</p>	<p>Planning Division</p> <p>Building Division</p>	<p>Incorporate as condition of project approval</p> <p>Building Division verifies appropriate approvals obtained prior to issuance of building permit</p>	<p>Deny project</p> <p>Deny issuance of building permit</p>	

X. HYDROLOGY AND WATER QUALITY

<p>X(a). Mitigation Measure HYDRO-1: Prior to issuing a grading or building permit, the project applicant shall prepare a Stormwater Pollution Prevention Plan (SWPPP) and/or Erosion and Sediment Control Plan</p>	<p>Require as a condition of approval</p>	<p>Planning Division</p>	<p>Incorporate as condition of project approval</p>	<p>Deny project</p>	
			<p>File #: <u>ZC19-002/ED18-100/TS18-006/EX19-012/UP18-039/</u> Title: <u>Resolution Recommending Adoption of Mitigated Negative Declaration</u> <u>Attachment 1. A-13</u></p>		

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**MITIGATION MONITORING AND REPORTING PROGRAM
350 Merrydale Road**

Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring / Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record (Name/Date)
<p>(ESCP) in accordance with the requirements of the statewide Construction General Permit and the City of San Rafael Department of Public Works. The SWPPP shall be prepared by a Qualified SWPPP Developer (QSD). The SWPPP shall include the minimum Best Management Practices (BMPs) required for the identified risk level. The SWPPP shall be designed to address the following objectives:</p> <ol style="list-style-type: none"> 1) All pollutants and their sources, including sources of sediment associated with construction, construction site erosion, and all other activities associated with construction activity are controlled; 2) Where not otherwise required to be under a Regional Water Quality Control Board permit, all non-stormwater discharges are identified and either eliminated, controlled, or treated; 3) Site BMPs are effective and result in the reduction or elimination of pollutants in stormwater discharges and authorized non-stormwater discharges from construction activity. The erosion and sediment control plan shall include the rationale used for selecting BMPs including supporting soil loss calculations, as necessary; 4) Stabilization BMPs installed to reduce or eliminate pollutants after construction are completed. 5) BMP implementation shall be consistent with the 	<p>Project sponsor submits SWPP/ESCP to San Rafael Department of Public Works prior to issuance of building permits</p>	<p>Public Works Division</p>	<p>Public Works Division verifies appropriate approvals obtained prior to issuance of building permit</p>	<p>Deny issuance of building permit</p>	

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**MITIGATION MONITORING AND REPORTING PROGRAM
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Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring / Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record (Name/Date)
<p>BMP requirements in the most recent version of the California Stormwater Quality Association Stormwater Best Management Handbook-Construction or the Caltrans Stormwater Quality Handbook Construction Site BMPs Manual.</p>					
<p>X(a). Mitigation Measure HYDRO-2: Prior to a certificate of occupancy, the Project applicant shall verify that operational stormwater quality control measures that comply with the requirements of the current Phase II Small MS4 Permit have been implemented. Responsibilities include, but are not limited to:</p> <ol style="list-style-type: none"> 1) Designing BMPs into Project features and operations to reduce potential impacts to surface water quality and to manage changes in the timing and quantity of runoff associated with operation of the project. These features shall be included in the design-level drainage plan and final development drawings. 2) The proposed project shall incorporate site design measures and Low Impact Development design standards, including minimizing disturbed areas and impervious surfaces, infiltration, harvesting, evapotranspiration, and/or bio-treatment of stormwater runoff. 3) The Project applicant shall establish an Operation 	<p>Require as a condition of approval</p> <p>Project sponsor submits Phase II Small MS4 Permit to San Rafael Department of Public Works prior to issuance of certificate of occupancy</p>	<p>Planning Division</p> <p>Public Works Division</p>	<p>Incorporate as condition of project approval</p> <p>Public Works verifies appropriate approvals obtained prior to issuance of certificate of occupancy</p>	<p>Deny project</p> <p>Deny issuance of certificate of occupancy</p>	

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**MITIGATION MONITORING AND REPORTING PROGRAM
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Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring / Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record (Name/Date)
<p>and Maintenance Plan. This plan shall specify a regular inspection schedule of stormwater treatment facilities in accordance with the requirements of the Phase II Small MS4 Permit.</p> <p>4) Funding for long-term maintenance of all BMPs shall be specified.</p>					

XIII. NOISE

<p>XIII(a). Mitigation Measure NOISE-1: Implementation of the following measures would reduce construction noise levels emanating from the site, limit construction hours, and minimize disruption and annoyance.</p>	<p>Require as a condition of approval</p>	<p>Planning Division</p>	<p>Incorporate as condition of project approval</p>	<p>Deny project</p>	
<p>a. Construction activities shall be limited to the hours specified in the City of San Rafael's Municipal Code (7 am to 6 pm on weekdays and 9 am to 6 pm on Saturdays). No construction activities are permitted on Sundays and holidays.</p> <p>b. Limit use of the concrete saw to a distance of 50 feet or greater from residences, where feasible. Construct temporary noise barriers to screen stationary noise-generating equipment, such as the concrete saw, when located near adjoining sensitive land uses. Temporary noise barriers could reduce construction noise levels by 5 dBA.</p> <p>c. Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the</p>	<p>Project sponsor obtains approvals from appropriate agencies prior to issuance of building permits</p>	<p>Building Division</p>	<p>Building Division verifies appropriate approvals obtained prior to issuance of building permit</p>	<p>Deny issuance of building permit</p>	

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**MITIGATION MONITORING AND REPORTING PROGRAM
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Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring / Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record (Name/Date)
<p>equipment.</p> <p>d. Unnecessary idling or internal combustion engines should be strictly prohibited.</p> <p>e. Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors.</p> <p>f. Utilize "quiet" air compressors and other stationary noise sources where technology exists.</p> <p>g. Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the project site.</p> <p>h. Notify all adjacent business, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of "noisy" construction activities to the adjacent land uses and nearby residences.</p> <p>i. Designate a "disturbance coordinator" who would be responsible for responding to any complaints about construction noise. The disturbance coordinator will determine the cause of the noise complaint (e.g., bad muffler, etc.) and will require that reasonable measures be implemented to correct the problem. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include in it the notice sent to neighbors regarding the construction schedule.</p>					

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Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring / Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record (Name/Date)
XVII. TRANSPORTATION					
XVII(a). Mitigation Measure TRANS-1: The project sponsor shall construct a pedestrian sidewalk, subject to the availability of right-of-way and the feasibility of the drainage design, on the west side of Redwood Road directly adjacent to the project driveway connecting to the existing sidewalk.	Require as a condition of approval	Planning Division	Incorporate as condition of project approval	Deny project	
	Project sponsor obtains approvals from appropriate agencies prior to issuance of building permits	Public Works Division	Public Works Division verifies appropriate approvals obtained prior to issuance of building permit	Deny issuance of building permit	
XVIII. TRIBAL CULTURAL RESOURCES					

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**MITIGATION MONITORING AND REPORTING PROGRAM
350 Merrydale Road**

Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring / Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record (Name/Date)
<p>XVIII(a). Mitigation Measure TRIBAL-1: Implementation of the unanticipated discovery measures outlined in Section V(b) and (d) above, address the potential discovery of previously unknown resources within the project area. If significant tribal cultural resources are identified onsite, all work would stop immediately within 50 feet of the resource(s) and the project applicant would comply with all relevant State and City policies and procedures prescribed under PRC Section 21074.</p>	<p>Require as a condition of approval</p> <p>Project sponsor designates qualified professional pursuant to NAHC requirements and obtains approvals from appropriate agencies prior to issuance of building permits</p>	<p>Planning Division</p> <p>Planning /Building Division</p>	<p>Incorporate as condition of project approval</p> <p>Project sponsor to halt work immediately upon discovery of unknown resources</p> <p>Planning / Building Division verifies appropriate professionals/approvals obtained prior to issuance of building permit</p>	<p>Deny project</p> <p>Deny issuance of building permit</p>	

ORDINANCE NO. ____

AN ORDINANCE OF THE SAN RAFAEL CITY COUNCIL APPROVING A PLANNED DEVELOPMENT REZONING FROM PLANNED DEVELOPMENT (PD) DISTRICT (PD1594) TO A REVISED PD (ZC19-002), INCLUDING THE RESCISSION OF PD 1594, AND CREATION OF A NEW PD DISTRICT, TO ALLOW THE DEMOLITION OF EXISTING ONE-STORY BUILDINGS AND CONSTRUCTION OF NINE (9) THREE-STORY RESIDENTIAL BUILDINGS WITH A TOTAL OF 45 “FOR SALE” MULTI-FAMILY RESIDENTIAL UNITS (INCLUDING 9 BELOW-MARKET-RATE (BMR) UNITS), 94 PARKING SPACES, WITH NEW LANDSCAPING AND CREEKSIDE ENHANCEMENTS ON AN EXISTING 2.28 ACRE PARCEL LOCATED AT 350 MERRYDALE RD/3833 REDWOOD HWY (MERRYDALE TOWNHOMES) (APN’S: 179-041-27 AND 179-041-28)

WHEREAS, on September 17, 1990, the San Rafael City Council adopted Ordinance No. 1594, which established a Planned Development (PD) allowing the land use regulations for use of the property as a day care for training up to 120 developmentally disabled adults, consistent with conditions of approval in the Use Permit (UP90-22) approved by the Planning Commission on August 14, 1990; and

WHEREAS, the current Planned Development (PD1594) District zoning for this site does not allow residential development and does not contain appropriate land use limitations and development standards, as required by Section 14.07.060 of Title 14 of the San Rafael Municipal Code (Zoning Ordinance); and

WHEREAS, on November 8, 2019, Michael Hooper of Campus Properties, on behalf of the property owner, Ridgewood Properties, submitted an application for PD Rezoning (ZC19-002) requesting to establish the required development standards for the proposed redevelopment of the site to allow the construction of 45 residential “for sale” condominium units, including parking, landscaping and creekside enhancements; and

WHEREAS, on November 8, 2019, Michael Hooper of Campus Properties, on behalf of the property owner, Ridgewood Properties, also submitted accompanying applications for Environmental and Design Review Permit (ED18-100), Tentative Subdivision Map (TS18-006), Subdivision Exception (EX19-012), Use Permit (UP18-039) and Environmental Review/Initial Study (IS18-001) and these accompanying applications are being processed concurrent with the Rezoning application, as required by the Zoning Ordinance; and

WHEREAS, the application for the PD rezoning proposes to rescind the current PD 1594 and establish a new PD District for the property that would allow for multi-family residential use; and

WHEREAS, the proposed PD District land use and development regulations for the property are presented in Exhibit B attached hereto and incorporated by reference. The PD proposes to:

- a. Rescind the current PD 1594;
- b. Create a new PD Zoning District for the 350 Merrydale Rd/3833 Redwood Highway property;
- c. Establish permitted land uses in the new PD, that would mirror the current allowances in the High Density Residential (HR1) Zoning District;
- d. Establish development standards, including parking requirements, consistent with the HR1 Zoning District; and

WHEREAS, consistent with the requirement of the City of San Rafael Environmental Assessment Procedures Manual and the California Environmental Quality Act (CEQA) Guidelines, an

Initial Study was prepared finding that the proposed new 45-unit townhome development would not result in significant environmental effects, in that revisions to the project have been made and mitigation measures are required to mitigate any potential adverse impacts to less-than-significant levels. Mitigation Measures were identified to reduce the level of significance to less than significant in the following topical areas (Aesthetics, Air Quality, Biological Resources, Cultural Resources, Hydrology and Water Quality, Noise, Transportation, and Tribal Resources); and

WHEREAS, consistent with the provisions of CEQA, a Mitigation Monitoring and Reporting Program has been prepared to implement the project mitigation measures and to accompany the Mitigated Negative Declaration; and

WHEREAS, on July 17, 2018, the Design Review Board (“DRB” or “Board”) reviewed the project as a conceptual review item. The Board was largely supportive of the proposed building design but recommended changes, including greater sensitivity to the neighbors resulting from the roof decks, increasing the front setback along Merrydale Rd. to comply with the required 15-foot front setback, improving recreational activities for children on the site, addition of a Community Room, and provide information for the required trash enclosure; and

WHEREAS, on July 25, 2019, the applicant hosted a neighborhood meeting to have a more informal presentation and discussion with surrounding neighbors; and

WHEREAS, the applicant revised the project in response to the Board’s comments, as well as to public comments during the DRB and neighborhood meetings, including 1) providing a broader range of unit types and sizes, 2) providing a community room and outdoor patio complete with furnishings, 3) increasing the creek setback to a minimum of 25 ft.; 4) providing crane pads for creek maintenance; 5) increasing the front setback on the Merrydale frontage from 8 feet 1 inch to 15 feet, 2 inches from the Merrydale property line; 6) eliminating the proposed roof decks; 7) eliminating the proposed Accessory Dwelling Units (ADU’s); 8) eliminating the California Pepper tree species; 9) providing more details on the creek promenade area (which will also have amenities for youth to play); and 10) adding bio-retention information to the landscape plan. The side yard setback along the south property line was *reduced* from 10 feet to a setback of 7-9 feet (approximately) and some street parking was eliminated in order to re-design and eliminate the proposed building encroachment into the required 25’ creek setback; and

WHEREAS, on August 6, 2019, the DRB conducted a duly noticed public meeting and reviewed the formal application and plans submitted for the project. The Board found that the changes had adequately addressed their prior comments during conceptual review and in conclusion, the Board voted to recommend approval of the project design, with some minor changes. The motion was made by Member Saude and second by Member Rege. Motion to recommend approval of the project design passed 3-0-2 with Members Paul, Rege and Saude voting “aye” and Members Kent and Summers absent. The recommended modifications included:

- Community /Recreation Room and adjacent Paseo promenade needs to provide a more integrated indoor/outdoor common amenity for the residents.
- Visual impacts of AC units need to be mitigated better along public areas (Paseo and creek trail) and Merrydale frontage. The applicant is encouraged to explore greater landscape screening and/or relocating and grouping the AC units to the interior ends of the buildings.
- The project needs to incorporate greater sustainability into the design, including, but not limited to, pre-wiring all garages for EV charging stations and pre-wiring all roofs for PV rooftop solar systems.

WHEREAS, the applicant has incorporated all recommended changes in the revised plans;

WHEREAS, the project, including the Notice of Availability of the Initial Study/Mitigated Negative Declaration, along with the planning applications were publicly noticed 30 days in advance of the scheduled December 3, 2019 Planning Commission hearing, through the following means: 1) publishing a legal ad in the Marin Independent Journal on November 9, 2019; 2) subject site was posted with a public notice regarding the Mitigated Negative Declaration and the project applications; and 3) notices were published in a local newspaper of general circulation in the area and mailed to surrounding property owners within 400 feet, pertinent agencies (including responsible and trustee agencies), organizations and special interest groups pursuant to CEQA Guidelines Section 15072; and

WHEREAS, on December 10, 2019, the Planning Commission held a duly noticed public hearing on the proposed project accepting and reviewing public comment. On a 6-0-1 vote (Commissioner Samudzi absent) the Planning Commission adopted Resolutions Nos. 19-11 and 19-12 to recommend to the City Council: a) adoption of a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program for the project, and b) adoption of the PD District Rezoning, and c) conditional approval of the Environmental and Design Review Permit (ED18-100), Master Use Permit (UP19-039), Tentative Subdivision Map (TS18-006) and Subdivision Exception (EX19-012); and

WHEREAS, on February 3, 2020, by adoption of a separate resolution, the City Council adopted a Mitigated Negative Declaration and approved a Mitigation Monitoring and Reporting Program for the project; and

WHEREAS, on February 3, 2020, the City Council held a duly noticed public hearing on the proposed project, accepting and considering all oral and written public testimony and the written report of the Department of Community Development; and

WHEREAS, the custodian of documents which constitute the record of proceedings upon which this decision is based is the Community Development Department of the City of San Rafael; and

WHEREAS, as required by San Rafael Municipal Code Sections 14.07.090 and 14.27.060, the City Council makes the following findings in support of an ordinance to rescind the existing Planned Development (PD) District (PD 1594), as shown on the map contained in Exhibit "A" and further described in Exhibit "C," and to establish a new PD District as outlined in Exhibit "B" (350 Merrydale Residential Townhomes):

1. The Development Plan is consistent in principle with the San Rafael General Plan 2020 and other applicable City plans or policies in that the 350 Merrydale Rd. Residential Townhomes - *Planned Development District* document includes appropriate development standards, and is subject to an Environmental and Design Review Permit and a Master Use Permit, implementing the intent of Chapters 22 (Use Permit) and 25 (Environmental and Design Review Permit) of the San Rafael Zoning Ordinance (Title 14 of the San Rafael Municipal Code), Subdivision Ordinance (Title 15 of San Rafael Municipal Code), and the applicable General Plan land use policies, including:
 - a. The proposed project as designed and conditioned would be consistent with Land Use Element Policies LU-2 (*Development Timing*), LU-8 (*Density of Residential Development*), LU-10 (*Planned Development Zoning*), LU-12 (*Building Heights*), LU-23 (*Land Use Compatibility*), LU-23 (*Land Use Map and Categories*) given that the project: 1) would be approved at a time when there is adequate infrastructure to serve the proposed development; 2) 3) would not exceed the maximum density allowed in the GC Land Use category (34-72 units); 4) would not exceed the maximum building height of 36 feet allowed for this area of San Rafael; and 5) has been designed to minimize potential visual impacts on the surrounding residential properties by limiting bulk, mass and height;

