



**SAN RAFAEL ZONING ADMINISTRATOR
REGULAR HEARING
April 17, 2024**

**Minutes and Notice of Decision
(Pursuant to San Rafael Municipal Code 14.28.050)**

- 10:00 – 10:23 am 1. **709 C Street.** Request to extend the Environmental and Design Review Permit (ED21-045) for the development of a four-unit, three-story townhome development, and associated site and landscaping improvements at 709 C Street; APN: 012-073-10; T4N 40/50 Zoning District; Michael O’Mahony, Owner; Kyle Thayer, Applicant; File No: PLAN21-021

Project Planner: Kavitha Kumar, Consulting Principal Planner

PERMITS REQUIRED

Pursuant to San Rafael Municipal Code (SRMC) Section 14.25.150, an Environmental and Design Review permit may be extended prior to the established expiration dates with the approval of the Zoning Administrator if the respective findings remain valid and there have been no substantial changes to the approved project. The applicant is requesting an extension of time (PLAN24-025) for the prior Environmental and Design Review Permit (ED21-045/PLAN21-021), which was conditionally approved on May 23, 2022, and it set to expire on June 2, 2024.

PROJECT DESCRIPTION

The project consists of four new three-story townhomes and associated site and landscaping improvements on a vacant site that is currently used as a parking lot. This application is a request for an extension of time (PLAN24-025) to the previously approved Environmental and Design Review Permit (ED21-045/PLAN21-021). The original entitlement will expire on June 2, 2024.

PUBLIC HEARING

On April 17, 2024, a Zoning Administrator hearing was held to consider the requested time extension (PLAN24-025). The Acting Zoning Administrator for this meeting, Margaret Kavanaugh-Lynch, opened the hearing at 10:00 am.

A. Planner Presentation

Kavitha Kumar, the Project Planner, introduced the project. Laylonni Laster, the Consulting Assistant Planner, provided an overview of the staff report which included the executive summary, project description, project findings for approval, and the project conditions.

B. Applicant presentation

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The applicant’s representative, Kyle Thayer, was present at the meeting.

C. Public Comments

No public comments were received prior to the hearing or during the hearing.

D. Zoning Administrator Discussion

The Zoning Administrator reviewed the project for decision.

E. Action

The Zoning Administrator approved the request to extend the existing entitlement (ED21-045) for the development of a four-unit, three-story townhome development, and associated site and landscaping improvements at 709 C Street subject to the conditions listed below.

The public hearing for this item was adjourned at 10:23 am.

FINDINGS

The following findings reference the findings previously made to approve ED21-045.

CEQA Findings

The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq. and California Code of Regulations, §15000, et seq.) pursuant to Section 15332 of the CEQA Guidelines (Infill Development Projects). Furthermore, none of the exceptions found in Government Code §15300.2 apply.

Environmental and Design Review Permit (ED21-045) Findings (SRMC §14.25.090)

A. That the project design is in accord with the general plan, the objectives of the zoning ordinance and the purposes of this chapter;

The proposed project is consistent with the following General Plan policies:

- A) i. Policy LU-3.2 (New Development in Residential Neighborhoods). The project enhances the neighborhood image by proposing four townhomes on an existing parking lot that are well articulated buildings with high quality materials, along with proposed landscaping at the front of the site.
- ii. Policy H-2 (Design that Fits into the Neighborhood Context). The project respects the existing single-family house immediately north of the project site by locating the proposed townhomes on the southern and western portions of the project site.
- iii. Housing Element Goal 4 (A Diverse Housing Supply). The project proposes four new townhomes in a neighborhood with a predominant mixture of multifamily rental units, single family houses, and commercial uses. Thus, the project increases the

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housing supply and provides an uncommon housing product type (for sale multifamily units).

B) Consistency with Specific Plans. The project is located in the T4N 40/50 district within the Downtown Precise Plan (DPP). The project is , or will be required to be, consistent with many of the development standards in the DPP including but not limited to vehicle parking, bicycle parking, and massing and façade articulation standards. The project - 3 - does not comply with some standards of the DPP such as required setbacks and building setbacks. However, these standards for T4N 40/50 are more restrictive than those that existed when this site was zoned as Residential/Office (R/O), prior to August 2021 when the DPP was adopted. Pursuant to Senate Bill 330 and Government Code Section 66300(b)(1)(A), a local agency cannot enforce development standards in a specific plan adopted after January 1, 2020 that reduces the intensity of land use within an existing zoning district. Therefore, the more restrictive setback and building setback provisions in the DPP cannot be enforced for this project site and do not apply to this project. Pursuant to the T4N 40/50 district, a total of 10 bicycle spaces are required for this project.

