



SAN RAFAEL
THE CITY WITH A MISSION

Community Development Department – Planning Division

Meeting Date: August 27, 2024
Agenda Item: G.1

Case Numbers: PLAN24-081

Project Planner: Kristina Estudillo, AICP
Principal Planner
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REPORT TO PLANNING COMMISSION

SUBJECT: 350 Merrydale/3833 Redwood Hwy, Merrydale Townhomes) – Request for a time extension for the Merrydale Townhomes entitlements

EXECUTIVE SUMMARY

The applicant is requesting an extension of time for each of the project entitlements for the Merrydale Townhomes Project. They consist of an Environmental Design Review (ED18-100), a Tentative Map (TS18-006), and a Use Permit (UP18-039). If approved, the entitlements would expire on February 3, 2026.

Typically Use Permits and Environmental Design Review permits are extended for two years, however San Rafael Municipal Code (SRMC) Section 14.22.180 does allow for a different expiration date to be identified if the findings can be made pursuant to SRMC Section 14.22.080 for Use Permits. In addition, SRMC Section 14.25.150 allows for the same flexibility for the Environmental Design Review if the findings can be made that are listed in SRMC Section 14.25.090. Staff has been able to make these findings and included them in the draft resolution for the Planning Commission’s review and consideration.

In this case, Staff recommends that the Planning Commission approve the maximum extension allowed under California Government Code 66452.6(e), which provides for a 6-year extension of the tentative map approval. If granted, the entitlements would expire if not vested by February 3, 2026. Staff recommends that the extension be granted as the project sponsor has had a number of challenges in moving the project forward and to allow additional time for the applicant and City staff to complete a number of conditions of approval required prior to recordation of the final map.

RECOMMENDATION

It is recommended that the Planning Commission take the following action:

Adopt a resolution to approve an extension of time for the project entitlements ED18-100, TS18-006, and UP18-039 to February 3, 2026; and modify the conditions of approval to reflect that action.

PROPERTY FACTS

Address/Location:	350 Merrydale/	Parcel Number(s):	179-041-27;
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	3833 Redwood Hwy		179-041-28
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BACKGROUND

Entitlement History

On February 3, 2020 the City Council adopted Resolution No. 14763 conditionally approving an Environmental and Design Review Permit (ED18-100), Tentative Subdivision Map (TS18-006), 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). Please see Exhibit 5.

On March 1, 2021, the City Council adopted Ordinance No. 1990 amending the affordable housing ordinance and adopted Resolution 14890 establishing Guidelines for the Administration of the affordable Housing Requirement Program. The City Council action was aimed at encouraging housing development and streamlining development approvals.

On July 19, 2021, the applicant received approval for modification of the affordable housing obligation for this project, to align with the City Council newly adopted Guidelines for the two (2) on-site units and pay in-lieu fees equal to 2.5 units. The modification did not approve a time extension of the original approval. Please see Exhibit 4.

On May 18, 2022, the applicant submitted a request for a two-year time extension for the project entitlements. At the time, staff recommended approval of the extension, but for a lesser time than requested and imposed the following conditions of approval:

- Application for grading and/or building permits(s) and associated construction documents shall be submitted by December 30, 2023.
- A grading permit and/or building permits(s) shall be obtained and grading/construction diligently commenced and pursued for all 9 buildings (45 units) by June 30, 2024.
- The project shall be diligently pursued and completed within 2 years of commencing.

The Planning Commission approved the extension with the conditions of approval in place. Please see Exhibit 3.

PROJECT DESCRIPTION & ANALYSIS

The applicant is requesting an extension of time for the project entitlements (ED18-100, TS18-006, and UP18-039). If approved, the entitlements that were set to expire on June 30, 2024 would expire February 3, 2026.

While the applicant was not able to complete all the conditions stipulated in the last extension, the following progress has been made on the project:

- 1) A grading permit for the demolition of the existing structure was approved, though not pulled, for the Project on May 12, 2023 (#G2304-001).
- 2) Master Building Permit (MSTR2304-001) has been submitted to the City and fees in the amount of \$62,832.00 were submitted for the Project on April 28, 2023.
- 3) Final Map has been submitted (MAP2310-001) and subdivision Improvement Plans and Final Map have been prepared.

- 4) Applicant obtained City and utility company staff approvals to the final Subdivision Improvement Plans.

The applicant has cited the following obstacles that have delayed the project:

- 1) Financial impediments due to interest rate increases and historically high construction costs.
- 2) Delays due to the COVID-19 pandemic.
- 3) Difficulty in procuring "Will Serve" letter from Las Gallinas Valley Sanitation District for allocation of sewer capacity.
- 4) Lengthy process to obtain a Pipeline Extension Agreement from Marin Municipal Water District.

Staff also finds that the extension will provide additional time for staff to work with the applicant on a number of outstanding conditions of approval including the affordable housing agreement, subdivision improvement agreement, homeowner’s association and associated covenants, conditions and restrictions (CC&Rs), which are required before the Final Map can be recorded.

FINDINGS

Staff reviewed the project and was able to make the findings needed to grant this extension of time. Please see draft resolution included in this report as Exhibit 1.

ENVIRONMENTAL DETERMINATION

A Mitigated Negative Declaration was prepared for the project and adopted by the City Council on February 3, 2020 by Resolution No. 14762. Staff reviewed this document and has determined that it remains valid for this extension. The baseline conditions have not changes since the environmental review was prepared in 2020 and the analysis remains appropriate for the proposed project. Please see Exhibit 5.

NEIGHBORHOOD MEETING / CORRESPONDENCE

Notice of hearing for the project was conducted in accordance with noticing requirements contained in Chapter 29 of the Zoning Ordinance. A Notice of Public Hearing was mailed to all property owners and occupants within a 300-foot radius of the subject site, and all other interested parties, 15 calendar days prior to the date of all meetings, including this hearing. Public notice was also posted on the subject site 15 calendar days prior to the date of all meetings, including this hearing. As of the date of publication, no comments have been received regarding the project.

OPTIONS

The Planning Commission has the following options:

- 1. Approve the time extensions and modified conditions of approval as recommended by staff.
- 2. Approve a time extension for 5 years (February 3, 2025) as outlined per SRMC Section 15.01.130 (Time limits for map approvals and extensions).
- 3. Deny the time extension for the project.