- b. The proposed project as designed and conditioned would be consistent with Housing Element Policies H-2 (*Designs that Fit Into Neighborhoods*), H-3 (*Public Information and Participation*), H-14 (*Adequate Sites*), H-15 (*Infill Near Transit*), and H-19 (*Inclusionary Housing*), in that: 1) residential development is allowed on the site per the General Commercial General Plan Land Use designation; 2) the project design has been subject to review by the public and has been recommended for approval by the Design Review Board; 3) the project would add 45 units of housing within walking distance of mass transit, including the Civic Center SMART Train station, ½ mile from the project site of the SMART Train; and 4) the project would include nine (9) below-market-rate (BMR) units, five (5) affordable at the low-income level and four (4) at moderate-income level.
- c. The project is partially consistent with the applicable Neighborhoods Element Policy NH-2 (*New Development in Residential Neighborhoods*), NH-3 (*Housing Mix*), NH-17 (*Competing Concerns*), NH-151 (*New Development*), NH-86 (*Design Considerations for Development in the Vicinity of the Civic Center*), NH-128 (*Sidewalk Improvements*), NH-129 (*Neighborhood Parking*), NH-142 (*Redwood Highway Improvements*), and NH-148 (*Residential Uses at the end of Merrydale Rd.*) in that: 1) the proposed new 45-unit development has been designed to be a transitional use between existing commercial development and residential development on Merrydale Rd. The building design minimizes impacts to surrounding residential properties by providing code compliant front and side setbacks and preserving some existing trees at the perimeter of the project site and proposing 55 new trees on site; 2) 94 parking spaces are provided on the site in compliance with the required parking requirement for 45 units, and 4 new on-street parking spaces would be created along the east side of Merrydale Rd.; and 3) Redwood Highway would be extended and provide secondary access through the project site, allowing pedestrian access to the proposed new “creek promenade” on the north side of the site as well as vehicular access to Merrydale Rd.
- d. The project as proposed and as conditioned would be consistent with Community Design Element Policies CD-2 (*Neighborhood Identity*), CD-3 (*Neighborhoods*), CD-5 (*Views*), , CD-11 (*Multifamily Design Guidelines*), CD-14 (*Recreational Facilities*), CD-15 (*Participation in Project Review*), CD-18 (*Landscaping*), CD-19 (*Lighting*) in that the project design: 1) preserves, to the greatest extent possible, views the Civic Center from the adjacent one-story residential neighborhood. The building height is 33.5’ (less than the 36’ height limit allowed); 2) is generally in keeping with the mass and scale of adjacent commercial and residential development on the east side of Merrydale Rd. and would introduce a higher quality architectural design than currently present on the site; 3) provides landscaping to screen and enhance the project and site; 4) provides new “creek promenade” with landscaping and recreational amenities along Las Gallinas Creek to the north of the development; 5) creates adequate lighting without spillover onto adjacent properties or natural areas; and 6) has been reviewed by the Design Review Board and found to be consistent the applicable design policies of the General Plan and the City’s Residential Design Guidelines.
- e. The project as proposed and as conditioned would be consistent with Circulation Policies C-5 (*Traffic level of Service Standards*), C-7 (*Circulation Improvements Funding*), C-8 (*Eliminating and Shifting Peak Hour Trips*), C-9 (*Access for Emergency Services*), C-26 (*Bicycle Plan Implementation*) and C-31 (*Residential Area Parking*) in that the project: 1) would not exceed the acceptable level of service standards (LOS), LOS E, for both intersections or arterials; 2) would be

required to pay its fair share towards traffic impacts to fund circulation impacts in order to maintain acceptable LOS standards for the General Plan; 3) would maintain adequate access for emergency services as determined by the City's Public Safety Departments; and 4) would create a new Class III Bike Lane along Meerydale Rd. and install a new sidewalk along the east side of Merrydale, thereby facilitating better pedestrian access along Merrydale Rd. as well as pedestrian access to the new creek promenade area,

- f. The project as proposed and as conditioned would be consistent with Infrastructure Element Policies I-2 (*Adequacy of City Infrastructure and Services*), and I-10 (*Sewer Facilities*) in that: 1) the appropriate utility agencies have reviewed the project and determined that the property is currently being served. However, 1) Marin Municipal Water District (MMWD) has determined that the property's current annual water entitlement may be insufficient for the new uses and the purchase of additional water entitlement may be required, as well as compliance with all indoor and outdoor requirements of District Code Title 13 for water conservation; and 2) the Las Gallinas Valley Sanitation District (LGVSD) would continue to provide service to the project site, although the 45 proposed residential townhome units would result in an increase in intensity of development over existing uses. The LGVSD has reviewed the project, provided comments and will require that the development project submit an Application for Allocation of Capacity and pay additional capacity fees prior to submittal of a building permit. The project design incorporates sanitary sewer infrastructure that connects all residences to the current LGVSD sanitary system, including two possible infrastructure improvements: a) a gravity system and flow diversion with an updated LGVSD pump station, or b) a lift-station (with control cabinet) located in the southeastern corner of the project site for pumping sanitary sewer to the main LGVSD pump station (which would also be updated). Either design solution would satisfy LGVSD requirements for sanitary sewer service.
- g. The project as proposed and as conditioned would be consistent with the Sustainability Element Policies SU-5 (*Reduce Use of Non-Renewable Resources*), SU-6 (*Resource Efficiency in Site Development*), SU-7 (*New and Existing Trees*), SU-10 (*Zero Waste*) in that given that: 1) the revised project plans include a provision that all townhome units and stacked flats (to the extent practicable) will be provided with pre-wiring for photovoltaic rooftop solar systems; 2) all garage units will be provided with 220-volt power points suitable for EV charging; 3) the project will comply with the most recently adopted CBC (California Building Code) CalGreen and Title-24 Energy regulations; 4) conditions subject the project to the Marin Municipal Water District's most recently adopted water conservation and gray water regulations; 5) 55 new trees will be planted on site and 13 existing trees will be preserved on site; and 6) The project is proposing a covered and screened trash enclosure, the design and location of which has been reviewed and approved by Marin Sanitary Service (MSS).
- h. The project as proposed and as conditioned would be consistent with the Culture and Arts Element Policy CA-15 (*Protection of Archaeological Resources*) in that: 1) The existing buildings were constructed in 1967 or 1968 as a school facility but does not meet criteria as defined in CEQA Guidelines Section 15064.5. The existing structures and site have been modified over the years and do not appear to have any historical significance; and 2) the site for original construction of existing buildings would have disrupted any archaeological deposits if they were present. Indications of the disturbance would likely still be apparent when examining remnant soils. Based on the results of the cultural resources investigation conducted for the proposed project, no prehistoric or historic-period

archaeological resources were identified within the project area. However, mitigation measures have been included in the IS/MND MMRP (CULT-1 and CULT-2) to protect any resources found during construction activities.

- i. The project as proposed and as conditioned would be consistent with Park and Recreation Element Policy PR-10 (*On-site Recreation Facilities*) in that the project will provide a 500 sq. ft. “community room” for the residents which will include a kitchen area and bathroom. The community room will also have sliding glass doors that open onto an approximately 500 sq. ft. patio area, with planters seating, and a BBQ area.
- j. The project as proposed and as conditioned would be consistent with Safety Element Policies: S-1 (*Location of Future Development*), S-3 (*Use of Hazard Maps in Development Review*), S-4 (*Geotechnical Review*), S-6 (*Seismic Safety of New Buildings*), S-18 (*Storm Drainage Improvements*), S-25 (*Regional Water Quality Control Board (RWQCB) Requirements*), and S-32 (*Safety Review of Development Projects*) in that: 1) the project has been reviewed using the hazard maps and Geotechnical Review Matrix; 2) the geotechnical review and peer review concluded that the development on this site, with conditions, is feasible and appropriate from a geotechnical engineering standpoint; 3) the project would not include any hazardous materials or uses in its operations; 4) the development would be built to conform to current building and seismic safety codes; 5) the structure would be built in accordance with the Federal Emergency Management Agency (FEMA) regulations for this type of structure and use in a 500-year flood zone; 6) an erosion control plan would be required during construction of the project; 7) the drainage plan would direct all new run-off from the site into vegetative bio-retention areas before being released into the storm drain system; and 8) the project has been reviewed by the Police and Fire Department and found to be in conformance with their fire and crime prevention standards and would not pose a risk to public safety or impact their levels of service.
- k. The project as proposed and as conditioned would be consistent with Noise Element Policies N-1 (*Noise Impacts on New Development*), N-2 (*Exterior Noise Levels for Residential Use*), N-3 (*Planning and Design of New Development*), N-4 (*Noise from New Nonresidential Development*), and N-5 (*Traffic Noise from New Development*) in that the project: 1) Based on information in the Acoustical Report by Illingworth and Rodkin, the IS/MND analysis indicated that Building 2 through Building 7 would also exceed the 45 dBA Ldn threshold with windows partially open. With standard construction and forced-air ventilation, allowing occupants the option of keeping windows closed to control noise, Buildings 1, 2, 8, and 9 would achieve the 40 dBA Ldn and 45 dBA Ldn thresholds. The east facades of buildings 3, 4, 5, and 6, facing US-101, would be exposed to 70 dBA Ldn. The east facade of Buildings 2 and 7 would be partially shielded by the buildings to the east and would be exposed to 67 dBA Ldn. The west facade of Buildings 1 and 9 would be exposed to traffic noise from Merrydale Rd. up to 58 dBA Ldn. These levels are in the “Clearly Unacceptable” range in Exhibit 31 of the General Plan 2020. Therefore, the Acoustical Report recommended additional mitigation measures required prior to issuance of the building permit to required force-air ventilation and the appropriate STC window ratings to maintain interior noise levels at acceptable levels (see Environmental and Design Review Permit COA #25; 2) conditions and mitigations have been incorporated to reduce any temporary impacts due to construction (Initial Study Mitigation Measure NOISE-1); and 3) the Acoustical Report determined that the primary noise sources at the site would continue to be vehicular traffic on US- 101 and Merrydale Rd. US-101 is elevated by about 10 feet above the site. Based on traffic volumes provided in the Traffic Impact Assessment

local streets provide a minimum right-of-way of 60 feet and a minimum pavement width of 40 feet. Due to site constraints (creek and utility easements) the applicant is requesting an exception to allow a private street with an easement of 30 feet and a minimum pavement width of 20 feet and providing at least one sidewalk. This requires approval of an Exception request, pursuant to San Rafael Municipal Code Section 15.01.120(c). The City Engineer has reviewed the project and is in support of the Exception request.

5. The auto, bicycle and pedestrian traffic systems presented on the Development Plan are adequately designed for circulation needs and public safety in that: a) the Development Plan proposes sidewalks throughout the development for pedestrian access, including access to the proposed new creek promenade area; b) the project triggers the creation of a new Class III Bike Lane along Merrydale Rd.; c) the emergency vehicle ingress and egress from the development would be provided through the existing roadway, as well as from an extension of Redwood Highway (allowing traffic to pass through the development and access Merrydale Rd.) and has been found to be adequate by the City of San Rafael Fire and Police Departments; d) the access and site layout has been reviewed by the appropriate City Departments and it has been determined that an Exception to street width standards is appropriate and acceptable; and e) code compliant parking (94 spaces) will be provided on site, with an additional 4 new on-street spaces added to the east side of Merrydale Rd.
6. The public health, safety and welfare are served by the adoption of the proposed PD District, in that the project as proposed and conditioned: a) would implement housing and environmental goals and policies adopted for this site in the San Rafael General Plan 2020; b) would conform to City standards for safety; c) would be consistent with the recommended mitigation measures presented in the Initial Study/Mitigated Negative Declaration prepared for this project; and d) would address project impacts to privacy, traffic, and parking through the inclusion of conditions of approval on the Master Use Permit and Environmental and Design Review Permit.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN RAFAEL DOES HEREBY ORDAIN AS FOLLOWS:

DIVISION 1.

The Zoning Map of the City of San Rafael, California, adopted by reference by Section 14.01.020 of the San Rafael Municipal Code is amended by reclassifying the following real property from PD-1594 (Planned Development District 1594) to PD (Planned Development – Ordinance No. _____ District. Said property so reclassified is located at 350 Merrydale Rd/3833 Redwood Highway, San Rafael, as shown on County Assessor's Parcel No's: 179-041-27 and 179-041-28), as shown on the map attached as Exhibit "A" and described in Exhibit "C", which are incorporated by reference.

DIVISION 2.

Any development of this property shall be subject to the conditions outlined Exhibit "B", the *Merrydale Townhomes – Planned Development District*, which is attached hereto and made a part hereof.

DIVISION 3.

If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The Council hereby declares that it would have adopted the Ordinance and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more section, subsection, sentence, clause, or phrase be declared invalid.

DIVISION 4.

A summary of this ordinance shall be published and a certified copy of the full text of this Ordinance shall be posted in the office of the City Clerk at least five (5) days prior to the Council meeting at which it is adopted.

This ordinance shall be in full force and effect thirty (30) days after its final passage, and the summary of this ordinance shall be published within fifteen (15) days after the adoption, together with the names of those Councilmembers voting for or against same, in the Marin Independent Journal, a newspaper of general circulation published and circulated in the City of San Rafael, County of Marin, State of California.

Within fifteen (15) days after adoption, the City Clerk shall also post in the office of the City Clerk, a certified copy of the full text of this ordinance along with the names of those Councilmembers voting for or against the ordinance.

GARY O. PHILLIPS, Mayor

ATTEST:

LINDSAY LARA, City Clerk

The foregoing Ordinance No. ____ was introduced at a Regular Meeting of the City Council of the City of San Rafael, held on the 3rd day of February 2020 and ordered passed to print by the following vote, to wit:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

and will come up for adoption as an Ordinance of the City of San Rafael at a Regular Meeting of the Council to be held on the 18th day of February 2020.

LINDSAY LARA, City Clerk

- Exhibit A: Rezoning Map
- Exhibit B: Planned Development District Standards
- Exhibit C: Legal Property Description

Exhibit A

REZONING MAP



PD Rezoning to Rescind PD 1594 to create a new PD for these two properties known as 3833 Redwood Highway/350 Merrydale Rd

Exhibit B

MERRYDALE TOWNHOMES – PLANNED DEVELOPMENT DISTRICT

1. **PURPOSE OF PLANNED DEVELOPMENT DISTRICT**

The purpose of the Planned Development District for the 45-unit residential development is to regulate the development of a 2.28-acre site known as the Merrydale Townhomes located at 350 Merrydale Road/3883 Redwood Highway.

2. **LAND USE REGULATIONS**

- a) This PD permits a 45-unit residential condominium development on the 2.28-acre site, a 500 square foot Community Room for tenant use and a “Creek Promenade” area for use as a recreational amenity, as per approved plan Sheet SP-2.
- b) All other land uses shall follow the land use regulations set forth in the High Density Residential (HR1) District land use classification as contained in Zoning Ordinance (SRMC 14.04.020).
- c) Private Usable Open Space: Balconies provided for the units shall remain open and not be enclosed or otherwise screened with mesh or other materials.
- d) Common Usable Open Space on site to include:
 - Community Room: A flexible space to be used by residents with a clear interior dimension of 14’ 6” x 20’ 6” space, a kitchen area (with sink, stove and refrigerator) and bathroom and storage area. A ping pong table and stacking tables shall be provided for the space. The Community Room would have access to an exterior 500 sf patio area with planters, seating and a BBQ as shown in approved Plan Sheet L4. This community room shall remain available as a recreational space to all residents and shall not be converted into a living unit or a leasing office or storage space.
 - Creek Promenade: A creek promenade area shall be established along the north side of the project site, adjacent to the Las Gallinas Creek. The creek promenade shall be design with landscaping, removable fencing/benches/light bollards as per approved Plan Sheet L1 through L3. Passive play area activities shall be installed for children as per approved Plan Sheet L3. The promenade shall be used as a recreational amenity and is also designed to provide access to equipment for creek maintenance activities.
- e) Site Lighting fixtures (number and type) shall be installed as per approved Plan Sheet L11.

3. **DEVELOPMENT STANDARDS**

The Planned Development shall be developed in conformance with the development plans, associated drawings and reports submitted with the Planned Development as listed in the Exhibit section and the development standards set forth below.

- a) **Maximum Lot Coverage**
The maximum lot coverage for the site shall be 60% as shown on the development plan.
- b) **Floor Area Ratio: N/A**
- c) **Residential Density:** Maximum of 45 residential units. Accessory dwelling units (ADU’s) or Junior Dwelling Unit (JDU’s) are allowed on the site and do not count against the maximum residential density. Future ADU’s on site shall be subject to the same regulations stipulated in the Zoning Ordinance or as modified by State law.

Exhibit B

MERRYDALE TOWNHOMES – PLANNED DEVELOPMENT DISTRICT

d) **Minimum Yards:**

- Front: 15'
- Side: 5'
- Rear: 5'

e) **Maximum Building Height**

- Building height limits for this site is 36' per Exhibit 7 in San Rafael General Plan 2020.
- Exclusions to the maximum height limits shall be as prescribed by Section 14.16.120 of the Zoning Ordinance, as amended.

f) **Parking**

- Residential parking shall be provided as proposed: 94 on-site parking spaces (87 garage spaces, including 20 tandem spaces) and 7 uncovered on-site, on-street spaces (including 1 ADA space). The ADA space and on-street spaces on site shall be located as shown on approved Plan Sheet SP-2.
- Parking for ADU or JADU's shall follow the prescribed parking requirement in the Zoning Ordinance.

4. **EXHIBITS**

- a) Architectural Plans prepared by WHA Architects - Sheets SP1 through SP-7, and Architectural Plan Sheets A-1 through A-13.
- b) Civil Engineering Plans prepared by Oberkamper & Associates consisting of Sheet C-1 through C-5.
- c) Landscape Plan prepared by Ripley Design Landscape Architects, consisting of Sheets L1 through L12.
- d) Photometric Study prepared by Associated Lighting Representatives consisting of Sheet 1.

5. **AMENDMENTS**

- a) Amendments to uses that exceed the standards prescribed by this PD or propose uses that are not consistent with the land use regulations of the PD shall require an amendment to the PD District.
- b) Amendments to the design, color or materials of the structures or minor site modifications to site improvements or addition of minor accessory structures, shall be administered through an Environmental and Design Review Permit.

Exhibit C

Legal Property Description

The land referred to is situated in the County of Marin, City of San Rafael, State of California, and is described as follows:

Parcel B, as shown upon that certain Parcel Map entitled "Parcel Map Division of the Lands of Jacobson & Clayton Lots 1 to 13 and 22 to 31 Map of Subdivision "A" Gold Links Tract (2 Maps 7) City of San Rafael, California October 1982", filed for record November 9, 1983 in Book 21 of Parcel Maps, at Page 6, Marin County Records.