C) Pursuant to Section 1.1.060 of the DPP, a new building up to 40 feet in overall height is subject to a Minor Environmental and Design Review Permit. Pursuant to San Rafael Municipal Code Section 14.25.020.B, the zoning administrator is responsible for making determinations on Minor Environmental and Design Review Permits.

B. That the project design is consistent with all applicable site, architecture and landscaping design criteria and guidelines for the district in which the site is located;

A) Consistency with Zoning. The project is located in the T4N 40/50 district within the Downtown Precise Plan (DPP). The proposed four new townhomes are permitted use in the T4N 40/50 district. The project is, or will be required to be, consistent with many of the development standards in the DPP including but not limited to vehicle parking, bicycle parking, and massing and façade articulation standards. The project does not comply with some standards of the DPP such as required setbacks and building setbacks. However, these standards for T4N 40/50 are more restrictive than those that existed when this site was zoned as Residential/Office (R/O), prior to August 2021 when the DPP was adopted. Pursuant to Senate Bill 330 and Government Code Section 66300(b)(1)(A), a local agency cannot enforce development standards in a specific plan adopted after January 1, 2020 that reduce the intensity of land use within an existing zoning district. Therefore, the more restrictive setback and building setback provisions in the DPP cannot be enforced for this project site and do not apply to this project.

C. That the project design minimizes adverse environmental impacts; and

A) The project site is a paved parking lot. Thus, the proposed project will not affect any land that has not already been disturbed.

B) The proposed four new townhomes are a permitted use in the T4N 40/50 district.

D. That the project design will not be detrimental to the public health, safety or welfare, nor materially injurious to properties or improvements in the vicinity.

A) The project enhances the neighborhood image by proposing four townhomes on an existing parking lot that are well articulated buildings with high quality materials, along with proposed landscaping at the front of the site. The project respects the existing single-family house immediately north of the project site by locating the proposed townhomes on the southern and western portions of the project site. Therefore, the project design will not be detrimental to the public health, safety, or welfare, nor materially injurious to properties or improvements in the vicinity.

CONDITIONS OF APPROVAL

The following conditions shall remain in effect as amended to update the dates of permit validity, provide clarification for the Tentative Subdivision Map requirements, update Building Department's requirements, and reflect regular rate increases to sewer connection fees.

Planning Division Conditions of Approval

1. Conditions Shall be Printed on Plans. The conditions of this Permit shall be printed on the second sheet of each plan set submitted for a building permit pursuant to this Environmental and Design Review Permit, under the title 'Use Permit Conditions.' Additional sheets may also be used if the second sheet is not of sufficient size to list all of the conditions. The sheet(s) containing the conditions shall be of the same size as those sheets containing the construction drawings; 8-1/2" by 11" sheets are not acceptable.
2. Applicant Responsible for Compliance with Conditions. The applicant shall ensure compliance with all of the following conditions, including submittal to the project planner of required approval signatures at the times specified. Failure to comply with any condition may result in construction being stopped, issuance of a citation, and/or modification or revocation of the Environmental and Design Review Permit.
3. Plans and Representations Become Conditions. All information and representations, whether oral or written, including the building techniques, materials, elevations and appearance of the project, as presented for approval on plans, dated January 25, 2022, and on file with the Community Development Department, Planning Division, shall be the same as required for the issuance of a building permit, except as modified by these conditions of approval. Minor modifications or revisions to the project shall be subject to review and approval by Planning staff. Modifications deemed not minor by the Community Development Director may require review and approval as an amendment to the Environmental and Design Review Permit by Planning staff.
4. Subject to All Applicable Laws and Regulations. The approved use and/or construction is subject to, and shall comply with, all applicable City Ordinances and