EXHIBITS

- 1. Draft Resolution and Amended Conditions of Approval

2. Amended Conditions of Project Approval - Strikethrough and Underline
3. Planning Commission Resolution 22-12
4. City Council Resolution No. 14947
5. City Council Resolution No. 14763
6. CEQA Memo
7. Mitigation Monitoring and Reporting Program

RESOLUTION NO. 24-04

RESOLUTION OF THE SAN RAFAEL PLANNING COMMISSION APPROVING A TIME EXTENSION FOR MERRYDALE TOWNHOMES ENTITLEMENTS (ED18-100, UP18-039, AND TS18-006) LOCATED AT 350 MERRYDALE RD/3833 REDWOOD HWY
APN: 179-041-27 AND 179-041-28

WHEREAS, on February 3, 2020 the City Council adopted resolution 14763 approving Environmental and Design Review (ED18-100), Use Permit (UP18-039), and Tentative Subdivision Map (TS18-006) for a 45-unit residential condominium project at 350 Merrydale/3833 Redwood Hwy; and

WHEREAS, on March 1, 2021, the City Council adopted Ordinance No. 1990 amending the affordable housing ordinance and adopted Resolution 14890 establishing Guidelines for the Administration of the Affordable Housing Requirement Program. The goal of the City Council action was to encourage affordable housing development and streamline development approvals; and

WHEREAS, on July 19, 2021, the City Council approved a modification of the affordable housing obligation for this project, to align with the City Council newly adopted Guidelines for the Administration of the affordable Housing Requirement Program. As a result, the applicant is now required to provide two (2) onsite below market rate units and pay in-lieu fees equal to 2.5 units; and

WHEREAS, on May 18, 2022 Michael Hooper (Campus Properties LLC) submitted a request for a time extension for the approved entitlements (ED18-100, UP18-039, and TS18-006); and

WHEREAS, on June 28, 2022 the San Rafael Planning Commission held a duly noticed public hearing on the proposed time extension, accepting all oral and written public testimony and the written report of the Community Development Department staff. The Planning Commission adopted Resolution 22-12 which extended the time to vest and imposed the following requirements:

- Application for grading and/or building permits(s) and associated construction documents shall be submitted by December 30, 2023;
- A grading permit and/or building permits(s) shall be obtained and grading/construction diligently commenced and pursued for all 9 buildings (45 units) by June 30, 2024;
- The project shall be diligently pursued and completed within 2 years of commencing; and

WHEREAS, on May 23, 2024, Michael Hooper (Campus Properties LLC) submitted an additional request for an extension of time the approved entitlements (ED18-100, UP18-039, and TS18-006); and

WHEREAS, staff reviewed the application for extension of time and has determined that there had been unusual challenges that have caused delay in the completion of the project, the findings for approval of the project remain valid, that there have been no substantial changes in the factual circumstances surrounding the original approvals that would cause denial of the extension; and

WHEREAS, a Mitigated Negative Declaration was prepared for the project and adopted by City Council on February 3, 2020 by Resolution No. 14762 and there are no changes to the baseline conditions that would necessitate new environmental review; and

WHEREAS, on August 27, 2024 the San Rafael Planning Commission held a duly noticed public hearing on the proposed time extension, accepting all oral and written public testimony and the written report of the Community Development Department staff.

NOW THEREFORE BE IT RESOLVED, the Planning Commission makes the following findings relating to the requested time extensions for ED18-100, UP18-039, and TS18-006:

Environmental and Design Review Permit Findings (ED18-100)

In accordance with San Rafael Municipal Code (SRMC) Section 14.25.150 (Extensions), an environmental and design review permit may be extended by the zoning administrator, if the findings required by Section 14.25.090, Findings, remain valid, there have been no substantial changes in the factual circumstances surrounding the originally approved design, and application is made prior to expiration. The findings of approval for the project remain valid, as outlined below:

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 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. The proposed project is consistent with Land Use Designation as there is adequate infrastructure to serve the proposed development and the proposed 45- units on the two-acre site would not exceed the maximum density allowed in the Community Commercial Mixed Use (GC) Land Use category (21.8-43.6 units per net acre). The project is consistent with the zoning code as it would meet applicable development standards for the approved Planned Development. 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).

The project has been reviewed by the Design Review Board, Planning Commission, and City

Council and found to be consistent the applicable design policies of the General Plan, the City's Residential Design Guidelines and Civic Center Station Plan. 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.

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.

B. 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

The project design is consistent with all applicable site, architecture, and landscaping design criteria. The project design was reviewed and approved by the Design Review Board, Planning Commission, and City Council. The proposed 3-story buildings have been designed to minimize bulk and mass, and the height (33.5') is 2.5' lower than the 36' height limit allowed. 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 been 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 was modified based on comments from both residents and the Board.

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.

The materials and colors 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.

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.

C. That the project design minimizes adverse environmental impacts;

The project has been designed to minimize adverse environmental impacts. The building and site improvement are sited to provide adequate setbacks from the creek to the north and 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 and included mitigation measures to reduce impacts to a less-than-significant level. Mitigation measures are also included as conditions of project approval.

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

The project design will not be detrimental to public health, safety or welfare or injurious to properties or improvements in the vicinity. 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. The project has also been reviewed by the Design Review Board, Planning Commission, and City Council and found to be consistent with the neighborhood and compatible with adjacent properties.

Master Use Permit Findings (UP18-039)

In accordance with San Rafael Municipal Code (SRMC) Section 14.22.140 (Extensions), a use permit may be extended if the findings required by Section 14.22.080 (Findings), remain valid and application is made prior to expiration. The findings of approval for the project remain valid, as outlined below:

A. That the proposed use is in accord with the general plan, the objectives of the zoning ordinance, and the purposes of the district in which the site is located;

The proposed project is consistent with Land Use Designation as there is adequate infrastructure to serve the proposed development and the proposed 45- units on the two-acre site would not exceed the maximum density allowed in the Community Commercial Mixed Use (GC) Land Use category (21.8-43.6 units per net acre). The project is consistent with the zoning code as it would meet applicable development standards for the approved Planned Development. 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).

The project has been reviewed by the Design Review Board, Planning Commission, and City Council and found to be consistent the applicable design policies of the General Plan, the City’s Residential Design Guidelines and Civic Center Station Plan. 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.

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. The project would comply with provisions of the zoning code related to affordable housing, creek setbacks, height, etc.

B. That the proposed use, together with the conditions applicable thereto, will 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;

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 identified in the IS/MND Mitigation Monitoring and Reporting Program and have been incorporated as conditions of approval.

C. That the proposed use complies with each of the applicable provisions of the zoning ordinance.

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.

The foregoing Resolution was adopted at the regular City of San Rafael Planning Commission meeting held on the 27th day of August 2024. The Planning Commission's

Action is final unless it is appealed to the City Council within five (5) working days pursuant to San Rafael Municipal Code Section 14.28.030 - Filing and time limit of appeals.