APN: 179-041-27
179-041-28

RESOLUTION NO. _____

RESOLUTION OF THE CITY OF SAN RAFAEL CITY COUNCIL CONDITIONALLY APPROVING AN ENVIRONMENTAL AND DESIGN REVIEW PERMIT (ED18-100), TENTATIVE SUBDIVISION MAP (TS18-006), MASTER USE PERMIT (UP18-039), AND SUBDIVISION EXCEPTION (EX19-012) TO ALLOW THE DEMOLITION OF EXISTING ONE-STORY BUILDINGS AND CONSTRUCTION OF NINE (9) THREE-STORY RESIDENTIAL BUILDINGS WITH A TOTAL OF 45 “FOR SALE” MULTI-FAMILY RESIDENTIAL UNITS (INCLUDING 9 BELOW-MARKET-RATE (BMR) UNITS), 94 PARKING SPACES, WITH NEW LANDSCAPING AND CREEKSIDE ENHANCEMENTS ON AN EXISTING 2.28 ACRE PARCEL LOCATED AT 350 MERRYDALE RD/3833 REDWOOD HWY (MERRYDALE TOWNHOMES) (APN’S: 179-041-27 AND 179-041-28)

WHEREAS, on September 17, 1990, the San Rafael City Council adopted Ordinance No. 1594, which established a Planned Development (PD) allowing the land use regulations for use of the property as a day care for training up to 120 developmentally disabled adults consistent with conditions of approval in the Use Permit (UP90-22) approved by the Planning Commission on August 14, 1990; and

WHEREAS, the current Planned Development (PD1594) District zoning for this site does not allow residential development and does not contain appropriate land use limitations and development standards, as required by Section 14.07.060 of Title 14 the San Rafael Municipal Code (Zoning Ordinance); and

WHEREAS, on January 18, 2018, Planning staff completed Pre-Application review (PA17-007) and provided technical feedback on compliance with various codes and regulations based on a preliminary design of a proposal to construct nine (9) three-story buildings with a total of 44 residential townhome units and 92 parking spaces and nine (9) below-market rate (BMR) units (with five (5) units available to low-income households and four (4) units available to moderate-income households); and

WHEREAS, on July 17, 2018, the Design Review Board (“DRB” or “Board”) provided Conceptual Design Review comments on the project, which proposed 44 “for sale” townhome units with building encroachments into the required 25-foot creek setback. The Board took public comments and provided recommendations for the project including: 1) providing a broader range of unit types and sizes, 2) providing a community room and outdoor patio complete with furnishings, 3) increasing the creek setback to a minimum of 25 ft; 4) providing crane pads for creek maintenance; 5) increasing the front setback on the Merrydale frontage from 8 feet 1 inch to 15 feet, 2 inches from the Merrydale frontage property line; 6) eliminating the proposed roof decks; 7) eliminating the proposed ADU’s; 8) eliminating the California Pepper tree species; 9) providing more details on the creek promenade area (which will also have amenities for youth to play); 10) adding bio-retention information to the landscape plan, and 11) providing information on the required trash enclosure; and

WHEREAS, on November 8, 2019, Michael Hooper of Campus Properties, on behalf of the property owner, Ridgewood Properties Inc, submitted a formal application for Environmental and Design Review Permit (ED18-100), Master Use Permit (UP18-039) Tentative Subdivision Map (TS18-006), and Subdivision Exception (EX19-012), and these applications and are being processed concurrent with the Rezoning application, as required by the Zoning Ordinance; and

WHEREAS, on November 8, 2019, Michael Hooper of Campus Properties, on behalf of the property owner, Ridgewood Properties, concurrently submitted an application for PD Rezoning (ZC19-002) requesting to establish the required development standards for the proposed redevelopment of the site to allow the construction of 45 residential “for sale” condominium units, parking, landscaping and creekside enhancements; and

WHEREAS, consistent with the requirement of the City of San Rafael Environmental Assessment Procedures Manual and the California Environmental Quality Act (CEQA) Guidelines, an Initial Study was prepared finding that the proposed new 45-unit townhome development would not result in significant environmental effects, in that revisions to the project have been made and mitigation measures are required to mitigate any potential adverse impacts to less-than-significant levels. Mitigation Measures were identified to reduce the level of significance to less than significant in the following topical areas (Aesthetics, Air Quality, Biological Resources, Cultural Resources, Geology and Soils, Hydrology and Water Quality, Noise, Transportation, and Tribal Resources); and

WHEREAS, consistent with the provisions of CEQA, a Mitigation Monitoring and Reporting Program has been prepared to implement the project mitigation measures and to accompany the Mitigated Negative Declaration; and

WHEREAS, on July 25, 2019, the applicant hosted a neighborhood meeting to have a more informal presentation and discussion with surrounding neighbors; and

WHEREAS, the applicant revised the project in response to the Board's comments, as well as to public comments during the DRB conceptual design review and neighborhood meetings, including 1) providing a broader range of unit types and sizes, 2) providing a community room and outdoor patio complete with furnishings, 3) increasing the creek setback to a minimum of 25 ft. 4) providing crane pads for creek maintenance. 5) increasing the front setback on the Merrydale frontage from 8 feet 1 inch to 15 feet, 2 inches from the Merrydale property line; 6) eliminating the proposed roof decks; 7) eliminating the proposed ADU's; 8) eliminating the California Pepper tree species; 9) providing more details on the creek promenade area (which will also have amenities for youth to play); and 10) adding bio-retention information to the landscape plan. The side yard setback along the south property line was *reduced* from 10 feet to a setback of 7-9 feet (approximately) and some street parking was eliminated in order to re-design and eliminate the proposed building encroachment into the required 25' creek setback; and

WHEREAS, on August 6, 2019, the DRB conducted a duly noticed public meeting and reviewed the formal application and plans submitted for the project. The Board found that the changes had adequately addressed their prior comments during conceptual review and in conclusion, the Board voted to recommend approval of the project design, with some minor changes. The motion was made by Member Saude and second by Member Rege. Motion to recommend approval passed 3-0-2, with Members Paul, Rege and Saude voting "aye" and Members Kent and Summers absent. The recommended modifications included:

- Community/Recreation Room and adjacent Paseo promenade needs to provide a more integrated indoor/outdoor common amenity for the residents.
- Visual impacts of A/C units need to be mitigated better along public areas (Paseo and creek trail) and Merrydale frontage. The applicant is encouraged to explore greater landscape screening and/or relocating and grouping the A/C units to the interior ends of the buildings.
- The project needs to incorporate greater sustainability into the design, including, but not limited to, pre-wiring all garages for EV charging stations and pre-wiring all roofs for PV rooftop solar systems.

WHEREAS, the applicant incorporated all recommended changes in the revised plan submitted to the Planning Commission; and

WHEREAS, the project, including the Notice of Availability of the Initial Study/Mitigated Negative Declaration, along with the planning applications were publicly noticed 30 days in advance of the scheduled December 10, 2019 Planning Commission hearing, through the following means: 1) publishing a legal ad in the Marin Independent Journal on November 9, 2019 pursuant to CEQA Guidelines Section 15072; 2) subject site was posted with a public notice regarding the Mitigated

Negative Declaration and project applications; and 3) notices were mailed to surrounding property owners within 400 feet, pertinent agencies (including responsible and trustee agencies), organizations and special interest groups; and

WHEREAS, on December 10, 2019, the San Rafael Planning Commission (Planning Commission) held a duly noticed a hearing to consider the PD rezoning (ZC19-002), Environmental and Design Review Permit (ED18-100), Tentative Map Subdivision (TS18-006), Use Permit (UP18-039), and Subdivision Exception (EX19-012) applications, accepted and considered all oral and written public testimony and the written report of Planning staff; and

WHEREAS, on December 10, 2019, following a public hearing and deliberation on the project, the Planning Commission voted 6-0-1 (Commissioner Samudzi absent) to adopt Planning Commission Resolution No. 19-12 to recommend approval of the Environmental and Design Review Permit (ED18-100), Tentative Map Subdivision (TS18-006), Use Permit (UP18-039), and Subdivision Exception (EX19-012) applications project to the City Council, subject to an additional condition of approval accepting the applicant's offer to 1) install pre-wiring in all garages for Level 2 electric vehicle chargers and 2) add pre-wiring for solar panels on roofs of all buildings; and

WHEREAS, on December 10, 2019, by adoption of a separate resolution, the Planning Commission recommended adoption of a PD Rezoning (ZC19-002) approval to rescind the current PD zoning and establish a new PD to allow for the multi-family development as presented in the proposed development plans, with appropriate development regulations and land use limitations for the residential use; and

WHEREAS, on February 3, 2020, by adoption of a separate resolution, the City Council adopted a Mitigated Negative Declaration and approved a Mitigation Monitoring and Reporting Program for the project; and

WHEREAS, on February 3, 2020, the San Rafael City Council held a duly noticed public hearing to consider the PD Rezoning (ZC19-002), Environmental and Design Review Permit (ED18-100), Tentative Map Subdivision (TS18-006), Use Permit (UP18-039), and Subdivision Exception (EX19-012) and accepted and considered all oral and written public testimony and the written report of Planning staff; and

WHEREAS, the custodian of documents which constitute the record of proceedings upon which this decision is based is the Community Development Department;

NOW THEREFORE BE IT RESOLVED that the City Council of the City of San Rafael does hereby make the following findings related to the applications for Environmental and Design Review Permit (ED18-100), Tentative Map Subdivision (TS18-006), Use Permit (UP18-039), and Subdivision Exception (EX19-012):

**Environmental and Design Review Permit Findings
(ED18-100)**

In accordance with San Rafael Municipal Code (SRMC) Section 14.25.090. Findings, the following findings are required for approval of an Environmental and Design Review Permit:

1. The Project design is in accord with the General Plan, the objectives of the Zoning Ordinance, and the purposes of the zoning district in which the site is located as noted above. A detailed discussion of the Project's consistency with the applicable General Plan policies is provided in detail in matrix format in the General Plan Consistency Analysis (Exhibit 5) included in the December 10, 2019 staff report to the Planning Commission.

- a) The proposed project as designed and conditioned would be consistent with Land Use Element Policies LU-2 (*Development Timing*), LU-8 (*Density of Residential Development*), LU-10 (*Planned Development Zoning*), LU-12 (*Building Heights*), LU-14 (*Land Use Compatibility*), LU-23 (*Land Use Map and Categories*) given that the project: 1) would be approved at a time when there is adequate infrastructure to serve the proposed development; 2) the proposed 45-units would not exceed the maximum density allowed in the GC Land Use category (34-72 units); 3) would not exceed the maximum building height of 36 feet allowed for this area of San Rafael; and 4) has been designed to minimize potential visual impacts on the surrounding residential properties by limiting bulk, mass and height.
- b) The proposed project as designed and conditioned would be consistent with Housing Element Policies H-2 (*Designs that Fit Into Neighborhoods*), H-3 (*Public Information and Participation*), H-14 (*Adequate Sites*), H-15 (*Infill Near Transit*), and H-19 (*Inclusionary Housing*), in that: 1) residential development is allowed on the site per the General Commercial General Plan Land Use designation; 2) the project design has been subject to review by the public and has been recommended for approval by the Design Review Board; 3) the project would add 45-units of housing within walking distance of mass transit, including the Civic Center SMART Train station (½ mile from the project site of the SMART Train); and 4) the project would include nine (9) below-market-rate (BMR) units (five (5) affordable at the low-income level and four (4) at moderate-income level). The project is partially consistent with the applicable Neighborhoods Element Policy NH-2 (*New Development in Residential Neighborhoods*), NH-3 (*Housing Mix*), NH-17 (*Competing Concerns*), NH-151 (*New Development*), NH-86 (*Design Considerations for Development in the Vicinity of the Civic Center*), NH-128 (*Sidewalk Improvements*), NH-129 (*Neighborhood Parking*), NH-142 (*Redwood Highway Improvements*), and NH-148 (*Residential Uses at the end of Merrydale Rd.*) in that: 1) the proposed new 45-unit development has been designed to be a transitional use between existing commercial development and residential development on Merrydale Rd. The building design minimizes impacts to surrounding residential properties by providing code compliant front and side setbacks and preserving some existing trees at the perimeter of the project site and proposing 28 new trees on site; 2) 94 parking spaces are provided on the site in compliance with the required parking requirement for 45-units, and 4 new on-street parking spaces would be created along the east side of Merrydale Rd.; 3) Redwood Highway would be extending and provide secondary access through the project site, allowing pedestrian access to the proposed new “creek promenade” on the north side of the site as well as vehicular access to Merrydale Road.
- c) The project as proposed and as conditioned would be consistent with Community Design Element Policies CD-2 (*Neighborhood Identity*), CD-3 (*Neighborhoods*), CD-5 (*Views*), CD-11 (*Multifamily Design Guidelines*), CD-14 (*Recreational Facilities*), CD-15 (*Participation in Project Review*), CD-18 (*Landscaping*), and CD-19 (*Lighting*) in that the project design: 1) preserves, to the greatest extent possible, views the Civic Center from the adjacent one-story residential neighborhood. The building height is 33.5’ (less than the 36’ height limit allowed); 2) is generally in keeping with the mass and scale of adjacent commercial and residential development on the east side of Merrydale Road and would introduce a higher quality architectural design than currently present on the site; 3) provides landscaping to screen and enhance the project and site; 4) provides new “creek promenade” with landscaping and recreational amenities along Las Gallinas Creek to the north of the development; 5) creates adequate lighting without spillover onto adjacent properties or natural areas; and 6) has been reviewed by the Design Review Board and found to be consistent the applicable design policies of the General Plan, the City’s Residential Design Guidelines and Civic Center Station Plan.
- d) The project as proposed and as conditioned would be consistent with Circulation Policies C-5 (*Traffic Level of Service Standards*), C-7 (*Circulation Improvements Funding*), C-8 (*Eliminating and Shifting Peak Hour Trips*), C-9 (*Access for Emergency Services*), C-26 (*Bicycle Plan*

Implementation) and C-31 (*Residential Area Parking*) in that the project: 1) would not exceed the acceptable level of service standards (LOS), LOS E, for both intersections or arterials; 2) would be required to pay its fair share towards traffic impacts to fund circulation impacts in order to maintain acceptable LOS standards for the General Plan; 3) would maintain adequate access for emergency services as determined by the City's Public Safety Departments; and 4) would create a new Class III Bike Lane along Merrydale Road and install a new sidewalk along the east side of Merrydale, thereby facilitating better pedestrian access along Merrydale Road as well as pedestrian access to the new creek promenade area,

- e) The project as proposed and as conditioned would be consistent with Infrastructure Element Policies I-2 (*Adequacy of City Infrastructure and Services*), and I-10 (*Sewer Facilities*) in that: 1) the appropriate utility agencies have reviewed the project and determined that the property is currently being served. However, 1) Marin Municipal Water District (MMWD) has determined that the property's current annual water entitlement may be insufficient for the new uses and the purchase of additional water entitlement may be required, as well as compliance with all indoor and outdoor requirements of District Code Title 13 for water conservation.; and 2) the Las Gallinas Valley Sanitation District (LGVSD) would continue to provide service to the project site, although the 45 proposed residential townhome units would result in an increase in intensity of development over existing uses. The LGVSD has reviewed the project, provided comments and will require that the development project submit an Application for Allocation of Capacity and pay additional capacity fees prior to submittal of a building permit. The project design incorporates sanitary sewer infrastructure that connects all residences to the current LGVSD sanitary system, including two possible infrastructure improvements, 1) a gravity system and flow diversion with an updated LGVSD pump station, or 2) a lift-station (with control cabinet) located in the southeastern corner of the project site for pumping sanitary sewer to the main LGVSD pump station (which would also be updated). Either design solution would satisfy LGVSD requirements for sanitary sewer service.
- f) The project as proposed and as conditioned would be consistent with the Sustainability Element Policies SU-5 (*Reduce Use of Non-Renewable Resources*), SU-6 (*Resource Efficiency in Site Development*), SU-7 (*New and Existing Trees*), and SU-10 (*Zero Waste*) in that given that: 1) the revised project plans include a provision that all townhome units and stacked flats (to the extent practicable) will be provided with pre-wiring for photovoltaic rooftop solar systems; 2) all garage units will be provided with 220-volt power points suitable for EV charging; 3) the project will comply with the most recently adopted CBC (California Building Code) CalGreen and Title-24 Energy regulations; 4) conditions subject the project to the Marin Municipal Water District's most recently adopted water conservation and gray water regulations; 5) 55 new trees will be planted on site and 13 existing trees will be preserved on site; and 6) the project is proposing a covered and screened trash enclosure, the design and location of which has been reviewed and approved by Marin Sanitary Service (MSS).
- g) The project as proposed and as conditioned would be consistent with the Culture and Arts Element Policy CA-15 (*Protection of Archaeological Resources*) in that: 1) The existing buildings were constructed in 1967 or 1968 as a school facility but does not meet the criteria for a "historic resource" as defined in CEQA Guidelines Section 15064.5. The existing structures and site have been modified over the years and do not appear to have any historical significance; and 2) the site for original construction of existing buildings would have disrupted any archaeological deposits if they were present. Indications of the disturbance would likely still be apparent when examining remnant soils. Based on the results of the cultural resources investigation conducted for the proposed project, no prehistoric or historic-period archaeological resources were identified within the project area. However, mitigation measures have been included in the IS/MND MMRP (CULT-1 and CULT-2) to protect any resources found during construction activities.

- h) The project as proposed and as conditioned would be consistent with Park and Recreation Element Policy PR-10 (*On-site Recreation Facilities*) in that the project will provide a 500 square foot “community room” for the residents which will include a kitchen area and bathroom. The community room will also have sliding glass doors that open onto an approximately 500 square foot patio area, with planters seating, and a BBQ area.
- i) The project as proposed and as conditioned would be consistent with Safety Element Policies: S-1 (*Location of Future Development*), S-3 (*Use of Hazard Maps in Development Review*), S-4 (*Geotechnical Review*), S-6 (*Seismic Safety of New Buildings*), S-18 (*Storm Drainage Improvements*), S-25 (*Regional Water Quality Control Board (RWQCB) Requirements*), and S-32 (*Safety Review of Development Projects*) in that: 1) the project has been reviewed using the hazard maps and Geotechnical Review Matrix; 2) the geotechnical review and peer review concluded that the development on this site, with conditions, is feasible and appropriate from a geotechnical engineering standpoint; 3) the project would not include any hazardous materials or uses in its operations; 4) the development would be built to conform to current building and seismic safety codes; and 5) the structure would be built in accordance with the Federal Emergency Management Agency (FEMA) regulations for this type of structure and use in a 500-year flood zone; 6) an erosion control plan would be required during construction of the project; 7) the drainage plan would direct all new run-off from the site into vegetative bio-retention areas before being released into the storm drain system; and 8) the project has been reviewed by the Police and Fire Department and found to be in conformance with their fire and crime prevention standards and would not pose a risk to public safety or impact their levels of service.
- j) The project as proposed and as conditioned would be consistent with Noise Element Policies N-1 (*Noise Impacts on New Development*), N-2 (*Exterior Noise Levels for Residential Use*), N-3 (*Planning and Design of New Development*), N-4 (*Noise from New Nonresidential Development*), and N-5 (*Traffic Noise from New Development*) in that the project: 1) Based on information in the Acoustical Report by Illingworth and Rodkin, the IS/MND analysis indicated that Building 2 through Building 7 would exceed the 45 dBA Ldn threshold with windows partially open. With standard construction and forced-air ventilation, allowing occupants the option of keeping windows closed to control noise, Buildings 1, 2, 8, and 9 would achieve the 40 dBA Ldn and 45 dBA Ldn thresholds. The east facades of buildings 3, 4, 5, and 6, facing US-101, would be exposed to 70 dBA Ldn. The east facade of Buildings 2 and 7 would be partially shielded by the buildings to the east and would be exposed to 67 dBA Ldn. The west facade of Buildings 1 and 9 would be exposed to traffic noise from Merrydale Road up to 58 dBA Ldn. These levels are in the “Clearly Unacceptable” range in Exhibit 31 of the General Plan 2020. Therefore, the Acoustical Report recommended incorporation of conditions of approval including providing suitable form or forced-air mechanical ventilation, and sound rated construction for Building 3 through Building 7 to maintain interior noise levels at acceptable levels; and 2) conditions and mitigations have been incorporated to reduce any temporary noise impacts due to construction (Initial Study Mitigation NOISE-1). 3) the Acoustical Report determined that the primary noise sources at the site would continue to be vehicular traffic on US-Hwy 101 and Merrydale Rd. US Hwy-101 is elevated by about 10 feet above the site. Based on traffic volumes provided in the Traffic Impact Assessment Report prepared for the proposed project, traffic noise levels are calculated to increase by 1 dBA along Merrydale Rd. under future conditions (2040) due to increases in traffic volumes on Merrydale Road. An increase in 1 dBA would be barely detectable to typical human hearing and is not considered a significant increase..
- k) The project as proposed and as conditioned would be consistent with Conservation Element Policies CON-6 (*Creek and Drainageway Setbacks*), CON-7 (*Public Access to Creeks*), CON-8 (*Enhancement of Creeks and Drainageways*), CON-9 (*Native and/or Sensitive Habitats*), CON-14 (*Special Status Species*), and CON-16 (*Landscape with Native Plant Species*) in that the proposed project: 1) would maintain setbacks from the creek and provide creek enhancements

with added landscaping and pedestrian access point; 2) would not impact a wildlife corridor since the site is currently developed and biological assessments have found no such corridors; 3) would not impact any sensitive or threatened/endangered species or habitats; 4) has been conditioned to ensure that disturbance to any potential nesting birds be avoided during construction; and 5) would provide new trees and shrubs throughout the site, as well as bio-retention areas to facilitate proper site drainage.