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- laws and regulations of other governmental agencies. Prior to any construction, tenant improvement or installation of signage, the applicant shall identify and secure all applicable permits from the Planning and Building Divisions, Public Works Department and other affected City divisions and departments.
5. **Permit Validity.** This Permit shall become effective on April 24, 2024 and shall be valid for a period of two (2) years from the date of final approval, or April 24, 2026, and shall become null and void if a building permit is not issued or a time extension granted by April 24, 2026. A permit for the construction of a building or structure is deemed exercised when a valid City building permit, if required, is issued, and construction has lawfully commenced. A permit for the use of a building or a property is exercised when, if required, a valid City business license has been issued, and the permitted use has commenced on the property.
 6. **Construction Hours:** Consistent with the City of San Rafael Municipal Code Section 8.13.050.A, construction hours shall be limited to 7:00 a.m. to 6:00 p.m. Monday through Friday and 9:00 a.m. to 6:00 p.m. on Saturdays. Construction shall not be permitted on Sundays or City-observed holidays. Construction activities shall include delivery of materials, hauling materials off-site; startup of construction equipment engines, arrival of construction workers, paying of radios and other noises caused by equipment and/or construction workers arriving at, or working on, the site.
 7. **Landscaping.** Landscaping and irrigation must meet the Marin Municipal Water District's (MMWD) water conservation rules and regulations. All existing landscaping damaged during construction shall be replaced. All landscaping shall be maintained in a healthy and thriving condition, free of weeds and debris. Any dying or dead landscaping shall be replaced in a timely fashion. No part of the existing landscaping shall be removed, unless their removal has been reviewed and approved by the Planning Division.
 8. **Exterior Lighting.** All exterior lighting shall be energy efficient where feasible; and shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.
 9. **Bicycle Parking.** A total of ten bicycle parking spaces shall be provided on the project site in the plans for review and approval by the Community Development Director prior to issuance of a building permit. A combination of bicycle parking spaces interior to the residential units and on the exterior of the site will suffice.
 10. **Driveway Width.** The driveway width shall be reduced to no less than a 12-foot-wide driveway at the entryway and a curb cut of no less than 14 feet wide, for review and approval by the Community Development Director prior to issuance of a building permit. If this proves to be infeasible or will affect the viable turning radius of vehicles entering or leaving the site, the Community Development Director may waive this condition of approval.



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11. Condominium Map. Prior to issuance of the first building permit, the applicant shall receive the appropriate approvals from the City for a Tentative Subdivision Map. A Final Subdivision Map is required to be approved prior to the first Certificate of Occupancy for this project.
12. Affordable Housing. The project is required to provide a primary affordable housing requirement pursuant to San Rafael Municipal Code Section 14.16.030 and City Council Resolution 14890. Prior to issuance of a building permit, the applicant shall comply with the affordable housing requirement by paying an in-lieu fee of forty percent of the applicable affordable housing in-lieu fee per unit at the time of building permit issuance.

Public Works Conditions of Approval

13. The applicant shall pay a traffic mitigation for net new AM and PM trips. The current rate is \$4,246 per trip. The proposed project has an estimated 2 peak hour AM trips and 3 peak hour PM trips therefore, the estimated traffic mitigation fee would be (5*4,246) \$21,230, due at the time of building permit issuance.
14. 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.
15. Please note that a design-level geotechnical report will be required prior to issuance of a building permit.
16. This project includes more than 5,000 square feet of total impervious area replacement and creation and therefore is considered a regulated project according to BASMAA standards. The following documents are required to be provided in accordance with BASMAA and Marin County Stormwater Pollution Prevention Program (MCSTOPPP) requirements:
 - a. Stormwater Control Plan – A short written document to accompany the plan set used primarily for municipal review to verify compliance with stormwater treatment requirements. (Needed to obtain building permit.)
 - b. Stormwater Facilities Operations and Maintenance (O&M) Plan – A short written document and exhibit outlining facilities on-site and maintenance activities and responsibilities for property owners. The maintenance plan shall include the manufacturer's recommended maintenance practices, designated parties responsible for upkeep, specify funding source for ongoing maintenance with provisions for full replacement when necessary and provide a site specific inspection checklist. (Provide prior to occupancy).
 - c. Operations and Maintenance Agreement – A formal agreement between the property owner and the city that shall be recorded with the property deed prior to occupancy. (Provide prior to occupancy).