Moved by _____ and seconded by _____. The vote is as follows:

AYES:

NOES:

ABSENT:

SAN RAFAEL PLANNING COMMISSION

ATTEST: BY: Margaret Kavanaugh-Lynch, Secretary

ATTACHMENT:

1. Exhibit 1 of Conditions of Approval

EXHIBIT 1
MODIFIED CONDITIONS OF APPROVAL
Changes Shown in Red

350 MERRYDALE RD/3833 REDWOOD HWY (MERRYDALE TOWNHOMES)
ENVIRONMENTAL AND DESIGN REVIEW (ED18-100), USE PERMIT (UP18-039) AND
TENTATIVE MAP (TS18-006)
(APNS: 179-041-27 AND 179-041-28)

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

General Project Conditions

Community ~~and Economic~~ 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 ~~and Economic~~ Development Department, Planning Division. Modifications deemed not minor by the Community ~~and Economic 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 Planning Commission. 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.~~

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~~).

- 3) 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.
- 4) 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.
- 5) 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.
- 6) 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.
- 7) 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.

- 8) 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.
- 9) 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.
- 10) 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.
- 11) 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 the conditions found in this resolution. ~~the remaining conditions approved under Resolution 14763, provided that a building/grading permit is applied for by December 31, 2022 and issued, and construction commenced by June 30, 2023 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. This Environmental and Design Review Permit shall be valid until February 3, 2026.~~
- 12) Phasing of the project is allowed, subject to the terms and conditions of approval of the Master Use Permit (UP18-039) below.
- 13) 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.

Community and Economic Development Department - Planning Division

Prior to the Issuance of a ~~Demo or Rough Grading or Building Permit as applicable and as indicated below: Demo/Building/Grading Permit~~

- 14) A copy of the Conditions of Approval for ED18-100 shall be included as a plan sheet with the building permit plan submittal.
- 15) 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 issuance of Certificate of Occupancy ~~occupancy~~.

- 16) **AIR QUALITY (AQ-1, AQ1a and AQ-2)**: 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.
- 17) **GEOTECHNICAL (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.
- 18) **GEOTECHNICAL (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.
- 19) **GEOTECHNICAL (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.
- 20) **GEOTECHNICAL (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.
- 21) **TRANSPORTATION (TRANS-1)**: ~~D~~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.
- 22) **HYDROLOGY (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.
- 23) 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.
- 24) **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.
- 25) **HAZARDS AND HAZARDOUS MATERIALS (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.

- 26) **HAZARDS AND HAZARDOUS MATERIALS (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.
- 27) 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 and Economic Development Department and Traffic Engineer.
- 28) 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 and Economic Development Department and Traffic Engineer.
- 29) ~~Property Owner/a~~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 prior to the issuance of the first grading permit. 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.
- 30) 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.
- 31) Any outstanding Planning Division application processing fees shall be paid. A balance of \$10,904.00 is outstanding for implementation of the Mitigation Monitoring and Reporting Plan.
- 32) A construction logistics plan specific to each permit shall be submitted demonstrating how construction conditions shall be met. The plan must be approved by the Public Works Department and Community and Economic Development Community and Economic

Development Director and shall include the conditions of approval and mitigation measures that are applicable to the construction of the Project.

- 33) The project is required to provide a primary and secondary affordable housing requirement pursuant to San Rafael Municipal Code Section 14.16.030 and City Council Resolution 14890. The applicant shall comply with this requirement by providing 2 units on-site (5% of the total units) and by paying an in-lieu fee equal to the 2.5 units (2.25 + .25 (fractional unit from the onsite requirement)).
- 34) Prior to the issuance of a building permit or recordation of the final map, whichever occurs first, The applicant shall:
 - a) Pay the affordable housing in-lieu fee equal to 2.5 units.
 - b) Enter into a Below Market Rate (BMR) agreement. The BMR agreement for the two (2) affordable unit shall be approved by the Community Development Director and City Manager and recorded on the property. Consistent with the affordable housing requirements, the affordable housing units shall be affordable to low-income households. 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.
- 35) Prior to the first building permit, pProtective 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.

Public Works Department - Land Development Division

General

- 36) 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.
- 37) 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.
- 38) 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.
- 39) 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.

- 40) 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.
- 41) Provide will serve letters from the various utilities for the proposed subdivision.
- 42) 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

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

Grading

- 44) 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.
- 45) A grading permit shall be obtained for all grading and site improvement work. Trucking trips during peak hours may be limited.
- 46) 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.
- 47) 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.
- 48) 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.
- 49) This project includes over one (1) acre of disturbance. A SWPPP shall be required.
- 50) 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

- 51) 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.
- 52) Pet waste bags, signage and trash receptacles shall be provided in convenient locations to reduce the likelihood of litter near the creek path.
- 53) 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.
- 54) The site drainage system is located at elevations that may be subject to tidally influenced surcharge events. The drainage system shall include backflow prevention.
- 55) 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.
- 56) 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.

57) 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

58) The Traffic Impact Study (TIS) has been updated, dated October 3, 2019 and previous comments have been addressed.

59) 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.

60) 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 and Economic Development Department – Building Division

61) 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 (CMC), 2016 California Fire Code (CFC), 2016 California Energy Code, 2016 California Green Building Standards Code and City of San Rafael Ordinances and Amendments.

62) 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

63) Building height and story must comply with CBC Section 504. On the plan justify the proposed building area and height.

64) Building areas are limited by CBC Table 506.2. On plan justify the proposed building area.

65) 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.

- 66) 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.
- 67) 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.
- 68) 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.
- 69) 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.
- 70) 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.
- 71) 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.
- 72) Walls separating purposed tenant space from existing neighboring tenant spaces must be a minimum of 1-hour construction.
- 73) 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.
- 74) 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.

75) Public accommodation disabled parking spaces must be provided according to 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

76) 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.

77) 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

78) 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.

79) 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

80) 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 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

81) 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.

82) Complete a High-pressure Water Service Application

- 83) Pay appropriate fees and charges
- 84) Complete the structure's foundation within 120 days of the date of application
- 85) 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.
- 86) Comply with all indoor and outdoor requirements of District Code Title 13 – Water Conservation. This may include ventilation of specific indoor fixture efficiency compliance.
- 87) 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.
- 88) 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.
- 89) 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.
- 90) 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.

Community and Economic Development Department – Planning Division

During Construction and Grading

- 91) 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.
- 92) **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.

93) **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.