- 1) The project as proposed and as conditioned would be consistent with Air and Water Quality Element Policies: AW-1 (*State and Federal Standards*), AW-2 (*Land Use Compatibility*), AW-4 (*Particulate Matter Pollution Reduction*), AW-7 (*Local, State and Federal Standards*), and AW-8 (*Reduce Pollution from Urban Runoff*) since the project: 1) would comply with local, state and federal air quality standards; 2) mitigation measures have been incorporated to address temporary air quality impacts during construction; 3) drainage systems have been designed to utilize vegetated swales before discharging drainage into storm drain systems or the creek; and 4) methods consistent with the Storm Water Pollution Prevention Standards of the Regional Water Quality Board have been incorporated into the design and conditions have been included to require compliance with these standards.
2. The project design, as proposed and as conditioned, is consistent with the objectives and criteria of the Zoning Ordinance, and the purposes of Chapter 14.25 (*Environmental and Design Review Permit*) in that:
 - a) The development presents a competent design that has been thoughtfully studied and presented to the Design Review Board, both as a conceptual design and then as a formal application design. The proposed project site plan, building design and landscaping were revised to incorporate recommendations by the Board. The proposed 3-story buildings have been design to minimize bulk and mass, and the height (33.5') is 2.5' lower than the 36' height limit allowed. A Community Room was added to the site and pedestrian walkways throughout the site were enhanced. The buildings comply with all required setbacks (front, side and rear yards) and decks have been designed as recessed decks to preserve privacy to adjacent property windows along the south property line. The project has also be reviewed by the San Rafael Meadows Neighborhood Association, as well as local residents during informal project meetings with the applicant and a formal Neighborhood Meeting (including a 15-day noticed sent to property owners and tenants within 400 feet of the project site). The design of the project has been modified based on comments from both residents and the Board.
 - b) The site plan respects site features and constraints by maintaining a 25' setback from Las Gallinas Creek and at the same time, enhancing and incorporating the creek into the project site design. The south bank of the creek will be enhanced with vegetation and will be designed as a "creek promenade" area, with passive recreational amenities for children and a pedestrian pathway with lighting and benches. The pathway is designed to also accommodate access as required by maintenance vehicles. Several existing trees (13) will be preserved at the perimeter of the site and new trees (55 total) will be planted, including new trees along both the Merrydale Road and Redwood Highway frontage. Additional trees will be planted along the south property line to provide additional privacy to the adjacent residential development.
 - c) The materials and colors that have been included in the proposed architecture are consistent with the context of the surrounding area. Specifically, building materials are flush, textured and vertical metal panels and roofing and building colors would be a combination of green, tan and brown colors. The lower portion of the buildings will include manufactured stone on the façade. The proposed colors and materials would effectively blend the proposed building with the predominant colors of the surrounding natural setting.
 - d) The proposed site plan would utilize the existing drainage facilities and would not alter the drainage patterns of the site. Furthermore, the plan would direct all new run-off to vegetated

swales to filter any pollutants from the run-off consistent with storm water pollution prevention standards.

3. The project design with conditions minimizes adverse environmental impacts in that:
 - a) The building and site improvement are sited to provide adequate setbacks from the creek to the north.
 - b) The project would not cause the level of service at nearby intersections to exceed the standards of the General Plan. Furthermore, the project would be required to pay its fair share of traffic mitigation fees to contribute to a planned, area-wide traffic improvements in the North San Rafael area.
 - c) Potential environmental impacts have been addressed through the preparation of an Initial Study and Mitigated Negative Declaration (IS/MND) consistent with the requirements of the California Environmental Quality Act (CEQA). The IS/MND concluded that the proposed project would result in potentially significant impacts in Aesthetics, Air Quality, Biological Resources, Cultural Resources, Geology and Soils, Hydrology and Water Quality, Noise, Transportation, and Tribal Resources. The project impacts would be mitigated to a less-than-significant level through implementation of recommended mitigation measures or through compliance with existing Municipal Code requirements or City standards. Recommended measures are summarized in the Mitigation Monitoring and Reporting Plan (MMRP) and IS/MND (Exhibit 2).
4. The project design, as proposed and as conditioned, will not be detrimental to the public health, safety or welfare, nor materially injurious to properties or improvements in the vicinity in that:
 - a) The environmental impacts associated with the development of the project have been assessed and the project impacts can be mitigated to less-than-significant levels with the implementation of specific mitigation measures as discussed in Environmental and Design Review Permit Finding #3 above.
 - b) The project design would blend with the surrounding neighborhood on Merrydale Road, acting as a transitional use in an area which has both commercial, single-family and multi-family development. The project would also preserve the natural environment of the existing Las Gallinas Creek on the north side of the property by planting trees and creating a pedestrian walkway/passive children's recreational play area. Furthermore, the project's siting, scale and mass has been designed to minimize visual impacts on adjacent properties, and the new lighting is within the 1-foot candle (Fc) limit along the property line. The site is subject to a condition of approval requiring a 90-day lighting review to adjust lighting levels and reduce glare as needed to eliminate spillover glare onto adjacent properties.

Tentative Map Findings (TS18-006)

1. The proposed map is consistent with the San Rafael General Plan and any applicable, adopted specific plan or neighborhood plan as noted in Environmental and Design Review Permit Finding #1 above and the General Plan Consistency Table (Exhibit 5) included in the December 10, 2019 staff report to the Planning Commission and as noted in Environmental and Design Review Permit finding #1 above. The purpose of the map is to allow the creation of 45 residential air space condominium units. The development is proposed as a "phased" development, consisting of a Phase One ("pre-phase") commencing in Spring of 2020 for on and off-site improvements to complete building Phase Two construction of Buildings 1-4 and all landscaping north of Private street "A" by fall of 2021, and Phase Three construction of Buildings 5-9, tree removal along the south property line and all remaining landscaping by Summer 2022.

2. The design or improvement of the subdivision is consistent with the San Rafael General Plan and any pertinent, adopted specific plan or neighborhood plan in that: 1) the subdivision would create 45-units on the 2.28-acre parcel, which is in keeping with the allowable density (15-32 units/acre or 34-72 units) per the General Commercial Land Use Designation as well as consistent with the Civic Center Station Area Plan, which encourages multi-family housing in this location. The proposed project is consistent with the applicable development standards for HR1 (High Density Residential) required setbacks (used as most similarly zoned district with which to set development standards, based on adjacent multi-family development similarly zoned HR1); and 2) the City has balanced the regional and local housing needs against the public service needs of its residents, as well as available fiscal and environmental resources, and concludes that adequate public services are available to the site based on existing service providers that have reviewed the project and indicated that subject to conditions of approval, the system has the capacity to provide service.
3. The property subject to subdivision is physically suitable for the density of development that is proposed in that: a) the proposed subdivision would create 45 air condominium units on site, which is below the maximum density allowable per General Plan 2020 (72 units); b) the project would also provide two-car garages for all units, which complies with the required parking in the zoning ordinance and all qualifying concessions allowed for affordable housing projects; c) ample, code compliant private and common usable open space is provided for the project; and d) the proposed subdivision would create air condominiums, with no impact on the actual orientation of the physical lots on the ground level in terms of property lines.
4. The design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat in that: a) the site is currently graded and developed with no known environmental resources on the site; b) the site is an in-fill site that has been designated in the General Plan as General Commercial Land Use. Residential development is allowed at a density of 15-32 units per acres; and c) An Initial Study/Mitigated Negative Declaration has been prepared and appropriate mitigation measures identified in the Mitigation Monitoring and Reporting Program (BIO-1) to reduce any impacts identified to a less-than-significant.
5. The design of the subdivision or the type of the proposed improvements is not likely to cause serious health problems in that: a) it is a residential project in keeping with the existing residential zoning in the project vicinity; b) the proposed project would be built in accordance with the latest Building and Fire codes to ensure the health and safety of future residents and adjacent neighbors; c) the City's Public Works Department and Las Gallinas Valley Sanitation District have reviewed the drainage and proposed sewer connections for the project site and deemed the project design to be in keeping with City standards, subject to conditions of approval; and d) as conditioned, the proposed subdivision would not result in impacts to water quality or impacts to environmental resources in that an erosion control plan is required as a condition of project approval, which must be implemented before any grading or construction commences on the site.
6. The design of the subdivision or the type of proposed improvements will not conflict with existing identified easements on site (including a 25' Marin County Flood Control easement and a 15' wide maintenance easement immediately adjacent to the 25' flood control easement). A north/south roadway easement (along Redwood Highway on the east side of the site is to remain. In addition, the project proposes to provide a new Public Access Easement/Public Utility Easement (PAE/PUE) which will be provided at the time of recordation of the Final Map. This PAE/PUE comprises Private Street B providing pedestrian, vehicular, fire truck and trash truck access and required parking.

**Master Use Permit Findings
(UP18-039)**

1. The proposed 45-unit residential townhome development at 350 Merrydale/3833 Redwood Hwy, landscaping, Community Room and the associated 94 parking spaces on site will be in accord with the San Rafael Municipal Code (the Zoning Ordinance) and the purpose of the rezoned Planned Development District in which the site is located, given that:
 - a) As documented in the General Plan 2020 Consistency Table (Exhibit 5 of the 12/10/19 Staff Report to the Planning Commission) and as noted in Environmental and Design Review Permit Finding #1 above, the proposed project would implement and promote the goals as policies of the San Rafael General Plan 2020.
 - b) As documented in the Zoning Ordinance Consistency Table (Exhibit 6 of the 12/10/19 Staff Report to the Planning Commission), the proposed project would be consistent with the objectives of the Zoning Ordinance; and 3) the proposed project would be consistent and compatible with the purposes of the PD District and the High Density Residential (HR1) Zoning District development standards (comparable to the adjacent properties to the south) given that:
 - i. the project site will be rezoned to accommodate the proposed residential development, with setbacks, height and parking provided in keeping with the high-density residential development on adjacent properties on the south eastern side of Merrydale Rd;
 - ii. The project would provide a wide variety of housing types (market rate and affordable “for-sale” condominium units) and sizes (ranging from 741 to 836 sf for the 1-bedroom units, 1,285 to 1,461 sf for the 2-bedroom units, 1,461 to 2,119 sf for the 3-bedroom units and 2,119 sf for the 4-bedroom units);
 - iii. The project would comply with the creek setback standard pursuant to SRMC Section 14.16.080 by providing a 25’ creek setback along the south side of the existing Las Gallinas Creek;
 - iv. The proposed project would create a new “creek promenade”, with improvements to the area adjacent to the creek that would accommodate a “dual use” for both required creek maintenance activities by the City and recreational uses for adults with walkways and benches and a passive play area for children; and
 - v. the project has been reviewed by appropriate City departments and non-city agencies and determined that adequate infrastructure exists to meet all new service demands.
2. The proposed new residential buildings would not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity, or to the general welfare of the City, given that the project has been reviewed by appropriate City departments, non-City agencies, and the appropriate surrounding neighborhood groups, interested parties, the Design Review Board at two separate meetings (Conceptual Design Review on July 17, 2018 and Design Review on the formal application on August 6, 2019). In addition, pursuant to CEQA regulations, the project required preparation of an Initial Study to review potential project impacts on the environment. Potential impacts were identified to Aesthetics, Air Quality, Biological Resources, Cultural Resources, Geology and Soils, Hazards and Hazardous Materials, Hydrology and Water Quality, Noise, Transportation, and Tribal Cultural Resources that would require mitigation to reduce the potential negative impacts from the proposed project to a less-than-significant level. The required mitigation measures for each are identifies in the IS/MND Mitigation Monitoring and Reporting Program (Exhibit 2, Pages A-1 through A-18).
3. The proposed use of the site would comply with each of the applicable provisions of the PD District, as amended, and other applicable provisions of the Zoning Ordinance in that the City Council has adopted an ordinance to rezone the current PD (1594) Zoning.

Subdivision Exception Findings (EX19-012)

1. As documented in the Subdivision Ordinance Compliance Table (Exhibit 7) included in the December 10, 2019 staff report to the Planning Commission, there are special circumstances and/or conditions of the property proposed for subdivision that warrant the approval of the exception to requirements per San Rafael Municipal Code Section 15.06.050 (c) which requires a minimum right-of-way of 60 feet for local streets, and a minimum pavement width of 40'. The project site is located at the terminus of Redwood Hwy and near the end of Merrydale Rd. The site comprises 2.28 acres but is encumbered by the Marin County Flood Control District (Creek) easement and the City of San Rafael maintenance easement totaling 0.32 acres, reducing the net area of the Project Site available for development to 1.96 acres. In addition, the east property line is bounded by the Caltrans right-of-way (ROW) for US Hwy 101, which limits access. The project is requesting an exception to allow a private street with an easement of 30' and a minimum pavement width of 20' and providing at least one sidewalk. In order to provide the required back-up distance for the garages and provide sidewalks to allow pedestrian walkways, the exception to the roadway width was proposed. In addition, the site design includes the creation of a new "through" street, providing access from Redwood Highway (Private Street "B") via Private Street "A" to Merrydale Rd.
2. That the exception is necessary for the preservation and enjoyment of a substantial property right of the subdivider or property owner. The property is designed as for-sale condominiums. In order to provide quality of design that fits into the character of the neighborhood, with ample access to a garage, common open space and private patios, the proposed exception would preserve the owner's ability to align the proposed subdivision more closely with the target density.
3. That the granting of the exception will not be detrimental to the public welfare or injurious to other property in the vicinity in which the property is situated. The reduced ROW and pavement width would have minimal impacts as the site is near the terminus of Merrydale Road and the City streets of Merrydale Road and Redwood Hwy are the primary routes for adjacent properties and the proposed privately maintained roads primarily serve the residential development itself. Future through traffic is hindered by the nearby SMART train ROW and Caltrans ROW. The 30' wide roadway provides the full width necessary for emergency vehicle access. Therefore, there is no detriment to public welfare and does not cause injury to adjacent properties.

BE IT FURTHER RESOLVED, that the City Council hereby conditionally approves the applications for the Environmental and Design Review Permit (ED18-100), Master Use Permit (UP18-039) Tentative Subdivision Map (TS18-006), and Subdivision Exception (EX19-012), subject to the conditions of approval listed below:

Environmental and Design Review Permit Conditions of Approval (ED18-100)

General Project Conditions

Community Development Department - Planning Division

- 1) The proposed 45-unit townhome development shall be installed and designed in substantial conformance with the proposed site plan and elevations and landscape plan as presented for approval on plans prepared by WHA Architects, date stamped **Approved, December 10, 2019**, and shall be the same as required for issuance of a building permit, subject to the listed conditions of approval. Minor modifications or revisions to the project shall be subject to review and approval of the Community Development Department, Planning Division. Modifications deemed not minor by

the Community Development Director shall require review and approval by the original decision-making body.

- 2) Approved colors for the main body, trim and accent colors are as shown on the approved Color and Material Board: a) Sherman Williams Paint for Body Colors- High Reflective White (SW 7757), Gossamer Veil (SW 9165), Tin Lizzie (SW9163), Jute Brown (SW 6096); b) Trim Color -Thunder Gray (SW 7645); c) Accent Colors-Deep Sea Dive (SW 7618), Rookwood Terra Cotta (SW2803), and Raisin (SW7630); and d) Manufactured Stone (Timberwolf). Any future modification to colors shall be subject to review and approval by the Planning Division. Modifications deemed not minor by the Community Development Director shall require review and approval by the Design Review Board.
- 3) Applicant shall remit payment of the State Fish and Game fees in order for staff to file a Notice of Determination with the County Clerk within 5 days of project approval. The current fee amounts are \$2,354.74 (current fee as of 2018) payable to the State Fish and Game and \$50.00 payable to the Marin County Clerk and are subject to increase on January 1st of each year.
- 4) Applicant and property owner shall be responsible for implementing all mitigation measures presented in the Project's Mitigated Negative Declaration, on file with the Community Development Department, including any mitigation measures that may not have been incorporated into the Project conditions of approval. A deposit for Mitigation Monitoring shall be paid as required by ED18-100 project Conditions of Approval #31, herein.
- 5) The project shall comply with all mitigation measures as identified in the IS/MND Mitigation Measure Monitoring and Program, dated November 8, 2019. All required mitigation measures are identified in the Mitigation Monitoring and Reporting Program (MMRP) as recommend for adopted by separate Resolution and included as conditions of approval. The IS/MND determined that the proposed project would result in potentially significant impacts in Aesthetics, Air Quality, Biological Resources, Cultural Resources, Geology and Soils, Hazards and Hazardous Materials, Hydrology and Water Quality, Noise, Transportation and Tribal Resources. The IS/MND identifies Mitigation Measures that, when implemented, would reduce the impacts identified to a less-than-significant level. These mitigation measures are also identified as conditions of approval in the relevant sections herein and detailed in the IS/MND Mitigation Monitoring and Reporting Program (Exhibit 2- Attachment A).
- 6) Property owner and applicant agree to defend, indemnify, release and hold harmless the City, its agents, officers, attorneys, employees, boards and commissions from any claim, action or proceeding brought against any of the foregoing individuals or entities ("indemnities"), the purpose of which is to attack, set aside, void or annul the approval of this application or the certification of any environmental document which accompanies it. This indemnification shall include, but not be limited to, damages, costs, expenses, attorney fees or expert witness fees that may be asserted or incurred by any person or entity, including the applicant, third parties and the indemnities, arising out of or in connection with the approval of this application, whether or not there is concurrent, passive or active negligence on the part of the indemnities.
- 7) In the event that any claim, action or proceeding as described above is brought, the City shall promptly notify the Property owner and applicant of any such claim, action or proceeding, and the City will cooperate fully in the defense of such claim, action, or proceeding. In the event applicant/property owner is required to defend the City in connection with any said claim, action or proceeding, the City shall retain the right to: 1) approve the counsel to so defend the City; 2) approve all significant decisions concerning the manner in which the defense is conducted; and 3) approve any and all settlements, which approval shall not be unreasonably withheld. Nothing herein shall prohibit the City from participating in the defense of any claim, action or proceeding, provided

that if the City chooses to have counsel of its own to defend any claim, action or proceeding where Property owner and applicant already has retained counsel to defend the City in such matters, the fees and the expenses of the counsel selected by the City shall be paid by the City.