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Building Division Conditions of Approval

17. The design and construction of all site alterations shall comply with the 2019 California Residential Code (CRC), 2019 California Building Code (CBC), 2019 California Plumbing Code (CPC), 2019 California Electrical Code (CEC), 2019 California Mechanical Code CCMC), 2019 California Fire Code (CFC), 2019 California Energy Code, 2019 California Green Building Standards Code and City of San Rafael Ordinances and Amendments.
18. A building permit is required for the proposed work. Applications shall be accompanied by 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
19. 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.
20. You must apply for a new address for this building from the Building Division.
21. 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.
22. If proposed fencing exceeds 6' in height, a building permit is required.
23. 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.
24. 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.
25. Prior to building permit issuance for the construction of each building, geotechnical and civil pad certifications are to be submitted.
26. 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



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specified in CBC Table 601 and exterior walls shall have a fire resistive rating not less than that specified in CBC Table 602.

27. Cornices, eaves overhangs, exterior balconies and similar projections extending beyond the floor area shall conform to the requirements of CBC 705.2. Projections shall not extend beyond the distance determined by the following two methods, whichever results in the lesser projection: a. A point one-third the distance from the exterior face of the wall to the lot line where protected openings or a combination of protected openings and unprotected openings are required in the exterior wall. b. A point one-half the distance from the exterior face of the wall to the lot line where all openings in the exterior wall are permitted to be unprotected or the building is equipped throughout with an automatic sprinkler system. c. More than 12 inches into areas where openings are prohibited.
28. CRC Section 302 - Based on the distance to the property line, single family residential and their associated accessory buildings, depending on whether the structure(s) have an automatic fire sprinkler system, have specific requirements and limitations regarding:
 - a. Fire resistive rating of exterior walls
 - b. Projections of eaves and decks
 - c. Wall openings (doors and windows).
 - d. Generally, structures within 5 feet of the property line require additional review.
29. Show emergency and rescue openings from units 3 & 4 that comply with CBC 1030. It appears both units have to pass under unit 3 to get to the public way.
30. Required Accessible Parking Spaces. 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.
31. Assigned Accessible Parking Spaces. When assigned parking spaces are provided for a resident or a group of residents, at least 2 percent of the assigned parking spaces serving covered multifamily dwelling units shall be accessible in each type of parking facility. At least one space of each type of parking facility shall be made accessible even if the total number exceeds 2 percent. When assigned parking is provided, signage as required by Section 1109A.8.8 shall not be required.
32. Per Title 12, the building permit application has expired. Applicant will need to update the plans to meet the current code and pay new plan review fees.

San Rafael Sanitation District Conditions of Approval

33. Modify the existing sanitary sewer main on C Street from 12 inches to 6 inches.

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- 34. Confirm pipe elevation at connection with existing sanitary sewer main. Based on our record, the depth of sanitary sewer main is approximately four feet.
- 35. Any exterior sanitary sewer-related work shall be performed in accordance with the San Rafael Sanitation District (SRSD) Standard Plans and Specifications.
- 36. A sewer permit from the San Rafael Sanitation District is required independent of a building permit for all proposed sewer lateral work outside the dwelling footprint. The property owner or authorized agent shall apply for a sewer permit online or contact SRSD for more information at (415) 454-4001 prior to the start of work.
- 37. Pursuant to District Ordinance No. 56, the District requires a sewer connection fee in the amount of \$11,579.79 per living unit, total amount of \$49,319.16. The connection fee may be paid in person at the SRSD office located at 111 Morpheus Street, 2nd Floor, San Rafael. Fees are to be paid prior to building permit issuance.

ACTION TAKEN: On April 17, 2024, the Zoning Administrator Conditionally Approved the request to extend the existing approved entitlements ED21-045 (PLAN21-021) subject to the Findings and Conditions above. The requested permit extension is file number PLAN24-025.

This Notice of Zoning Administrator decision is provided in compliance with SRMC Section 14.28.050 - Notice of decision. Any aggrieved party may appeal this decision pursuant to SRMC Section 14.28.030 - Filing and time limit of appeals, by submitting a letter of appeal and the appropriate fees within five (5) working days of the date of approval, or by **April 24, 2024 at 5:00 p.m.** This approval shall become effective at the end of the appeal period.

Once a permit approval has been implemented/established in compliance with all City requirements, it shall run with the land and be valid for the time period specified; e.g., duration of the project/use.

Margaret Kavanaugh-Lynch

April 25, 2024

Margaret Kavanaugh-Lynch, Acting Zoning Administrator

Date