94) **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 PM_{2.5} concentration. Exposure to cancer risk from U.S. Highway 101 are significant. Cancer risk is based on exposure to exhaust emissions while annual PM_{2.5} concentrations are based on the exposure to PM_{2.5} 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. PM_{2.5} exposure drives the mitigation plan. Reducing PM_{2.5} 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 PM_{2.5} 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.

95) **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.

96) **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).

97) **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.

98) **GEOTECHNICAL (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.”

99) **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.
- 100) **TRIBAL CULTURAL RESOURCES (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.

Community and Economic Development Department – Planning Division

Prior to Final Occupancy

- 101) 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.
- 102) **AESTHETICS (AES-1)**: Prior to the Building Permit final inspection, the project applicant shall submit to the satisfaction of the Community **and Economic** 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).
- 103) **TRANSPORTATION (TRANS-1)**: Install any improvements required by **TRANS-1** prior to final occupancy.
- 104) **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.
- 105) 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.
- 106) 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.
- 107) 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

- 108) 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 and Economic Development Department - Planning Division

- 1) The Tentative Subdivision Map (TS18-006) shall be valid until February 3, 2026 for a period of three (3) years from the date of City Council approval, ~~or until December 10, 2022 until June 30, 2023~~ 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) which entails site preparation, demolition, landscaping/tree removal (except no removal of existing trees along the southern property line).
 - b) Phase Two – Shall include construction of buildings, construction of the 2 on-site below market rate units, trash enclosure, and creek promenade enhancements including landscaping, hardscape and recreational amenities.
 - c) Phase Three - Construction of any remaining units, removal of existing trees along southern property line and the remaining landscaping.

~~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 is required to provide a primary and secondary affordable housing requirement pursuant to San Rafael Municipal Code Section 14.16.030 and City Council Resolution 14890. The applicant shall comply with this requirement by providing 2 units on-site (5% of the total units) and by paying an in-lieu fee equal to the 2.5 units (2.25 + .25 (fractional unit from the onsite requirement)).

Prior to the issuance of a building permit or recordation of the final map, whichever occurs first, The applicant shall:

- a) Pay the affordable housing in-lieu fee equal to 2.5 units.
 - b) Enter into a Below Market Rate (BMR) agreement. The BMR agreement for the two (2) affordable unit shall be approved by the Community Development Director and City Manager and recorded on the property. Consistent with the affordable housing requirements, the affordable housing units shall be affordable to low-income households. 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.
- 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 x 2.5 persons/dwelling unit x 3 acres per 1,000 persons x \$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 – Shall include construction of buildings, construction of the 2 on-site below market rate units, trash enclosure, and creek promenade enhancements including landscaping, hardscape and recreational amenities.
 - c) Phase Three - Construction of any remaining 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) applications for building permits(s) have not been submitted by December 30, 2022; 1)2) a building permits(s) have not been obtained and construction diligently commenced and pursued for all 9 buildings (45 units) by June 30, 2023; 2)3) construction has not commenced on both Phase Two and Phase Three by June 30, 2023; or 3)4) the project has not substantially progressed in constructions of Phase Two and Three by June 30, 2023.; 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. This Master Use Permit (UP18-039) shall be valid until February 3, 2026 and once valid, shall run with the land.~~
 - 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 and Economic 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.

RESOLUTION NO. 22-12

RESOLUTION OF THE SAN RAFAEL PLANNING COMMISSION APPROVING A TIME EXTENSION FOR MERRYDALE TOWNHOMES ENTITLEMENTS ED18-100, UP18-039, AND TS18-006 LOCATED AT 350 MERRYDALE RD/3833 REDWOOD HWY

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

WHEREAS, on February 3, 2020 the City Council adopted resolution 14763 approving Environmental and Design Review (ED18-100), Use Permit (UP18-039), and Tentative Subdivision Map (TS18-006) for a 45-unit residential condominium project at 350 Merrydale/3833 Redwood Hwy. Said project included nine (9) below market rate units; and

WHEREAS, on March 1, 2021, the City Council adopted Ordinance No. 1990 amending the affordable housing ordinance and adopted Resolution 14890 establishing Guidelines for the Administration of the Affordable Housing Requirement Program. The City Council action was aimed at encouraging housing development and streamlining development approvals; and

WHEREAS, on July 19, 2021, the City Council approved a modification of the affordable housing obligation for this project, to align with the City Council newly adopted Guidelines for the Administration of the affordable Housing Requirement Program. As a result, the applicant is now required to provide two (2) onsite below market rate units and pay in-lieu fees equal to 2.5 units; and

WHEREAS, on May 18, 2022 Michael Hooper (Campus Properties LLC) submitted a request for a time extension for the approved entitlements (ED18-100, UP18-039, and TS18-006) inclusive of the reduction in the affordable housing obligation; and

WHEREAS, upon review of the application, the project has been determined to be exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the CEQA Guidelines which exempts projects where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment; and

WHEREAS, on June 28, 2022 the San Rafael Planning Commission held a duly noticed public hearing on the proposed time extension, accepting all oral and written public testimony and the written report of the Community Development Department staff.

NOW THEREFORE BE IT RESOLVED, the Planning Commission makes the following findings relating to the requested time extensions for ED18-100, UP18-039, and TS18-006:

Findings (PLAN22-086)

1. The application for extension of time was submitted prior to the expiration of the project entitlements.
2. Findings for approval of the project remain valid.
3. There have been no substantial changes in the factual circumstances surrounding the original approvals that would cause denial of the extension
4. The extension would result in changes to Conditions of Approval set forth in Exhibit A under City Council Resolution No. 14763 (February 3, 2020) to allow an extension of time for vesting the following entitlements: Environmental and Design Review (ED18-100), Tentative Subdivision Map (TS18-006), Use Permit (UP18-039).
5. No other Conditions of Approval for ED18-100, TS18-006, or UP18-039 will be modified.

Conditions of Approval (PLAN22-086)

1. Exhibit A of City Council Resolution No. 14763 is incorporated herein, as amended.
2. All other Conditions of Approval for ED19-100, TS18-006, and UP18-039 contained in Exhibit A shall apply.
3. No additional time extensions will be granted for ED18-100, TS18-006, or UP18-039.

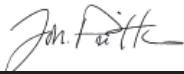
The foregoing Resolution was adopted at the regular City of San Rafael Planning Commission meeting held on the 28th day of June 2022.

Moved by Commissioner Mercado and seconded by Commissioner Haveman.

- AYES: Commissioners Harris, Haveman, Mercado, and Samudzi
 NOES: None
 ABSENT: Commissioners Saude and Shalk
 ABSTAIN: Chair Previtali [Not in attendance during the June 14 meeting.]