- 8) As a condition of this application, applicant/property owner agree to be responsible for the payment of all City Attorney expenses and costs, both for City staff attorneys and outside attorney consultants retained by the City, associated with the reviewing, process and implementing of the land use approval and related conditions of such approval. City Attorney expenses shall be based on the rates established from time to time by the City Finance Director to cover staff attorney salaries, benefits, and overhead, plus the actual fees and expenses of any attorney consultants retained by the City. Applicant shall reimburse City for City Attorney expenses and costs within 30 days following billing of same by the City.
- 9) All site improvements, including but not limited to, site lighting, fencing, landscape islands and paving striping shall be maintained in good, undamaged condition at all times. Any damaged improvements shall be replaced in a timely manner.
- 10) The Project site shall be kept free of litter and garbage. Any trash, junk or damaged materials that are accumulated on the site shall be removed and disposed of in a timely manner.
- 11) All new landscaping shall be irrigated with an automatic drip system and maintained in a healthy and thriving condition, free of weeds and debris, at all times. Any dying or dead landscaping shall be replaced in a timely fashion.
- 12) Final landscape and irrigation plans for the Project shall comply with the provisions of Marin Municipal Water District's (MMWD) most recent water conservation ordinance. Construction plans submitted for issuance of building/grading permit shall be pre-approved by MMWD and stamped as approved by MMWD or include a letter from MMWD approving the final landscape and irrigation plans. Modifications to the final landscape and irrigation plans, as required by MMWD, shall be subject to review and approval of the Community Development Department, Planning Division.
- 13) All public streets and sidewalks and on-site streets which are privately owned that are impacted by the grading and construction operation for the Project shall be kept clean and free of debris at all times. The general contractor shall sweep the nearest street and sidewalk adjacent to the site on a daily basis unless conditions require greater frequency of sweeping.
- 14) This Environmental and Design Review Permit shall run with the land and shall remain valid regardless of any change of ownership of the Project site, subject to these conditions, provided that a building/grading permit is issued, and construction commenced, or a time extension request is submitted to the City's Community Development Department, Planning Division, **within three (3) years** of the City Council approval, or on December 10, 2022. Failure to obtain a building permit and grading permit and construction or grading activities commenced, or failure to obtain a time extension within the three-year period will result in the expiration of this Environmental and Design Review Permit.
- 15) Phasing of the project is allowed, subject to the terms and conditions of approval of the Master Use Permit (UP18-039) below.
- 16) This Environmental and Design Review Permit (ED18-100) approving the Project shall run concurrently with the approved Master Use Permit (UP18-039). If either entitlement expires, this Environmental and Design Review Permit approving the Project, as depicted on Project plans, shall also expire and become invalid.

Prior to the Issuance of a Demo/Building/Grading Permit

Community Development Department - Planning Division

- 17) A copy of the Conditions of Approval for ED18-100 shall be included as a plan sheet with the building permit plan submittal.
- 18) As offered by the applicant, the project shall: 1) install pre-wiring for "Level 2" electric vehicle chargers in each garage; and 2) install pre-wiring for solar panels on all buildings/units. Compliance with this condition shall be demonstrated on the building permit plans and installed prior to occupancy.
- 19) The project proponent shall demonstrate and notate on the building permit plans that Air Quality measures III (a), III (b) and III(c) (**AQ-1, AQ1a and AQ-2**) to eliminate dust control and exhaust during construction, set standards for diesel equipment over 25 horsepower to meet U.S. particle emission standards, and requires that the project include high-efficiency particulate filtration systems in residential ventilation systems will be completed during construction.
- 20) (**GEO-1**): Prior to a grading or building permit submittal, the project sponsor shall prepare a design-level geotechnical investigation prepared by a qualified and licensed geotechnical engineer and submit the report to the City Engineer. Minimum mitigation includes design of new structures in accordance with the provisions of the current California Building Code or subsequent codes in effect when final design occurs. Recommended seismic design coefficients and spectral accelerations shall be consistent with the findings presented in Section 4 of the May 8, 2018 ENGEO report.
- 21) (**GEO-2**): Prior to a grading or building permit submittal, the project sponsor shall prepare a design-level geotechnical investigation prepared by a qualified and licensed geotechnical engineer and submit the report to the City Engineer for review and approval. In order to reduce the effects of the potentially expansive soils and/or liquefaction settlement, foundations should be designed to withstand minimum differential movements. Foundation design recommendations are presented in Section 4 of the May 8, 2018 ENGEO report.
- 22) (**GEO-3**): Prior to a grading or building permit submittal, the project sponsor shall prepare a site drainage system prepared by a qualified and licensed civil engineer and submit the report to the City Engineer. The site drainage system will demonstrate the ability to collect surface water and discharge into an established storm drainage system. The project Civil Engineer of Architect is responsible for designing the site drainage system and, an erosion control plan shall be developed prior to construction per the current guidelines of the City of San Rafael Public Works Department (DPW) Grading and Construction Erosion and Sediment Control Plan Permit Application Package and the Regional Water Quality Control Board standards.
- 23) (**GEO-4**): Soils shall be moisture conditioned to above the optimum moisture content during site grading and maintained at this moisture content until imported aggregate base and/or surface flatwork is completed.
- 24) (**TRANS-1**): demonstrate on building permit or improvement plans the design of the pedestrian sidewalk, subject to the availability of right-of-way and the feasibility of the drainage design, on the west side of Redwood Road directly adjacent to the project driveway connecting to the existing sidewalk.
- 25) (**HYDRO-1**): Prior to issuing a grading or building permit, the project applicant shall prepare a Stormwater Pollution Prevention Plan (SWPPP) and/or Erosion and Sediment Control Plan (ESCP) in accordance with the requirements of the statewide Construction General Permit and the

City of San Rafael Department of Public Works. The SWPPP shall be prepared by a Qualified SWPPP Developer (QSD). The SWPPP shall include the minimum Best Management Practices (BMPs) required for the identified risk level. The SWPPP shall be designed to address the following objectives:

- a) All pollutants and their sources, including sources of sediment associated with construction, construction site erosion, and all other activities associated with construction activity are controlled;
 - b) Where not otherwise required to be under a Regional Water Quality Control Board permit, all non-stormwater discharges are identified and either eliminated, controlled, or treated;
 - c) Site BMPs are effective and result in the reduction or elimination of pollutants in stormwater discharges and authorized non-stormwater discharges from construction activity. The erosion and sediment control plan shall include the rationale used for selecting BMPs including supporting soil loss calculations, as necessary;
 - d) Stabilization BMPs installed to reduce or eliminate pollutants after construction are completed.
 - e) BMP implementation shall be consistent with the BMP requirements in the most recent version of the California Stormwater Quality Association Stormwater Best Management Handbook-Construction or the Caltrans Stormwater Quality Handbook Construction Site BMPs Manual.
- 26) The applicant shall provide information on the building permit plans to show compliance with noise Mitigation Measures recommended on Page 74 of the Illingworth and Rodkin Noise Assessment regarding required forced-air ventilation and STC rated windows on all buildings. Minimum STC Ratings required to reduce noise levels are listed in Table 5 on Page 22 of the Noise Report.
- 27) **(BIO-1): Pre-construction nesting bird and bat survey.** The nesting season is defined here as being from February 1 to August 31 and therefore work should commence between September 1 and January 31.
- i) If this is not possible, and project activities are initiated during the nesting season, then a nesting bird survey shall be conducted by a qualified wildlife biologist no more than 14 days prior to the start of project activities.
 - ii) If nests are identified, a no-disturbance buffer should be implemented to avoid impacts to nesting birds and should remain in place until all young are fledged or the nest otherwise becomes inactive.
 - iii) Buffers typically range from 25 feet to 500 feet depending on the species.
 - iv) If work is to be initiated within the bat breeding/ winter roosting season, an assessment of existing buildings should be performed prior to construction activities to determine if a roost is present.
 - v) If a roost is observed, construction activities should be postponed until a qualified biologist determines the bats are excluded from the roost location.
- 28) **(HAZ-1):** Prior to submittal for a demolition permit, the project sponsor shall use a qualified and licensed professional to prepare a hazardous building materials survey for all structures proposed for demolition or renovation as part of the project. All lead-based paint and asbestos-containing materials (ACM) shall be abated by a certified contractor in accordance with local, state, and federal requirements. All hazardous materials shall be removed from buildings prior to demolition in accordance with California Division of Occupational Safety and Health (DOSH) and California Department of Toxic Substances Control (DTSC) regulations. A completion of abatement activities report shall be prepared by a qualified professional and submitted to the City prior to permit approval.

- 29) **(HAZ-2):** Prior to submittal for a demolition permit, the project sponsor shall use a qualified and licensed professional to prepare a Soil Management Plan to develop protocols and procedures for handling potentially impacted soils or underground structure/equipment that may be encountered during grading operations and other construction activities as part of the project. If impacted soils or underground structure/equipment are encountered during construction activities, all construction shall stop, and a qualified and licensed professional shall be contacted to conduct a site visit to make observations and prepare recommendations for proper handling of soils and/or structures/equipment.
- 30) Bicycle parking shall be provided in compliance with San Rafael Municipal Code Section 14.18.090. This requires bicycle spaces provided on site at a minimum of 5% of total vehicle parking, including a minimum of one two bike capacity rack for short term bicycle parking. Final plans shall include a design detail for proposed bicycle parking spaces, proposed number and location subject to final review and approval by the Community Development Department and Traffic Engineer.
- 31) The proposed project will be required to provide bicycle improvements along Merrydale Rd. in keeping with the 2018 adopted update of the San Rafael Bicycle/Pedestrian Master Plan, which identifies Merrydale Rd. for a Class III Bike Route. The applicant will be required to install the appropriate signage and striping along Merrydale Road (fronting the project site) to signify that the street is a Class III Bike Lane. Specifics of the bike lane striping are subject to final review and approval by the Community Development Department and Traffic Engineer.
- 32) Property Owner/applicant shall be responsible for all costs associated with mitigation monitoring and shall remit an initial deposit in the amount of \$5,000.00 for mitigation monitoring and condition compliance. Staff shall bill time against this deposit amount during Project review and implementation of the Project and monitoring of Project conditions, to assure compliance with conditions and mitigation measures has been achieved.
- 33) All mechanical equipment (i.e., air conditioning units, meters and transformers) and appurtenances not entirely enclosed within the structure (on side of building or roof) shall be screened from public view. The method used to accomplish the screening shall be indicated on the building plans and approved by the Planning Division.
- 34) Any outstanding Planning Division application processing fees shall be paid.
- 35) A construction logistics plan shall be submitted demonstrating how construction conditions shall be met. The plan must be approved by the Public Works Department and Community Development Director and shall include the conditions of approval and mitigation measures that are applicable to the construction of the Project.
- 36) The project shall be subject to the affordable housing requirements prescribed in Section 14.16.030 of the San Rafael Zoning Ordinance and is therefore required to provide nine (9) of the 45 for-sale units as affordable. Prior to the issuance of a building permit or recordation of the final map, whichever occurs first, a Below Market Rate (BMR) agreement for the nine (9) affordable unit shall be approved by the City Council and recorded on the property. Consistent with the affordable housing requirements, five (5) of the units shall be affordable to low-income household and four (4) of the units shall be affordable at the moderate-income level. The location of the BMR units shall be identified on the project plans and the final location shall be subject to review and approval of the City as part of the City's consideration of the BMR agreement. Please contact the Marin Housing Authority to commence the agreement process.
- 37) Protective barrier fencing shall be installed during construction to protect existing trees that are to remain on site, as per the approved landscape plan. Plans showing the fencing, signage and barrier

details shall be included on Project plans. The fencing shall be a minimum four-foot orange mesh protected by hay bales and signage designed to avoid intrusion by construction workers and equipment.

- 38) The project shall be subject to the affordable housing requirements prescribed in Section 14.16.030 of the San Rafael Zoning Ordinance and is therefore required to provide nine (9) of the 45 for-sale units as affordable. Prior to the issuance of a building permit or recordation of the final map, whichever occurs first, a Below Market Rate (BMR) agreement for the nine (9) affordable unit shall be approved by the City Council and recorded on the property. Consistent with the affordable housing requirements, five (5) of the units shall be affordable to low-income household and four (4) of the units shall be affordable at the moderate-income level. The location of the BMR units shall be identified on the project plans and the final location shall be subject to review and approval of the City as part of the City's consideration of the BMR agreement. Please contact the Marin Housing Authority to commence the agreement process. Should the project not record a final map, the BMR agreement will be modified to a rental agreement and comply with the affordable housing requirements for rental, which would be five (5) units affordable at very-low income level and (4) at low-income level.

Public Works Department - Land Development Division

General

- 39) The proposed private roads do not meet the requirements for Right-of-Way/Easement width or paving width per Municipal Code (MC) section 15.06.050. An exception request pursuant to Municipal Code 15.01.120 has been received and we have no objection to the proposed widths based on the necessary findings.
- 40) It is our understanding that the applicant has provided the minimum garbage facilities required. However, the location and potential for higher demand may necessitate additional storage for a condominium project of this size. We recommend the applicant provide a method to address this in the future if the project is approved as currently proposed.
- 41) Redwood Hwy and Merrydale Rd do not currently have a cul-de-sac or other vehicular turn around for the dead ends, this project proposes a public access easement over the privately maintained roadways to connect the two which will allow for through circulation. With through public access provided, turnarounds are not required at the end of the publicly maintained roadways.
- 42) The site is located in or near areas that may be susceptible to localized flooding, or the drainage of the site may be influenced by larger flooding events. We recommend that the applicant consider these concerns, as well as potential impacts due to sea level rise.
- 43) Third party peer review of geotechnical and engineering reports and inspection throughout construction shall be required, paid for by the project sponsor and contracted by the City. Provide a proposed project schedule for the duration of work, so that an estimate may be prepared for the required deposit amount.
- 44) Provide will serve letters from the various utilities for the proposed subdivision.
- 45) It is our understanding that there the sanitary sewer system is currently proposed as a gravity flow. However, LGSVD may require mitigation to alleviate flow in the downstream sewer, or that a pump station may be necessary. We recommend that as a condition of approval the applicant provide the will serve letter showing that all requirements from LGSVD shall be met prior to issuance of a permit.

Access

46) Provide the lighting analysis, include the frontage for Merrydale Rd and Redwood Hwy.

Grading

47) Show the estimate of proposed grading on the plan. This project is located along an open creek. Therefore, all mass grading shall be limited to April 15 through October 15, unless otherwise approved in writing by the Department of Public Works.

48) A grading permit shall be obtained for all grading and site improvement work. Trucking trips during peak hours may be limited.

49) A preliminary geotechnical report has been provided. This does not thoroughly analyze the geotechnical concerns but references that design-level explorations should be conducted prior to site development once more detailed plans have been prepared. The project is in application for design. Therefore, the subsequent geotechnical report shall be a condition of approval. However, the findings of that report may affect the design of the project, which may require re-review of the project.

50) All plans, reports, monitoring, inspection and testing for the proposed project will be reviewed by an independent Geotechnical Engineer and/or Engineering Geologist retained by the City, at the expense of the project sponsor. This third-party consultant will review all plans, reports, monitoring, inspection and testing data prior to appropriate approvals and/or certifications. A letter report summarizing findings and recommendations shall be submitted by the geotechnical engineer to the City Engineer for review and approval, as well as incorporation into grading plans. Final grading and foundation techniques shall be developed by a certified geotechnical engineer or engineering geologist and reviewed and approved by the City.

51) A construction management plan shall be provided for review and approval by the City.

- a) All materials and equipment shall be staged on-site.
- b) The construction management plan shall include the traffic control plan to address on-site and off-site construction traffic.
- c) A screened security fence approved by the City shall be placed and maintained around the perimeter of the project and removed immediately following construction work
- d) Truck routes shall be reviewed and approved by the City. Hauling shall be limited to 1 truck in and 1 truck out per 15 minutes during the AM and PM peak, which may be revised at the time of grading permit issuance.

52) This project includes over one (1) acre of disturbance. A SWPPP shall be required.

53) Phasing of the project shall be configured to develop the area adjacent to the creek first along with the infrastructure. This area is required for access, maintenance and drainage. This would allow for early establishment of vegetation in this area to reduce potential impacts to the creek. Due to the size of the project and configuration, the infrastructure required on and off site shall be developed as part of phase one. Infrastructure items that are commonly delayed to later phases shall be reviewed by the Department of Public Works, such as final lift of asphalt.

Drainage

54) This site includes work in or immediately adjacent to a creek. The applicant shall comply with requirements of the various creek permitting agencies and obtain all necessary permits.

Pet waste bags, signage and trash receptacles shall be provided in convenient locations to reduce the likelihood of litter near the creek path.

- 55) The final drainage plan shall be subject to review and approval by the City Engineer. The final drainage plan shall address the following:
- a) The plans shall show the existing drainage facilities
 - b) Runoff shall not be increased, leaving the project boundary
 - c) Filtration shall be required for particles equal to or larger than 5mm, so they do not enter into the City's storm drainage system
 - d) Placards (medallions) shall be installed on all new drainage inlets to prohibit dumping of pollutants. These are available from the City or MCSTOPPP
 - e) A stormwater facilities maintenance agreement shall be required
 - f) How the project's drainage system shall be maintained, whether separate for each site or together along with the other development improvements.
 - g) The drainage plan shall be developed in consideration with the findings of the geotechnical report.
- 56) The site drainage system is located at elevations that may be subject to tidally influenced surcharge events. The drainage system shall include backflow prevention.
- 57) Frontage improvements shall include where necessary, street lighting, conduit for City facilities, accessible curb ramp pairs, drainage facilities, street trees, sidewalk, curb and gutter. This shall be reviewed at the time of permit issuance.
- 58) Due to the level of improvements we recommend that as a condition of approval the full width of Merrydale Rd be resurfaced with this project, additionally we suggest that this be extended to the intersection with Las Gallinas, as this is one of the only two sites that currently take access from this end of Merrydale Rd. The extents of resurfacing shall be reviewed based on existing conditions at the time of permit issuance.
- 59) An encroachment permit is required for any work within the Right-of-Way, from the Department of Public Works located at 111 Morphew Street. Restriping of public streets shall be of thermoplastic, as approved by the Department of Public Works.

Traffic

- 60) The Traffic Impact Study (TIS) has been updated, dated October 3, 2019 and previous comments have been addressed.
- 61) The proposed project results in additional trips generated at the site. Based on the draft traffic impact study and the additional proposed unit, this results in an estimated **17 AM and 19 PM** peak hour trips. Using the current traffic mitigation fee rate this results in an estimated fee of (36*\$4,246) \$152,856 which shall be calculated and due at the time of building permit issuance.
- 62) A construction vehicle impact fee shall be required at the time of building permit issuance; which is calculated at 1% of the valuation, with the first \$10,000 of valuation exempt.

Community Development Department – Building Division

- 63) The design and construction of all site alterations shall comply with the 2016 California Building Code (CBC), 2016 California Plumbing Code (CPC), 2016 California Electrical Code (CEC), 2016 California Mechanical Code CCMC), 2016 California Fire Code (CFC), 2016 California Energy Code, 2016 California Green Building Standards Code and City of San Rafael Ordinances and Amendments.

- 64) A building permit is required for the proposed work. Applications shall be accompanied by four (4) complete sets of construction drawings to include:
- a) Architectural plans
 - b) Structural plans
 - c) Electrical plans
 - d) Plumbing plans
 - e) Mechanical plans
 - f) Site/civil plans (clearly identifying grade plane and height of the building)
 - g) Structural Calculations
 - h) Truss Calculations
 - i) Soils reports
 - j) Green Building documentation
 - k) Title-24 energy documentation
- 65) Building height and story must comply with CBC Section 504. On the plan justify the proposed building area and height.
- 66) Building areas are limited by CBC Table 506.2. On plan justify the proposed building area.
- 67) The maximum area of unprotected and protected openings permitted in the exterior wall in any story of a building shall not exceed the percentages specified in CBC Table 705.8 "Maximum Area of Exterior Wall Openings Based on Fire Separation Distance and Degree of Opening Protection." To calculate the maximum area of exterior wall openings you must provide the building setback distance from the property lines and then justify the percentage of proposed wall openings and include whether the opening is unprotected or protected.
- 68) Townhouses more than three stories above grade in height must comply with the CBC. CBC Table 705.8 allows:
- a) 15% exterior wall openings (in any story) in sprinklered buildings where the openings are 3' to less than 5' from the property line or buildings on the same property.
 - b) 25% exterior wall openings (in any story) in sprinklered buildings where the openings are 5' to less than 10' from the property line or buildings on the same property.
 - c) 45% exterior wall openings (in any story) in sprinklered buildings where the openings are 10' to less than 15' from the property line or buildings on the same property.
- 69) Each building must have address identification placed in a position that is plainly legible and visible from the street or road fronting the property. Numbers painted on the curb do not satisfy this requirement. In new construction and substantial remodels, the address must be internally or externally illuminated and remain illuminated at all hours of darkness. Numbers must be a minimum 4 inches in height with ½ inch stroke for residential occupancies and a minimum 6 inches in height with ½ inch stroke for commercial applications. The address must be contrasting in color to their background SMC 12.12.20.
- 70) Bollards must be placed in the garage to protect mechanical equipment, water heater, and washer dryer from vehicular damage when located in the path of a vehicle.
- 71) Any demolition of existing structures will require a permit. Submittal shall include three (3) copies of the site plan, asbestos certification and PG&E disconnect notices. Also, application must be made to the Bay Area Air Quality Management District prior to obtaining the permit and beginning work.
- 72) School fees will be required for the project. Calculations are done by the San Rafael City Schools, and those fees are paid directly to them prior to issuance of the building permit.

- 73) Based on the distance to the property line (and/or adjacent buildings on the same parcel), the building elements shall have a fire resistive rating not less than that specified in CBC Table 601 and exterior walls shall have a fire resistive rating not less than that specified in CBC Table 602.
- 74) Walls separating proposed tenant space from existing neighboring tenant spaces must be a minimum of 1-hour construction.
- 75) Multifamily dwelling and apartment accessible parking spaces shall be provided at a minimum rate of 2 percent of the covered multifamily dwelling units. At least one space of each type of parking facility shall be made accessible even if the total number exceeds 2 percent.
- 76) When parking is provided for multifamily dwellings and is not assigned to a resident or a group of residents, at least 5 percent of the parking spaces shall be accessible and provide access to grade-level entrances of multifamily dwellings and facilities (e.g. swimming pools, club houses, recreation areas and laundry rooms) that serve the dwellings. Accessible parking spaces shall be located on the shortest accessible route to an accessible building, or dwelling unit entrance.
- 77) Public accommodation disabled parking spaces must be provided according the following table and must be uniformly distributed throughout the site.

Total Number of Parking Spaces Provided	Minimum Required Number of H/C Spaces
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	Two percent of total
1,001 and over	Twenty, plus one for each 100 or fraction thereof over 1,001

- 78) At least one disabled parking space must be van accessible; 9 feet wide parking space and 8 feet wide off- load area. Additionally, one in every eight required handicap spaces must be van accessible.
- 79) This project is subject to the City of San Rafael Green Building Ordinance. A sliding scale is applied based on the average unit square footage. New multi-family dwellings must comply with the “Green Building Rating System” by showing a minimum compliance threshold between 65 and 75 points. Additionally, the energy budget must also be below Title 24 Energy Efficiency Standards a minimum 15%.

Fire Department – Fire Prevention Bureau

- 80) Prior to issuance of building permit, the following requirements shall be added to the building permit plans as Sheet SP-6:
- a) Fire Lane signage shall be installed at both entrances that meet City of San Rafael Parking Enforcement standards.

- b) KNOX box installation at Community Rec Room exterior wall.
- c) Fire Sprinkler system conforming to NFPA standards installed throughout.
- d) all hydrants to be Clow model 960 appliances.

81) Plan Sheet SP-6 (Fire Engine Truck Access Plan) shall be part of the building permit submittal packet and reviewed by the Fire Department as part of the building permit review.

Las Gallinas Valley Sanitation District

82) Las Gallinas Valley Sanitation District has determined that the proposed project is within the Sphere of Influence and District facilities boundary. The proposed project must apply for and receive an allocation of sewer capacity from this District before it can receive sewer services. The proposed project must make satisfactory arrangements with this District for the construction of any off-site or on-site sewers which may be required. The District has provided the following comments, as of October 15, 2019: The District will consider a gravity option with the following conditions:

- a) The initial report from Nute Engineering has indicated that a gravity option is not feasible without flow diversion within the District collection system and upgrades to Rafael Meadows Pump Station. This option is subject to final review by Nute Engineering. The District anticipates receiving the Nute's final recommendation and preliminary construction cost estimate by end of October 2019.
- b) The District has considered constructing flow diversion structures at its own expense to alleviate surcharging of sanitary sewers in the area. However, at the minimum, applicant may be required to cost share the electrical and pump upgrades to the Rafael Meadows Pump Station, pending District Board approval.
- c) If a gravity option is not feasible, the District will require a dedicated private pump station in addition to the Rafael Meadows Pump Station upgrades as described above. The private pump station option shall comply with the following conditions:
 - i) The pump station design shall meet the requirements set by the Regional Water Quality Control Board and other regulatory agencies.
 - ii) The pump station shall include backup generator and pumps with series of sensors and alarm systems to alert District staff of pump failure and potential sewage overflows.
 - iii) The pump station shall comply with city ordinance general noise limits (chapter 8.13), which at a minimum are 60dBA intermittent daytime and 50dBA intermittent nighttime.
- d) Applicant shall submit plans **electronically** to LGVSD for review and approval. A Will Serve Letter will be issued based on the following:
 - i) Approved plans designed with District standard details and specifications.
 - ii) Compliance with District requirements outlined in previous plan reviews.
 - iii) Other requirements based on future submittals.

Marin Municipal Water District

83) The applicant must enter into a pipeline extension agreement with the Marin Municipal Water District for the installation of the necessary facilities and said agreement must be approved by the District's Board of Directors. All costs associated with a pipeline extension are borne by the applicant.

84) Complete a High-pressure Water Service Application

- 85) Pay appropriate fees and charges
- 86) Complete the structure's foundation within 120 days of the date of application
- 87) Comply with the District's rules and regulations in effect at the time service is requested, including the installation of a separate water service for each residential structure.
- 88) Comply with all indoor and outdoor requirements of District Code Title 13 – Water Conservation. This may include ventilation of specific indoor fixture efficiency compliance.
- 89) If you are pursuing a landscaping project subject to review by your local planning department and/or subject to a city permit, please contact the district water conservation department at 415-945-1497 or e-mail to plancheck@marinwater.org. More information about district water conservation requirements can be found online at www.marinwater.org.
- 90) Comply with the backflow preventer requirements, if upon the District's review backflow protection is warranted, including installation, testing and maintenance. Questions regarding backflow requirements should be directed to the Backflow Prevention Program Coordinator at 415-945-1558.
- 91) Comply with Ordinance No.429 requiring the installation of gray water recycling systems when practicable for all projects required to install new water service and existing structures undergoing "substantial remodel" that necessitates an enlarged water service.
- 92) Comply with California water Code – Division 1, Chapter 8, Article 5, Section 537; which requires individual metering of multiple living units within newly constructed structures.

During Construction and Grading

Community Development Department – Planning Division

- 93) Construction hours and activity (including any and all deliveries) are limited to the applicable requirements set forth in Chapter 8.13 of the San Rafael Municipal Code.
- 94) **AIR QUALITY (AQ-1)**: Include basic measures to control dust and exhaust during construction. During any construction period ground disturbance, the applicant shall ensure that the project contractor implement measures to control dust and exhaust. Implementation of the measures recommended by BAAQMD and listed below would reduce the air quality impacts associated with grading and new construction to a less-than-significant level. The contractor shall implement the following best management practices that are required of all projects:
- a) All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
 - b) All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
 - c) All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
 - d) All vehicle speeds on unpaved roads shall be limited to 15 miles per hour (mph).
 - e) All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
 - f) Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.

- g) All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
- h) Post a publicly visible sign with the telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.

95) **AIR QUALITY (AQ-1a)**: All diesel-powered off-road equipment, larger than 25 horsepower, operating on the site for more than two days continuously shall, at a minimum, meet U.S. EPA particulate matter emissions standards for Tier 2 engines with CARB-certified Level 3 Diesel Particulate Filters or equivalent.

- a) The use of equipment meeting U.S. EPA Tier 4 standards for particulate matter would also meet this requirement.
- b) Use of equipment that includes alternatively fueled equipment (i.e., non-diesel) would meet this requirement.
- c) Other measures may be the use of added exhaust devices, or a combination of measures, provided that these measures are approved by the City and demonstrated to reduce community risk impacts to less-than-significant.

96) **AIR QUALITY (AQ-2)**: Include high-efficiency particulate filtration systems in residential ventilation systems. The significant exposure for new project receptors is judged by two effects: (1) increased cancer risk, and (2) annual PM2.5 concentration. Exposure to cancer risk from U.S. Highway 101 are significant. Cancer risk is based on exposure to exhaust emissions while annual PM2.5 concentrations are based on the exposure to PM2.5 resulting from emissions attributable to truck and auto exhaust, the wearing of brakes and tires and re-entrainment of roadway dust from vehicles traveling over pavement. PM2.5 exposure drives the mitigation plan. Reducing PM2.5 exposures to less than significant would also reduce cancer risk to less than significant levels. The project shall include the following measures to minimize long-term annual PM2.5 exposure for new project occupants:

1. Install air filtration in residential dwellings. Air filtration devices shall be rated MERV 13 or higher. To ensure adequate health protection to sensitive receptors (i.e., residents), this ventilation system, whether mechanical or passive, all fresh air circulated into the dwelling units shall be filtered, as described above.
2. As part of implementing this measure, an ongoing maintenance plan for the buildings' heating, ventilation, and air conditioning (HVAC) air filtration system shall be required.
3. Ensure that the use agreement and other property documents: (1) require cleaning, maintenance, and monitoring of the affected buildings for air flow leaks, (2) include assurance that new owners or tenants are provided information on the ventilation system, and (3) include provisions that fees associated with owning or leasing a unit(s) in the building include funds for cleaning, maintenance, monitoring, and replacements of the filters, as needed.

97) **BIOLOGICAL RESOURCES (BIO-1)**: **Pre-construction nesting bird and bat survey**: The nesting season is defined here as being from February 1 to August 31 and therefore work should commence between September 1 and January 31.

- i) If this is not possible, and project activities are initiated during the nesting season, then a nesting bird survey shall be conducted by a qualified wildlife biologist no more than 14 days prior to the start of project activities.

- ii) If nests are identified, a no-disturbance buffer should be implemented to avoid impacts to nesting birds and should remain in place until all young are fledged or the nest otherwise becomes inactive.
- iii) Buffers typically range from 25 feet to 500 feet depending on the species.
- iv) If work is to be initiated within the bat breeding/ winter roosting season, an assessment of existing buildings should be performed prior to construction activities to determine if a roost is present.
- v) If a roost is observed, construction activities should be postponed until a qualified biologist determines the bats are excluded from the roost location.

98) **CULTURAL RESOURCES (CULT-1): Protect Archaeological Resources Identified during Construction:** The project sponsor shall ensure that construction crews stop all work within 100 feet of the discovery until a qualified archaeologist can assess the previously unrecorded discovery and provide recommendations. Resources could include subsurface historic features such as artifact-filled privies, wells, and refuse pits, and artifact deposits, along with concentrations of adobe, stone, or concrete walls or foundations, and concentrations of ceramic, glass, or metal materials. Native American archaeological materials could include obsidian and chert flaked stone tools (such as projectile and dart points), midden (culturally derived darkened soil containing heat-affected rock, artifacts, animal bones, and/or shellfish remains), and/or groundstone implements (such as mortars and pestles).

99) **CULTURAL RESOURCES (CULT-2): Protect Human Remains Identified During Construction:** The Project proponent shall treat any human remains and associated or unassociated funerary objects discovered during soil-disturbing activities according to applicable State laws. Such treatment includes work stoppage and immediate notification of the Marin County Coroner and qualified archaeologist, and in the event that the Coroner's determination that the human remains are Native American, notification of NAHC according to the requirements in PRC Section 5097.98. NAHC would appoint a Most Likely Descendant ("MLD"). A qualified archaeologist, Project proponent, County of Marin, and MLD shall make all reasonable efforts to develop an agreement for the treatment, with appropriate dignity, of any human remains and associated or unassociated funerary objects (CEQA Guidelines Section 15064.5[d]). The agreement would take into consideration the appropriate excavation, removal, recordation, analysis, custodianship, and final disposition of the human remains and associated or unassociated funerary objects. The PRC allows 48 hours to reach agreement on these matters.

100) **GEOTEHCHNICAL (GEO-5):** Should paleontological resources be encountered during project subsurface construction activities located in previously undisturbed soil and bedrock, all ground-disturbing activities within 25 feet shall be halted and a qualified paleontologist contacted to assess the situation, consult with agencies as appropriate, and make recommendations for the treatment of the discovery. For purposes of this mitigation, a "qualified paleontologist" shall be an individual with the following qualifications: 1) a graduate degree in paleontology or geology and/or a person with a demonstrated publication record in peer-reviewed paleontological journals; 2) at least two years of professional experience related to paleontology; 3) proficiency in recognizing fossils in the field and determining their significance; 4) expertise in local geology, stratigraphy, and biostratigraphy; and 5) experience collecting vertebrate fossils in the field.

- a) If the paleontological resources are found to be significant and project activities cannot avoid them, measures shall be implemented to ensure that the project does not cause a substantial adverse change in the significance of the paleontological resource. Measures may include monitoring, recording the fossil locality, data recovery and analysis, a final report, and accessioning the fossil material and technical report to a paleontological repository. Upon completion of the assessment, a report documenting methods, findings, and recommendations shall be prepared and submitted to the City for review. If paleontological

materials are recovered, this report also shall be submitted to a paleontological repository such as the University of California Museum of Paleontology, along with significant paleontological materials. Public educational outreach may also be appropriate.

- b) The project applicants shall inform its contractor(s) of the sensitivity of the project site for paleontological resources and shall verify that the following directive has been included in the appropriate contract specification documents: "The subsurface of the construction site may contain fossils. If fossils are encountered during project subsurface construction, all ground-disturbing activities within 25 feet shall be halted and a qualified paleontologist contacted to assess the situation, consult with agencies as appropriate, and make recommendations for the treatment of the discovery. Project personnel shall not collect or move any paleontological materials. Fossils can include plants and animals, and such trace fossil evidence of past life as tracks or plant imprints. Marine sediments may contain invertebrate fossils such as snails, clam and oyster shells, sponges, and protozoa; and vertebrate fossils such as fish, whale, and sea lion bones. Vertebrate land mammals may include bones of mammoth, camel, saber tooth cat, horse, and bison. Contractor acknowledges and understands that excavation or removal of paleontological material is prohibited by law and constitutes a misdemeanor under California Public Resources Code, Section 5097.5."

101) **NOISE (NOISE-1):** Implementation of the following measures would reduce construction noise levels emanating from the site, limit construction hours, and minimize disruption and annoyance.