SAN RAFAEL PLANNING COMMISSION

ATTEST: 
Leslie Mendez, Secretary

BY: 
Jon Previtali, Chair

- ATTACHMENT:
 1. Exhibit A of City Council Resolution No. 14947, as amended

**EXHIBIT A
MODIFIED CONDITIONS OF APPROVAL**

350 MERRYDALE RD/3833 REDWOOD HWY (MERRYDALE TOWNHOMES)
ENVIRONMENTAL AND DESIGN REVIEW (ED18-100), USE PERMIT (UP18-039) AND
TENTATIVE MAP (TS18-006)
(APN'S: 179-041-27 AND 179-041-28)

**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.~~

This Environmental and Design Review Permit shall be extended for a period of 18 months so long as grading permits and/or building permits are obtained and diligently pursued as follows:

- application for grading and/or building permits(s) and associated construction documents shall be submitted by December 30, 2023;
- a grading permit and/or building permits(s) shall be obtained and grading/construction diligently commenced and pursued for all 9 buildings (45 units) by June 30, 2024;
- the project shall be diligently pursued and completed within 2 years of commencing.

- 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.~~

The project is required to provide a primary and secondary affordable housing requirement pursuant to San Rafael Municipal Code Section 14.16.030 and City Council Resolution 14890. The applicant shall comply with this requirement by providing 2 units on-site (5% of the total units) and by paying an in-lieu fee equal to the 2.5 units (2.25 + .25 (fractional unit from the onsite requirement)).

Prior to the issuance of a building permit or recordation of the final map, whichever occurs first, The applicant shall:

- a. Pay the affordable housing in-lieu fee equal to 2.5 units.
- b. Enter into a Below Market Rate (BMR) agreement. The BMR agreement for the two (2) affordable unit shall be approved by the Community Development Director and City Manager and recorded on the property. Consistent with the affordable housing requirements, the affordable housing units shall be affordable to low-income households. 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.

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.
- (a) 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 (CMC), 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 purposed 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 PM_{2.5} concentration. Exposure to cancer risk from U.S. Highway 101 are significant. Cancer risk is based on exposure to exhaust emissions while annual PM_{2.5} concentrations are based on the exposure to PM_{2.5} 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. PM_{2.5} exposure drives the mitigation plan. Reducing PM_{2.5} 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 PM_{2.5} 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) **GEOTECHNICAL (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

2. 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~~ until June 30, 2024 and shall become null and void unless a Final Map has been recorded or a time extension is granted.
3. 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.
4. ~~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.~~

The project is required to provide a primary and secondary affordable housing requirement pursuant to San Rafael Municipal Code Section 14.16.030 and City Council Resolution 14890. The applicant shall comply with this requirement by providing 2 units on-site (5% of the total units) and by paying an in-lieu fee equal to the 2.5 units (2.25 + .25 (fractional unit from the onsite requirement)).

Prior to the issuance of a building permit or recordation of the final map, whichever occurs first, The applicant shall :

- a. Pay the affordable housing in-lieu fee equal to 2.5 units.
 - b. Enter into a Below Market Rate (BMR) agreement. The BMR agreement for the two (2) affordable unit shall be approved by the Community Development Director and City Manager and recorded on the property. Consistent with the affordable housing requirements, the affordable housng units shall be affordable to low-income households. 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.
5. 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 x 2.5 persons/dwelling unit x 3 acres per 1,000 persons x \$262,396.80 = \$88,558.92
 6. 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.

7. 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.

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

Department of Public Works - Land Development Division

9. A Final Map shall be required to be filed and approved by the Department of Public Works.
10. 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 – Shall include construction of buildings, construction of the 2 on-site below market rate units. ~~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 any remaining units 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.
 - e) ~~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.~~

This Master Use Permit (UP18-039) shall be extended for a period of 18 months so long as grading permits and/or building permits are obtained and diligently pursued as follows:

- application for grading and/or building permits(s) and associated construction documents shall be submitted by December 30, 2023;
- a grading permit and/or building permits(s) shall be obtained and grading/construction diligently commenced and pursued for all 9 buildings (45 units) by June 30, 2024;
- the project shall be diligently pursued and completed within 2 years of commencing.

- 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.

RESOLUTION NO. 14947

RESOLUTION OF THE CITY OF SAN RAFAEL CITY COUNCIL MODIFYING CONDITIONS OF APPROVAL OF ENVIRONMENTAL AND DESIGN REVIEW (ED18-100), USE PERMIT (UP18-039) AND TENTATIVE MAP (TS18-006) FOR THE MERRYDALE TOWNHOMES LOCATED AT 350 MERRYDALE RD/3833 REDWOOD HWY TO ALLOW FULFILLMENT OF THE AFFORDABLE HOUSING REQUIREMENT IN ACCORDANCE WITH CITY COUNCIL RESOLUTION NO. 14890 (APN'S: 179-041-27 AND 179-041-28)

WHEREAS, on February 3, 2020, the San Rafael City Council adopted Ordinance No. 1979, Resolution No. 14762, and Resolution No. 14763 approving entitlements for development of a 45-unit condominium project at 350 Merrydale/3833 Redwood Highway, called the Merrydale Townhomes. The entitlements included approval of Tentative Map, Master Use Permit and Environmental and Design Review; and

WHEREAS, a condition of approval of the Tentative Map, Master Use Permit and Environmental and Design Review for the project required nine Below Market Rate Units in accordance with San Rafael Municipal Code Section 14.16.030 in effect at the time of the approvals; and

WHEREAS, on February 16, 2021, the City Council adopted Ordinance No. 1990 amending San Rafael Municipal Code (SRMC) section 14.16.030, and Resolution No. 14890, which together set forth the affordable housing requirements for housing developments within the City. Ordinance No. 1990 authorized the affordable housing requirement for housing developments of greater than 15 units to be split into a primary requirement (5% of units to be constructed onsite) and a secondary requirement (option of on-site or off-site development; dedication of land; or payment of in-lieu fees); and

WHEREAS, SRMC section 14.16.30, as modified by Ordinance No. 1990, allows modifications of the affordable housing component of projects that were approved prior to the effective date of Ordinance No. 1990 but which have not yet commenced construction; and

WHEREAS, on April 20, 2021, subsequent to adoption of Ordinance No. 1990, the City received an application requesting modification of the affordable housing obligation for the Merrydale Townhomes project; and

WHEREAS, the applicant is proposing to comply with Ordinance No. 1990 and Resolution No. 14890 by providing two (2) onsite below market rate units and by paying in-lieu fees equal to 2.5 units; and