- a) Construction activities shall be limited to the hours specified in the City of San Rafael's Municipal Code (7 am to 6 pm on weekdays and 9 am to 6 pm on Saturdays). No construction activities are permitted on Sundays and holidays.
- b) Limit use of the concrete saw to a distance of 50 feet or greater from residences, where feasible. Construct temporary noise barriers to screen stationary noise-generating equipment, such as the concrete saw, when located near adjoining sensitive land uses. Temporary noise barriers could reduce construction noise levels by 5 dBA.
- c) Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- d) Unnecessary idling or internal combustion engines should be strictly prohibited.
- e) Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors.
- f) Utilize "quiet" air compressors and other stationary noise sources where technology exists.
- g) Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the project site.
- h) Notify all adjacent business, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of "noisy" construction activities to the adjacent land uses and nearby residences.
- i) Designate a "disturbance coordinator" who would be responsible for responding to any complaints about construction noise. The disturbance coordinator will determine the cause of the noise complaint (e.g., bad muffler, etc.) and will require that reasonable measures be implemented to correct the problem. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include in it the notice sent to neighbors regarding the construction schedule.

102) **TRIBAL-1:** Address the potential discovery of previously unknown resources within the project area. If significant tribal cultural resources are identified onsite, all work would stop immediately within 50 feet of the resource(s) and the project applicant would comply with all relevant State and City policies and procedures prescribed under PRC Section 21074.

Prior to Final Occupancy

Community Development Department – Planning Division

- 103) A post-construction Acoustical Study shall be performed and submitted to the Planning Division to confirm that the project was constructed compliant with noise reducing materials and construction techniques as recommended in the Illingworth and Rodkin Acoustical Study.
- 104) **AESTHETICS (AES-1)**: Prior to the Building Permit final inspection, the project applicant shall submit to the satisfaction of the Community Development Department Director, a post-installation photometric lighting study showing that the lighting on site complies with the approved lighting levels per ED18-100 and the requirements of SRMC 14.16.227. The project applicant shall also demonstrate to the Building Department that outdoor lighting fixtures meet the requirements of the California Energy Code (known as Part 6, Title 24 of the California Code of Regulations).
- 105) Install any improvements required by **TRANS-1** prior to final occupancy
- 106) **HYDROLOGY (HYDRO-2)**: Prior to a certificate of occupancy, the Project applicant shall verify that operational stormwater quality control measures that comply with the requirements of the current Phase II Small MS4 Permit have been implemented. Responsibilities include, but are not limited to:
- a) Designing BMPs into Project features and operations to reduce potential impacts to surface water quality and to manage changes in the timing and quantity of runoff associated with operation of the project. These features shall be included in the design-level drainage plan and final development drawings.
 - b) The proposed project shall incorporate site design measures and Low Impact Development design standards, including minimizing disturbed areas and impervious surfaces, infiltration, harvesting, evapotranspiration, and/or bio-treatment of stormwater runoff.
 - c) The Project applicant shall establish an Operation and Maintenance Plan. This plan shall specify a regular inspection schedule of stormwater treatment facilities in accordance with the requirements of the Phase II Small MS4 Permit.
 - d) Funding for long-term maintenance of all BMPs shall be specified.
- 107) The applicant shall contact the Planning Division to request a final inspection, prior to the issuance of the final building permit. The final inspection shall require a minimum of 48-hours advance notice. All landscaping and irrigation shall be installed prior to the occupancy of the building or the property owner shall post a bond in the amount of the estimated landscaping/irrigation cost with the City of San Rafael. In the event that a bond is posted, all areas proposed for landscaping must be covered with bark or a substitute material approved by the Planning Division prior to occupancy. The landscape architect shall certify in writing and submit to the Planning Division, and call for inspection, that the landscaping has been installed in accordance with all aspects of the approved landscape plans, that the irrigation has been installed and been tested for timing and function, and all plants including street trees are healthy. Any dying or dead landscaping shall be replaced.
- 108) All exterior lighting shall be shielded down. Following the issuance of a certificate of occupancy, all exterior lighting shall be subject to a 90-day lighting level review by the Police Department and Planning Division to ensure compatibility with the surrounding area.

- 109) All plan details shall be implemented as indicated plans approved for building permit, in compliance with all conditions of approval and applicable City zoning code requirements, to the satisfaction of the Community Development Director. Any outstanding fees including planning review fees, inspection fees, etc. shall be paid.

Fire Department – Fire Prevention Bureau

- 110) Prior to Final occupancy, the following requirements shall be installed in addition to all Fire code Requirements on the site and shown on the Fire Engine Truck Access Plan Sheet SP-6:
 - a) Fire Lane signage shall be installed at both entrances that meet City of San Rafael Parking Enforcement standards.
 - b) KNOX box shall be installed at Community Rec Room exterior wall.
 - c) Fire Sprinkler system conforming to NFPA standards installed throughout.
 - d) All hydrants installed on site shall be Clow model 960 appliances.

**Tentative Subdivision Map Conditions of Approval
(TS18-006)**

Community Development Department - Planning Division

1. The Tentative Subdivision Map (TS18-006) shall be valid for a period of three (3) years from the date of City Council approval, or until December 10, 2022 and shall become null and void unless a Final Map has been recorded or a time extension is granted.
2. The proposed project is approved as a Three-Phase development, consisting of a Phase One “pre-phase” (on and off-site improvements) to complete building Phase One -construction of Buildings 1-4 and all landscaping north of Private street “A” (Fall 2021) and Phase Three- construction of Buildings 5-9, tree removal along the south property line and all remaining landscaping (Summer 2022). The Final Map may be recorded in phases or all at once.
3. The project shall be subject to the affordable housing requirements prescribed in Section 14.16.030 of the San Rafael Zoning Ordinance and is therefore required to provide nine (9) of the 45 for-sale units as affordable. Prior to the issuance of a building permit or recordation of the final map, whichever occurs first, a Below Market Rate (BMR) agreement for the nine (9) affordable unit shall be approved by the City Council and recorded on the property. Consistent with the affordable housing requirements, five (5) of the units shall be affordable to low-income household and four (4) of the units shall be affordable at the moderate-income level. The location of the BMR units shall be identified on the project plans and the final location shall be subject to review and approval of the City as part of the City’s consideration of the BMR agreement. Please contact the Marin Housing Authority to commence the agreement process.
4. Prior to issuance of building permits or prior to the recordation of a Final Map, whichever occurs first, the developer shall pay to the City in lieu parkland dedication fees for 45 new units in accordance with the provisions of City Council Ordinance No. 1558, which would be $45 \times 2.5 \text{ persons/dwelling unit} \times 3 \text{ acres per } 1,000 \text{ persons} \times \$262,396.80 = \$88,558.92$
5. Conditions, Covenants and Restrictions (CC&R’s) shall be prepared and submitted with an application for a Final Parcel Map. The CC&R’s shall include the following requirements and provisions:
 - a. The formation of a homeowner’s association (HOA).
 - b. Project will be governed by a homeowner’s association (HOA) which will manage, maintain and operate the Project in accordance with Conditions, Covenants and Restrictions (CC&Rs) to be recorded against each unit and the common areas, Articles of Incorporation (Articles) and Bylaws. The HOA will have the right to adopt rules, regulations and guidelines,

including design guidelines and community space rules to implement the CC&Rs. HOA responsibilities for ongoing maintenance of the shared or common facilities, including but not limited to the common driveway, common landscaping and irrigation, fencing, subdivision infrastructure improvements (storm water and sanitary sewer facilities) and exterior building and lighting improvements. All common areas including the Creek Promenade and the Paseos will be owned, managed and controlled by the HOA. Initially the builder will own all units within the project and will control the HOA until sufficient units have been sold for a HOA Board of Directors to be elected. The builder will pay HOA dues to the HOA for each unit until each unit is sold. Restrictions and regulations imposed on each lot owner. The CC&R's shall include provisions, which restrict the use of the parking spaces to vehicle parking.

- c. Requirements and provisions for professional management services or the services of a Certified Public Accountant to oversee the HOA responsibilities and budget.
- d. Include an article providing for rights of the City of San Rafael, as follows:

ARTICLE ____ . RIGHTS OF THE CITY OF SAN RAFAEL

1. Use Restrictions. In furtherance of the police power of the City of San Rafael, the following provisions will apply to the Property:

(a) no re-subdivision of any Lot shown on the Map will be done without the approval and consent of the City of San Rafael.

(b) the restrictions set out in this Declaration will burden the Property, for the benefit of the City of San Rafael, and the same are enforceable by and will inure to the benefit of the City of San Rafael.

2. Right to Remedy Failure to Maintain Common Area. In the event that there is a failure to maintain the Common Area so that owners, lessees, and their guests suffer, or will suffer, substantial diminution in the enjoyment, use, or property value of their Project, thereby impairing the health, safety and welfare of the residents in the Project, the City, by and through its duly authorized officers and employees, will have the right to enter upon the subject Property, and to commence and complete such work as is necessary to maintain said Common Area. The City will enter and repair only if, after giving the Association and Owners written notice of the failure to maintain the Common Area, they do not commence correction of such conditions in no more than thirty (30) days from the giving of the notice and proceed diligently to completion. All expenses incurred by the City shall be paid within thirty (30) days of written demand. Upon a failure to pay within said thirty (30) days, the City will have the right to impose a lien for the proportionate share of such costs against each Lot in the Project.

It is understood that by the provisions hereof, the City is not required to take any affirmative action, and any action undertaken by the City will be that which, in its sole discretion, it deems reasonable to protect the public health, safety and general welfare, and to enforce it and the regulations and ordinances and other laws.

It is understood that action or inaction by the City, under the provisions hereof, will not constitute a waiver or relinquishment of any of its rights to seek redress for the violation of any of the provisions of these restrictions or any of the rules, regulations and ordinances of the City, or of other laws by way of a suit in law or equity in a court of competent jurisdiction or by other action.

It is further understood that the remedies available to the City by the provision of this section or by reason of any other provisions of law will be cumulative and not exclusive of the maintenance of any other remedy. In this connection, it is understood and agreed that the failure to maintain the Common Area will be deemed to be a public nuisance and the City will have the right to abate said condition, assess the costs thereof, and cause the collection of said assessments to be made on the tax roll in the manner provided by appropriate provisions of the San Rafael Municipal Code or any other applicable law.

The City Council of the City may, at any time, relinquish its rights and interest in the Project as herein set forth by appropriate resolution. Any such relinquishment by the City Council will be effective on the date that the resolution is adopted, and a copy thereof is placed in the United States mail, postage prepaid, addressed to the Association. The Owner will execute and record a declaration reflecting such relinquishment within ten (10) days of receipt of a copy of the resolution.

3. **No Waiver.** No failure of the City of San Rafael to enforce any of the covenants or restrictions contained herein will in any event render them ineffective.

4. **Third-Party Beneficiary.** The rights of the City of San Rafael pursuant to this Article will be the rights of an intended third party beneficiary of a contract, as provided in Section 1559 of the California Civil Code, except that there will be no right of Declarant, the Association, or any Owner(s) to rescind the contract involved so as to defeat such rights of the City of San Rafael.

5. **Hold Harmless.** Declarant, Owners, and each successor in interest of Declarant and said Owners, hereby agree to save and hold the City of San Rafael harmless from any and all liability for inverse condemnation which may result from, or be based upon, City's approval of the Development of the subject Property.

6. **Amendments.** The City of San Rafael will be given reasonable advance notice in writing of any amendments to the Declaration affecting the rights of the City as provided herein, and no such amendment will be deemed effective without the written consent of the San Rafael City Council.

6. Prior to recordation of the final map, the CC&R's shall be reviewed and approved by the Department of Community Development and the City Attorney's Office.

7. Approved CC&R's shall be recorded concurrently with the final map.

Department of Public Works - Land Development Division

8. A Final Map shall be required to be filed and approved by the Department of Public Works.

9. Should the applicant elect to record the final map prior to completion of the subdivision improvements, a subdivision improvement agreement shall be required. As part of this agreement bonds shall be required based on the engineer's estimate. The current fees for the subdivision:

- \$2,615.00 Improvement Plan Check
- \$3,285.00 minimum, (or actual cost if greater) for Final Map Plan Check.
- \$1,464.00 Subdivision Improvement Inspection Fees.

**Master Use Permit Conditions of Approval
(UP18-039)**

1. Except as modified herein, the Master Use Permit (UP18-039) authorizes redevelopment of the existing 2.28-acre site for residential use as shown in the approved plans in a maximum of three (3) phases. Although phasing is not required, this Use Permit authorizes that the project may be phased as follows, subject to the conditions of approval
 - a) Phase One (Pre-Phase) which entails site preparation, demolition, landscaping/tree removal (except no removal of existing trees along the southern property line).
 - b) Phase Two – Construction of Buildings 1- through Building 4 (a total of 25 units, including five (5) BMR units), trash enclosure, and creek promenade enhancements including landscaping, hardscape and recreational amenities.
 - c) Phase Three - Construction of Building 5 through Building 9 (a total of 20 units, including four (4) BMR units), removal of existing trees along southern property line and the remaining landscaping.
2. Should the project proceed in a phased development approach, the following requirements shall apply:
 - a) All site improvement, roadways, sidewalk, utilities shall be installed and completed no later than the completion of Phase Two.
 - b) Landscaping may be installed by each phase:
 - i. Prior to final occupancy of Phase Two, the approved landscaping along the Merrydale Rd border (along Building 1) and along the Highway 101 frontage (Building 3 and Building 4) along with all other on-site landscaping in that phase, shall be installed.
 - ii. Prior to final occupancy of Phase Three, the approved landscaping along the Merrydale Rd border (along Building 9) and along the Highway 101/Redwood Hwy frontage (Building 5 and Building 6), along with all other on-site landscaping in that phase, shall be installed.
 - c) This Master Use Permit (UP18-039) shall be valid for three (3) years from the date of City Council approval, or until December 10, 2022 and shall become null and void if: 1) a building permits(s) have not been obtained and construction diligently commenced and pursued for all 9 buildings (45 units); 2) construction has not commenced on both Phase Two and Phase Three; 3) the project has not substantially progressed in constructions of Phase Two and Three; or 4) a time extension request has not been received before December 10, 2022. The time extension application (including project plans) must be submitted to the Planning Department with all associated fees. The time extension is subject to a public hearing and review and approval by the Planning Commission.
 - d) Once the building permit(s) is/are issued and construction and framing are commenced within the three (3) year period, then the Use Permit shall become valid and run with the land and will not have an expiration date. On-going compliance with all conditions of approval shall be required to keep the Use Permit valid.
3. Prior to completion of Phase Two, an "Interim Site Plan" for the area of Phase Three shall be submitted, to address visual conditions, dust/erosion control, security and drainage and site maintenance. This plan shall be subject to review and approval of the Community Development Department and Department of Public Works.

4. Once the Interim Site Plan is approved, all specific conditions of the interim plan for the area of Phase Three shall be installed per the approved plan, prior to final occupancy of Buildings 1 through Building 4, as approved per Phase Two construction.

I, Lindsay Lara, Clerk of the City of San Rafael, hereby certify that the foregoing Resolution was duly and regularly introduced and adopted at a regular meeting of the San Rafael City Council held on the 3rd day of February 2020, by the following vote to wit:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

LINDSAY LARA, City Clerk



Community Development Department – Planning Division

Date: December 10, 2019
To: Memo to File
From: Raffi Boloyan, Planning Manager
Re: **Responses to Comments received on Initial Study/Mitigated Negative Declaration - 350 Merrydale/3833 Redwood Highway**

As a result of the 30 day notification of the availability of the Initial Study/Draft Mitigated Negative Declaration, the City received two comments from state agencies (CalTrans and Department of Toxic and Substance Control) on the adequacy of the CEQA document.

Caltrans comment letter

Comments: The project is adjacent to US 101 and there are San Rafael General Plan policies regarding blockage of views that need to be looked at and this project conflicts with these policies.

Staff Response: Noted that the first comment relate to a statement on page 9 of the General Plan that states “*we revere our natural setting, bathed in a Mediterranean climate, nestled in grassy wooded hills, with shoreline vistas and wetlands rich with wildlife and vegetation.*” Staff notes that this language is a statement in the Vision for the General Plan, in the introduction section of the General Plan, and is not the threshold used for the CEQA checklist. The City’s threshold for evaluating a project’s potential impacts on aesthetics is a General Plan Policy in the Community Design Element (CD-5). This policy seeks to respect to the greatest extent possible views of hills and ridgelines from public places. This policy was considered as part of the preparation of the Initial Study and considered and confirmed by the Design Review Board and now the Planning Commission.

The next comment is regarding checklist Question C in the Aesthetic section. Paragraph 2 of the Discussion states “*Although the structure would not project over ridgelines or block view to cause potentially significant impacts on visual resources...*” Again, the threshold used to evaluate this checklist item is Community Design Element Policy CD-5, which states that views of hills, ridgelines etc., shall be respected, enhanced and protected to the greatest extent possible, from public places. The Initial Study concluded, which was confirmed by the Design Review Board and Planning Commission, that the project does respect to the greatest extent possible views of hills and ridgelines, given that development envelopes that are established on this site and the project is within those standards. In addition, based on the photo simulations (see

attached), the project was not found to silhouette or substantially block any hills or ridgelines from public places and the conclusion was that the project did respect to the greatest extent possible views from public places of hillside and ridgelines.

(Department of Toxic Substances Control (DTSC) Email

Comments: The email comments that: 1) there should have been additional information included on past land uses; 2) a complete Phase II environmental assessment should have been prepared and discussed; and 3) Mitigation Measure HAZ-2 was not adequate enough to minimize impacts.

Staff Response: Notes in our review and preparation of the initial study, we have to base our decision on substantial evidence in the record. Information used from Geoteacker and EnviroStar, which are Statewide environmental assessment sites. Neither of these resources identified any historical hazardous materials on the site or in the immediately surrounding areas. Therefore, a Phase I environmental assessment was required, which also did not reveal any hazardous material or environmental issues on this site. The applicant did provide a partial Phase II, environmental assessment (even though not required), to address a cryptic record that showed a permit issued for an underground tank. However, the Phase II revealed there was no evidence the tank was ever actually installed. Based on the evidence in the record, the impacts were adequately addressed, and the mitigations were appropriately added based on the known impacts.

Attachments:

Letter from CalTrans, December 9, 2019
Email from DTSC, December 10, 2019
Project Photo simulations

DEPARTMENT OF TRANSPORTATION

DISTRICT 4
OFFICE OF TRANSIT AND COMMUNITY PLANNING
P.O. BOX 23660, MS-10D
OAKLAND, CA 94623-0660
PHONE (510) 286-5528
TTY 711
www.dot.ca.gov



*Making Conservation
a California Way of Life.*

December 9, 2019

SCH #2019119040
GTS # 04-MRN-2019-00153
GTS ID: 17694
MRN/101/PM 13.16

Caron Parker, Project Planner
City of San Rafael
Community Development Department
1400 Fifth Ave. P.O. Box 15160
San Rafael, CA 94915-1560

350 Merrydale Project – Initial Study/Mitigated Negative Declaration (IS/MND)

Dear Caron Parker:

Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for the 350 Merrydale Project. We are committed to ensuring that impacts to the State's multimodal transportation system and to our natural environment are identified and mitigated to support a safe, sustainable, integrated and efficient transportation system. The following comments are based on our review of the November 2019 IS/MND.