WHEREAS, the proposed modification is consistent with Resolution No. 14890; and

WHEREAS the proposed amendments do not propose any changes to City policies or regulations that would result in a direct or indirect physical, environmental impact; therefore it has been determined that this ordinance amendment qualifies for exemption from the California Environmental Quality Act (CEQA) pursuant to Sections 15183(a) because it entails a project that can be found consistent with the General Plan policies and pursuant to 15061(b)(3), which states that as a 'general rule' CEQA applies only to projects which have the potential to cause a significant, physical environmental impact; and

WHEREAS, on July 19, 2021, 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

NOW THEREFORE BE IT RESOLVED that the City Council of the City of San Rafael does hereby approve modifications to conditions of approval for Environmental and Design Review Permit (ED18-100), Tentative Map Subdivision (TS18-006), Use Permit (UP18-039) for the project located at 350 Merrydale/3833 Redwood Hwy.as shown on Exhibit A of this 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 19th day of July 2021, by the following vote to wit:

AYES: COUNCILMEMBERS: Bushey, Hill, Kertz & Mayor Kate

NOES: COUNCILMEMBERS: None

ABSENT: COUNCILMEMBERS: Llorens Gulati



LINDSAY LARA, City Clerk

EXHIBIT A MODIFIED CONDITIONS OF APPROVAL

PER RESOLUTION NO. _____ FOR ENVIRONMENTAL AND DESIGN REVIEW (ED18-100), USE PERMIT (UP18-039) AND TENTATIVE MAP (TS18-006) FOR THE PROPERTY LOCATED AT 350 MERRYDALE RD/3833 REDWOOD HWY (MERRYDALE TOWNHOMES) (APN'S: 179-041-27 AND 179-041-28)

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.~~

The project is required to provide a primary and secondary affordable housing requirement pursuant to San Rafael Municipal Code Section 14.16.030 and City Council Resolution 14890. The applicant shall comply with this requirement by providing 2 units on-site (5% of the total units) and by paying an in-lieu fee equal to the 2.5 units (2.25 + .25 (fractional unit from the onsite requirement)).

Prior to the issuance of a building permit or recordation of the final map, whichever occurs first, The applicant shall :

- a. Pay the affordable housing in-lieu fee equal to 2.5 units.
- b. Enter into a Below Market Rate (BMR) agreement. The BMR agreement for the two (2) affordable unit shall be approved by the Community Development Director and City Manager and recorded on the property. Consistent with the affordable housing requirements, the affordable housing units shall be affordable to low-income households. 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.

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.
- (a) 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 o 50	2
51 o 75	3
76 o 100	4
101 150	5
151 200	6
201 300	7
301 400	8
401 500	9
501 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) **GEOTECHNICAL (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

- 2. 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.
- 3. 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.

- ~~4. 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.~~

The project is required to provide a primary and secondary affordable housing requirement pursuant to San Rafael Municipal Code Section 14.16.030 and City Council Resolution 14890. The applicant shall comply with this requirement by providing 2 units on-site (5% of the total units) and by paying an in-lieu fee equal to the 2.5 units (2.25 + .25 (fractional unit from the onsite requirement)).

Prior to the issuance of a building permit or recordation of the final map, whichever occurs first, The applicant shall :

- a. Pay the affordable housing in-lieu fee equal to 2.5 units.
 - b. Enter into a Below Market Rate (BMR) agreement. The BMR agreement for the two (2) affordable unit shall be approved by the Community Development Director and City Manager and recorded on the property. Consistent with the affordable housing requirements, the affordable housing units shall be affordable to low-income households. 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.
5. 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 x 2.5 persons/dwelling unit x 3 acres per 1,000 persons x \$262,396.80 = \$88,558.92
6. 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.

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

Department of Public Works - Land Development Division

9. A Final Map shall be required to be filed and approved by the Department of Public Works.
10. 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 – Shall include construction of buildings, construction of the 2 on-site below market rate units. ~~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 any remaining units ~~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.

RESOLUTION NO. 14763

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 of 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 with 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 Drainage 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, enhamcing and incorporating the creek into the project site design. The south bank of the creek willl be enhances 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 maintenace vehicles. Several existing trees (13) will be preserved at the perimter 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 veritical 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 identified 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 purposed 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 o 50	2
51 o 75	3
76 o 100	4
101 150	5
151 200	6
201 300	7
301 400	8
401 500	9
501 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 PM_{2.5} concentration. Exposure to cancer risk from U.S. Highway 101 are significant. Cancer risk is based on exposure to exhaust emissions while annual PM_{2.5} concentrations are based on the exposure to PM_{2.5} 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. PM_{2.5} exposure drives the mitigation plan. Reducing PM_{2.5} 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 PM_{2.5} 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) **GEOTECHNICAL (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 x 2.5 persons/dwelling unit x 3 acres per 1,000 persons x \$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: Colin, Gamblin, McCullough & Mayor Phillips

NOES: COUNCILMEMBERS: None

ABSENT: COUNCILMEMBERS: Bushey



LINDSAY LARA, City Clerk



Date: August 16, 2024
To: Project File
From: Kristina Estudillo, Principal Planner
Subject: **CEQA Memorandum for an extension of time to vest the proposed for a 45-unit residential condominium project at 350 Merrydale/3833 Redwood Hwy**

SUMMARY

Project Description

The proposed project includes 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). The project was approved on February 3, 2020 by City Council Resolution No. 14763, which conditionally approved Environmental and Design Review Permit (ED18-100), Tentative Subdivision Map (TS18-006), Use Permit (UP18-039), and Subdivision Exception (EX19-012).

An Initial Study was completed and a Mitigated Negative Declaration (MND) was prepared for the project and adopted by the City Council on February 3, 2020 by Resolution No. 14762. Staff reviewed this document and has determined that it remains valid for this extension. The baseline conditions have not changed since the environmental review was prepared in 2020 and the analysis remains appropriate for the proposed project.

CEQA Analysis

Pursuant to CEQA Section 15162 (Subsequent EIRs and Negative Declarations) when a negative declaration has been adopted for a project, no subsequent environmental document shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in the light of the whole record, one or more of the following:

- (1) Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;**

The original Initial Study and Mitigated Negative Declaration (IS/MND) evaluated the construction and operation 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. The Project under review is an extension of time, no other modifications are proposed. Therefore, the project meets the criteria for utilizing the prior IS/MND.

- (2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or**

There are no changed circumstances under which the proposed project would be undertaken. The project was approved in 2020 and in the past four years there have not been substantial changes to the surrounding physical environment.

- (3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous Negative Declaration was adopted, shows any of the following:**

- A. The project will have one or more significant effects not discussed in the previous negative declaration;**

There is no new information known that indicates that the project would have any significant effects that were not discussed in the original review of the project and the creation of the IS/MND.