Project Understanding

The applicant proposes to construct a mixture of 45 for-sale town homes and stacked flats, and a multi-purpose community room on an approximate 2.28 acre site. There are 41 three-story town homes proposed and four stacked flats in five different building types. A total of nine buildings will range from four to eight units. The Merrydale Road frontage will be improved with new curb, gutter, sidewalk and landscaping and create five new on-street parking spaces along the east side of Merrydale Road. Combined with the five existing spaces, there would be a total of nine on-street parking spaces along the Merrydale project frontage. Regional access is provided from US-101 and Merrydale Road about a half mile away.

Highway Operations

The Transportation section of the IS/MND discusses the possibility of signalization for the south bound (SB) US-101/Merrydale Road intersection. Please note that any proposal to modify the ramp terminal intersection of SB US-101/Merrydale

Road would require an Intersection Control Evaluation (ICE) per Caltrans' policy to evaluate other alternatives for traffic control/calming operation besides signalization. Such evaluation would have to be coordinated and concurred by Caltrans.

Aesthetics

US-101 is directly adjacent to the project site and the site can be seen by drivers on the roadway.

On page 35 of the IS/MND, regarding the discussion on aesthetics checklist Question A, the document states, "*Although the Civic Center is considered a scenic resource, no scenic vistas have been identified in the General Plan at or in the immediate vicinity of this site*". Consider removing this sentence because page 9 of the San Rafael General Plan 2020 states "*We revere our natural setting, bathed in a Mediterranean climate, nestled in **grassy wooded hills**, with shoreline vistas and wetlands rich with wildlife and vegetation.*" The hills surrounding the site may be considered a scenic vista in the San Rafael General Plan 2020.

On page 36, regarding the discussion on aesthetics checklist Question C, the document states, "*Although the structure would not project over ridgelines or **block views to** cause potentially significant impacts on visual resources...*" This statement is inconsistent with what is shown in the architectural plans on sheet A-2, East View, where the simulations block the hill ridgelines. Please update the simulations in the architectural plans and visual assessment to show low impact on the hill ridgelines. Also, please remove the "*block views to*" section. Although the structure will block views, there is minimal impact on visual resources.

Lead Agency

As the Lead Agency, the City of San Rafael is responsible for all project mitigation, including any needed improvements to the State Transportation Network (STN). The project's fair share contribution, financing, scheduling, implementation responsibilities and lead agency monitoring should be fully discussed for all proposed mitigation measures.

Encroachment Permit

Please be advised that any work or traffic control that encroaches onto the State right-of-way (ROW) requires a Caltrans-issued encroachment permit. To obtain an encroachment permit, a completed encroachment permit application, environmental documentation, six (6) sets of plans clearly indicating the State ROW, and six (6) copies of signed, dated and stamped (include stamp

Caron Parker, Project Planner
December 9, 2019
Page 3

expiration date) traffic control plans must be submitted to: Office of Encroachment Permits, California DOT, District 4, P.O. Box 23660, Oakland, CA 94623-0660. To download the permit application and obtain more information, visit <https://dot.ca.gov/programs/traffic-operations/ep/applications>.

Thank you again for including Caltrans in the environmental review process. Should you have any questions regarding this letter, please contact Andrew Chan at 510-622-5433 or andrew.chan@dot.ca.gov.

Sincerely,

A handwritten signature in blue ink that reads "Mark Leong". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Mark Leong
District Branch Chief
Local Development - Intergovernmental Review

c: State Clearinghouse

Caron Parker

From: Roman, Isabella@DTSC <Isabella.Roman@dtsc.ca.gov>
Sent: Tuesday, December 10, 2019 12:59 PM
To: Caron Parker
Subject: 350 Merrydale Road Project IS/MND Comment

Hello,

I represent a responsible agency reviewing the Initial Study/Mitigated Negative Declaration for the 350 Merrydale Road project.

The text doesn't include much of a discussion of past land uses. Past land uses could have resulted in hazardous materials releases within the project area that should be investigated prior to the proposed development project for public health protection. Past land uses could indicate the need for conducting a Phase 2 Environmental Site Assessment. The text notes that a Phase 1 Environmental Site Assessment (ESA) was conducted in 2018. The text should include a summary of the results of the Phase 1 ESA. The Subsurface Exploration Summary attachment says that a Recognized Environmental Condition (REC) was identified regarding potential underground storage tanks (UST). The geophysical survey was summarized in the IS/MND text, but the REC itself identified in the Phase 1 ESA was not discussed. Additionally, it's unclear whether the Phase 1 ESA found any other RECs other than one regarding the UST. Please include a discussion of past land uses in the text as well as a summary of the findings of the Phase 1 ESA within the IS/MND text.

Mitigation Measure HAZ-2 requires a Soil Management Plan to be prepared for the project site. A section within the SMP is proposed in the case that impacted soils are encountered during construction: "If impacted soils or underground structure/equipment are encountered during construction activities, all construction shall stop..." This is insufficient to prevent exposure to hazardous materials, as there is no way to determine if a material is hazardous just from its appearance/odor. It would be best for environmental samples to be collected prior to construction work. While the results of the geophysical survey were favorable, the absence of a UST doesn't preclude the possibility that contamination exists at the site. Additionally, the SMP would theoretically protect construction workers during construction work, but has no impact on protecting future residents. Soil and soil gas should be characterized for protection of future residents as well. From the text, it appears that there will be outdoor uses and play areas. In addition to a potential vapor intrusion risk for the houses, because of these play areas there is also a potential for exposure to the soil. I would recommend conducting a Phase 2 ESA or collecting environmental samples to ensure protection of future residents during project operation as well as protection of the workers and the surrounding community during project construction.

Below I've also included a bulleted list of some minor comments I have:

- Section IX)a) states: "No hazardous materials would be included in the construction or long-term use of the project. Use of the subject property is not expected to transport, use, or dispose of significant amounts of hazardous materials. Hazardous materials would be limited to those associated with property maintenance including common landscaping fertilizers, pesticides, paint, solvent, and petroleum products. These materials would be used in limited quantities and are not considered a significant hazard to the public." These two statements appear to contradict each other. One says that no hazardous materials would be used, one says that no significant amount of hazardous materials would be used. Please clarify this section in the text. Please also include a discussion of hazardous materials that would be used during construction (e.g. paints, fuels).
- From the text, it's unclear what is currently occupying the site and what has occupied it in the past. The bottom of page 20 says the "Project site was improved in the late 1950's with school buildings and playground/parking lot." The last paragraph of page 60 says that there are "several classroom-type commercial buildings." The top

of page 61 says the project “involves replacement of existing commercial related uses...” Please provide clarification in the text regarding this issue. As discussed above, past land uses are important in being able to determine the likelihood of potential contamination on the site. From this information it’s unclear why a UST was suspected to be on site. From what I know it’s not too common for schools to have a need for a UST. Was the UST for the school, or was it for another unmentioned use or development on site?

- The hazards and hazardous materials sections should include a discussion of nearby contaminated sites. This discussion sometimes is included with IX(d). A search should be conducted of Envirostor and Geotracker to determine if there are any adjacent or nearby cleanup sites. A discussion should be provided that explains whether these sites have any impact on the project site. Even if there are no contaminated sites nearby this should still be stated and discussed in the text.
- It was difficult to find the project location on a map (since it was included in the attachments). It would be my preference for a map to be provided in the main text.

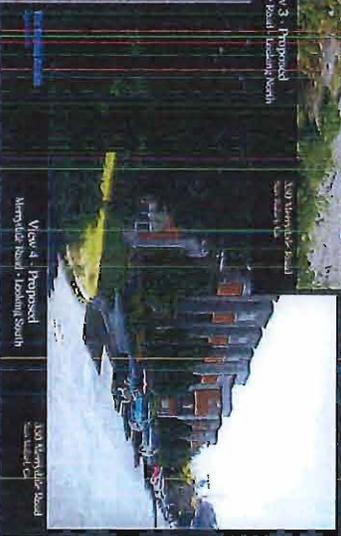
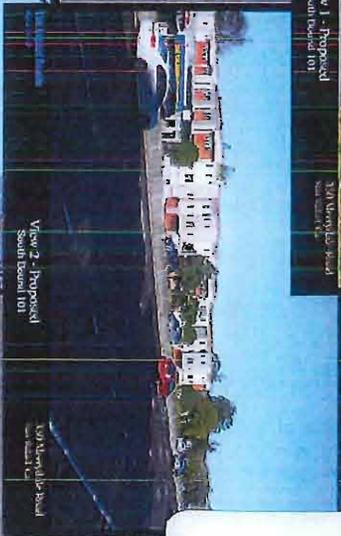
Please feel free to reach out if you have any questions or concerns.

Sincerely,

Isabella Roman
Environmental Scientist
Site Mitigation and Restoration Program
Department of Toxic Substances Control
700 Heinz Avenue Suite 200
Berkeley, CA 94710
(510)-540-3879



350 Merrydale Road Visual Simulations by The Digital Realm





VIEW 1

VIEW 2





VIEW 3

VIEW 4



Craig K. Murray
260 Merrydale Road #15
San Rafael, CA 94903

December 1, 2019

City of San Rafael Planning Commission
Chair Sarah Loughran
Members Barrett Schaefer; Jeff Schoppert; Berenice Davidson; Shinghai Sumadzi; Mark
Lubamersky; and Aldo Mercado
c/o Ms. Caron Parker, Project Planner
City of San Rafael
1400 Fifth Avenue
San Rafael, CA 94901

Dear Chair Loughran and Members of the San Rafael Planning Commission:

RE: Project Support Letter for the Development at 350 Merrydale Road/3833 Redwood Highway
San Rafael, CA 94903 and Request that City use project-related fees from 3733 and 3833
Redwood Highway for Much Needed Capital Improvements in this North SR Neighborhood.

We want to thank the developers of 350 Merrydale Road/3833 Redwood Highway in keeping the neighborhood groups within this area informed. Through a series of meetings with our neighborhood Boards and neighbors during 2019, the Developer has shown a willingness and cooperation to be a good neighbor and to make adjustments in the project that are within the neighborhoods interest. All Board Members of the Civic Center Arms Home Owners Association and the San Rafael Meadows Improvement Association support the subject project and thank City Staff particularly Ms. Caron Parker, the Developer and the Development Team for their local efforts and look forward to seeing a quality project within this part of North San Rafael.

All Board Members of Civic Center Arms Home Owners Association and the San Rafael Meadows Improvement Association also request the Planning Commission and the City of San Rafael to dedicate all related City Impact Fees from this development at 3833 Redwood Highway and the 3733 Redwood Highway to be expended within this area of North San Rafael for much needed Capital Improvements.

I can be reached at (510) 307-8188 or (415) 747-4500 and Mr. Wayne Rayburn at (415) 608-2606 if you would like to review or have any further questions.

Regards,

Craig K. Murray, SRWA, President, Civic Center Arms Homeowners Association

Wayne Rayburn, President, San Rafael Meadows Improvement Association

City of San Rafael Planning Commission Meeting
350 Merrydale Road/3833 Redwood Highway
December 10, 2019

Chair Loughran and Members of the San Rafael Planning Commission

I am Craig Murray, President of the neighboring Civic Center Arms Homeowners Association. A letter of project support has been provided. This includes support from all Board Members of the CCA HOA and Mr. Wayne Rayburn President and all Board Members of the adjacent San Rafael Meadows Improvement Association.

Project Development Team including Mr. Michael Hooper and Mr. Robert Upton along with City of San Rafael Project Planner Ms. Caron Parker made the extra effort to conduct meetings at the project site open to all neighbors to review and comment on the project and design. This was critical for providing the necessary time to understand, review, suggest and incorporate certain suggested design changes to the satisfaction of neighbors.

Both our Associations are thrilled that the property owners are long time San Rafael families and have made the decision to not further densify the area with potential upwards of 200 investment, rental apartments but will be creating much needed quality, owner occupied housing of 44 Townhomes. These new property owners will incorporate into the current fabric of the community and demands for infrastructure improvements and ease of circulation will be important and placed upon the City.

This small area of San Rafael, a former County area, is still suffering from physical blight that lack of basic infrastructure between the commercial and residential areas and connection to recreational trails and parks. This project will provide to the City of San Rafael:

Over \$150,000 in Traffic Impact Fees
Almost \$20,000 Development Impact Fee
Nearly \$90,000 in Parks fee

If you haven't visited or walked around the area you will notice the following:

1. Lack of sidewalks along several dense population portions of Merrydale Road forcing pedestrians into roadway travel lanes;
2. A Heavily used and problematic City dirt parking strip along Merrydale Road. Due to its unimproved state draws a most unsavory element. City Council approved Bicycle Pedestrian Plan calls for this location to be paved and improved with diagonal parking;
3. Lack of clear areas for pedestrians and bicycles to travel North-South along Merrydale Road to the North South Greenway at Puerto Suhello Hill and connecting to the Civic Center SMART Station. This could be improved with simple roadway painting and a roadway and City right of way diet;
4. An important north-south Merrydale road connection is needed for a clear and safe path of travel for bicyclists and pedestrians from Merrydale Road to the nearby Park of Los Ranchitos. This area has a Preschool along Merrydale Road and many young and upcoming children in adjacent apartment buildings and homes;
5. Loop and bicycle detectors at the Merrydale Road and North San Pedro Road intersections to allow safe access to/from Merrydale Road to the North South Greenway connection at Puerto Suhello Hill and east/west along North San Pedro Road.
6. Other improvements to consider directing funding to improve the area: Undergrounding the Utility corridor poles; current sidewalk cross slopes of 10% or more are corrected; ADA access is improved; safe, marked bicycle travel lanes and pedestrian areas are painted or developed.

Thank you for your service on the San Rafael Planning Commission and we look forward to this quality project and new, engaged property owners in this area of North San Rafael.

Craig K. Murray

Marin Independent Journal

4000 Civic Center Drive, Suite 301

San Rafael, CA 94903

415-382-7335

legals@marinij.com

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CITY CLERK, ROOM 209
1400 FIFTH AVENUE, SAN RAFAEL, CA 94901
SAN RAFAEL, CA 94915-1560

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Publication: Marin Independent Journal

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Amount: \$159.88

NOTICE OF PUBLIC HEARING

You are invited to attend the City Council hearing on the following project:

DATE/TIME/PLACE:

**Monday, February 3, 2020 at 7:00 P.M.
City Hall Council Chambers,
1400 Fifth Avenue, San Rafael, CA 94901**

PROJECT: 350 Merrydale/3833 Redwood Hwy Request(s) for a Planned Development Zone Change, Environmental and Design Review Permit, Tentative Subdivision Map, Use Permit, and Subdivision Exception to allow demolition of existing one-story buildings and construction of nine (9) three-story buildings containing 45 residential townhome units (including 9 Below Market Rate units) and 94 parking spaces (85 garage spaces and 9 uncovered spaces) on a 2.28 acre site at 350 Merrydale/3833 Redwood Hwy. The project requires rezoning from the existing PD-1954) to allow residential use on the site. The rezoning triggered review under the California Environmental Quality Act (CEQA) and preparation of an Initial Study/Mitigated Negative Declaration (IS/MND). APN(s): 179-041-27 and 179-041-28; Planned Development (PD1594) Zoning District; Francine Clayton, owner; Michael Hooper, applicant. File No(s): ZC19-002/ED18-100/TS18-006/UP18-039/IS18-001/EX19-012.

As required by State law (California Environmental Quality Act) this project is subject to a review of potential environmental impacts. An assessment of potential impacts (Initial Study) has been completed. The Initial Study concludes that the project has the potential to result in significant environmental effects. However, the Initial Study finds that the potentially-significant impacts can be reduced or eliminated by requiring and implementing recommended measures. The Initial Study recommends the adoption of a Mitigated Negative Declaration, which includes the recommended measures (mitigation measures. Pursuant to the provisions of the California Environmental Quality Act Guidelines, the Initial Study/Negative Declaration was made available for public review for a period of 30 days and ended on December 10, 2019.

WHAT WILL HAPPEN: You can comment on the project. The City Council will consider all public testimony and decide whether to approve the project applications.

IF YOU CANNOT ATTEND: You may send a letter to Lindsay Lara, City Clerk, City of San Rafael, 1400 Fifth Avenue Room 209, San Rafael, CA 94901. You may also hand deliver a letter to the City Clerk prior to the meeting.

FOR MORE INFORMATION:

Contact **Raffi Boloyan, Project Planner at (415) 485-3095** or raffi.boloyan@cityofsanrafael.org. You can also come to the Planning Division office, located in City Hall, 1400 Fifth Avenue, to look at the file for the proposed project. The office is open from 8:30 a.m. to 4:30 p.m. on Monday, Tuesday and Thursday and 8:30 a.m. to 1:30 p.m. on Wednesday and Friday. You can also view the staff report after 5:00 p.m. on the Friday before the meeting at <http://www.cityofsanrafael.org/meetings>

SAN RAFAEL CITY COUNCIL

/s/ Lindsay Lara
Lindsay Lara
CITY CLERK

No. 36 Jan. 17, 2020

Marin Independent Journal

4000 Civic Center Drive, Suite 301
San Rafael, CA 94903
415-382-7335
legals@marinij.com

2070419

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1400 FIFTH AVENUE, SAN RAFAEL, CA 94901
SAN RAFAEL, CA 94915-1560

PROOF OF PUBLICATION (2015.5 C.C.P.)

STATE OF CALIFORNIA County of Marin

I am a citizen of the United States and a resident of the County aforesaid: I am over the age of eighteen years, and not a party to or interested in the above matter. I am the principal clerk of the printer of the MARIN INDEPENDENT JOURNAL, a newspaper of general circulation, printed and published daily in the County of Marin, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of Marin, State of California, under date of FEBRUARY 7, 1955, CASE NUMBER 25566; that the notice, of which the annexed is a printed copy (set in type not smaller than nonpareil), has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to-wit:

01/17/2020

I certify (or declare) under the penalty of perjury that the foregoing is true and correct.

Dated this 17th day of January, 2020.



Signature

PROOF OF PUBLICATION

Legal No. **0006446168**

CITY OF SAN RAFAEL

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SAN RAFAEL CITY COUNCIL

/s/ Lindsay Lara
Lindsay Lara
CITY CLERK

No. 36 Jan. 17, 2020