- B. Significant effects previously examined will be substantially more severe than shown in the previous MND;**

There is no new information known that indicates that the significant effects previously examined will be substantially more severe than shown in the previous IS/MND. The Mitigation Monitoring and Reporting Plan is unchanged and all proposed mitigation measures would be required to be implemented as conditions of project approval.

Attachments:

- 1) Adopted Mitigation Monitoring and Reporting Program

MITIGATION MONITORING AND REPORTING PROGRAM

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)
I. AESTHETICS					
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)	Require as a condition of approval	Planning Division	Incorporate as condition of project approval	Deny project	
		Building Division	Planning Division verifies appropriate plan/study obtained prior to issuance of building permit	Deny issuance of building permit	
III. AIR QUALITY					
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.	Require as a condition of approval Project sponsor obtains approvals from appropriate agencies prior to issuance of building permits	Planning Division	Incorporate as condition of project approval	Deny project	
		Building Division	Building Division verifies appropriate approvals obtained prior to issuance of building permit	Deny issuance of building permit	

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

**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

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>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>	
<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 					

**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	
<p>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:</p> <ol style="list-style-type: none"> 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 	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	

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>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>Require as a condition of approval.</p> <p>Project sponsor designates qualified professional prior to start of construction and obtains approvals from appropriate agencies prior to issuance of</p>	<p>Planning Division</p> <p>Planning / Building Division</p>	<p>Incorporate as condition of project approval. Project applicant conducts pre-construction survey before permit issuance.</p> <p>Planning / Building Division verifies survey conducted</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>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

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

Require as a condition of approval
Project sponsor designates qualified professional pursuant to NAHC requirements and obtains approvals from

Planning Division
Planning /Building Division

Incorporate as condition of project approval
Project sponsor to halt work immediately upon discovery of unknown resources

Deny project
Deny issuance of building permit

**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>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>	

**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>	

**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 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>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>	

**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	
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.	Require as a condition of approval Project sponsor shall designate qualified paleontologist, consult with agencies as appropriate prior to issuance of building permits	Planning Division Building Division	Incorporate as condition of project approval 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	Deny project Halt building permit	
If the paleontological resources are found to be					

**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>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.</p> <p>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:</p> <p>“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,</p>					

File #: ZC19-002/ED18-100/TS18-006/EX19-012/UP18-039/
 Title: Resolution Recommending Adoption of Mitigated
Negative Declaration
Attachment 1. A-11

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>

File #: ZC19-002/ED18-100/TS18-006/EX19-012/UP18-039/
 Title: Resolution Recommending Adoption of Mitigated Negative Declaration Attachment 1. A-12

**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)
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.					
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	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	Building Division	Building Division verifies appropriate approvals obtained prior to issuance of building permit	Deny issuance of building permit	

X. HYDROLOGY AND WATER QUALITY

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

Require as a condition of approval	Planning Division	Incorporate as condition of project approval	Deny project
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File #: ZC19-002/ED18-100/TS18-006/EX19-012/UP18-039/
 Title: Resolution Recommending Adoption of Mitigated Negative Declaration Attachment 1. A-13

**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 SWPPP/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>	

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>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>	

**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 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>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>	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	Building Division	Building Division verifies appropriate approvals obtained prior to issuance of building permit	Deny issuance of building permit	

**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>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>					

**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)
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					

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:

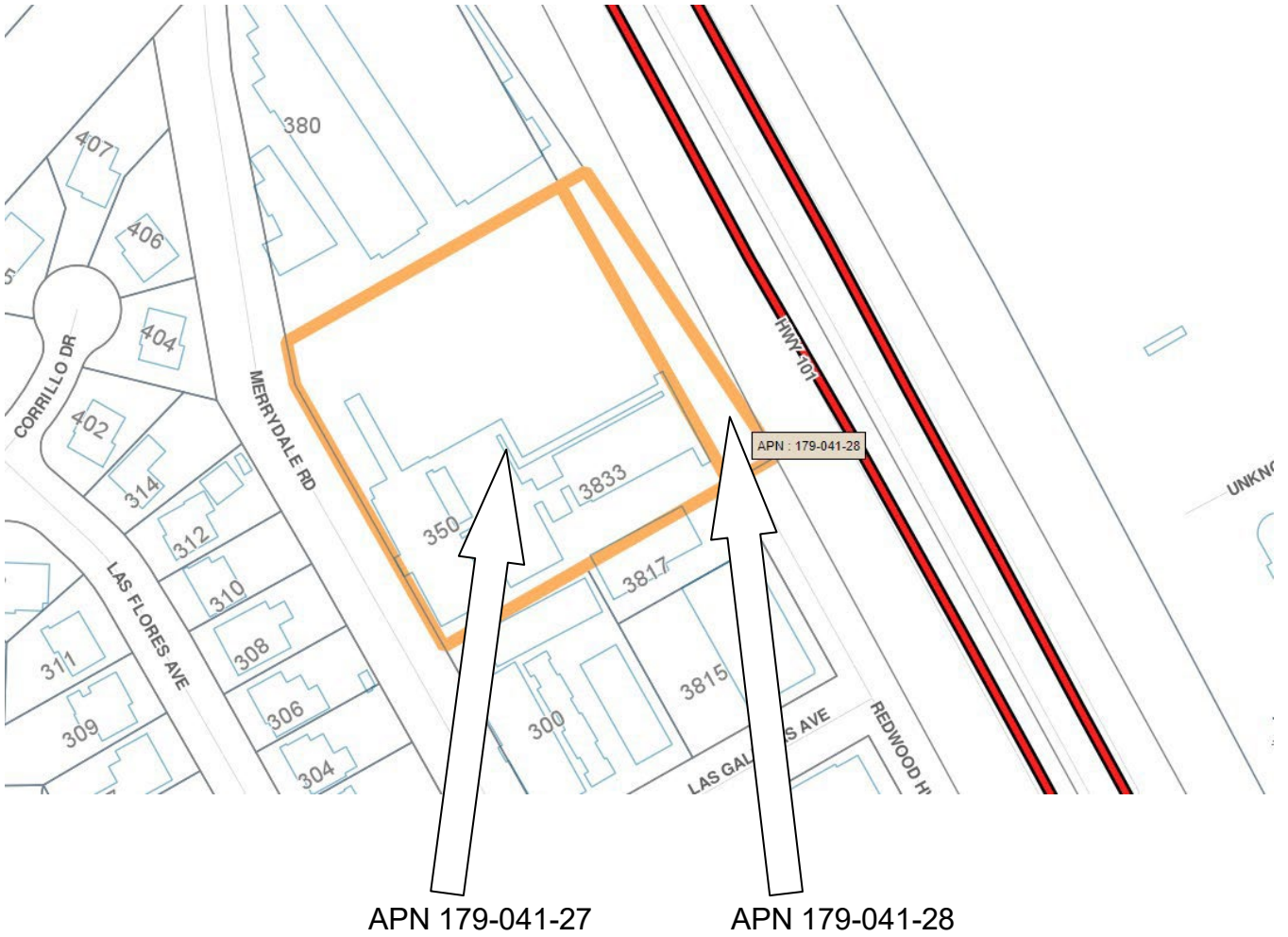
ABSENT: COUNCILMEMBERS:

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

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*Making Conservation
a California Way of Life.*

December 9, 2019

SCH #20191,19040

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 intersection control. 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, 400 Capitol Mall, Sacramento, CA 95833-0660. 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 written in a cursive style and is followed by a horizontal line.

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/IVIIJD 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 SIVIP 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

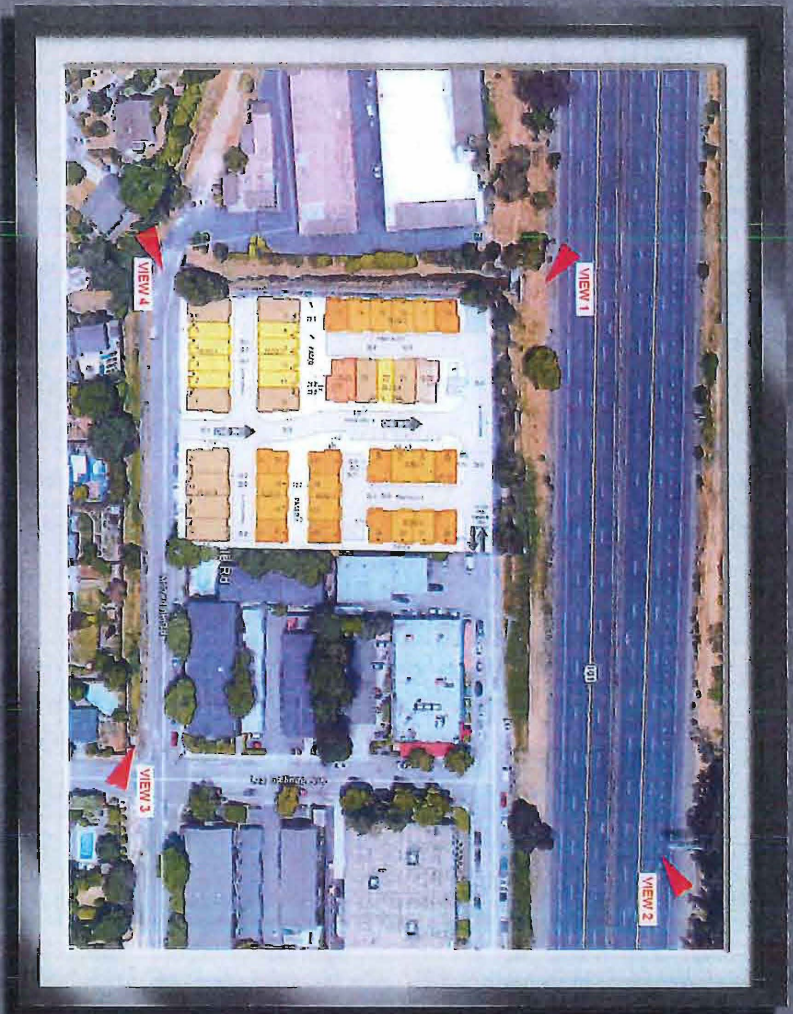
of page 61 says the project "involves replacement of existing commercial related uses..." Please provide clarification in the text regarding this issue. As discussed above, past land uses are important in being able to determine the likelihood of potential contamination on the site. From this information 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



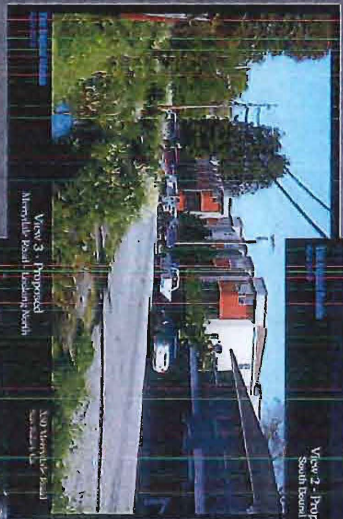
350 Merrydale Road Visual Simulations by The Digital Realm



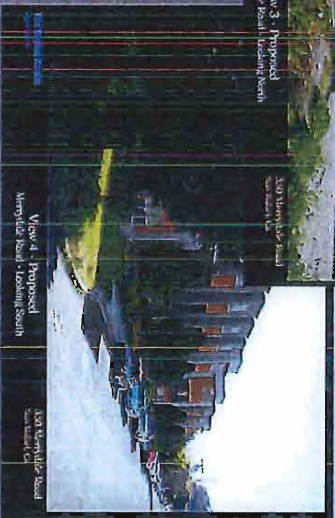
View 1 - Proposed Southbound 101



View 2 - Proposed Southbound 101



View 3 - Proposed Merrilite Road - Looking South



View 4 - Proposed Merrilite Road - Looking South

VIEW 1



VIEW 2





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, SR/WA, 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

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

Account Number: 2070419

Ad Order Number: 0006446168

Customer's Reference

/ PO Number:

Publication: Marin Independent Journal

Publication Dates: 01/17/2020

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

CITY OF SAN RAFAEL
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SAN RAFAEL, CA 94915-1560

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

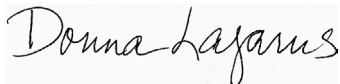
STATE OF CALIFORNIA County of Marin

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

NOTICE OF PUBLIC HEARING

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SAN RAFAEL CITY COUNCIL

/s/ Lindsay Lara
Lindsay Lara
CITY CLERK

No. 36 Jan. 17, 2020



SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: Finance

**Prepared by: Nadine Atieh Hade,
Finance Director**

**Shibani Nag,
Director of Employee Experience
and Culture**

City Manager Approval: _____

TOPIC: INTERIM FINANCIAL UPDATE AND BUDGET AMENDMENTS TO REFLECT OPERATIONAL ACTIVITY; MID-YEAR PERSONNEL CHANGES

**SUBJECT: (1) FIRST FISCAL YEAR 2019-2020 INTERIM FINANCIAL UPDATE
(2) RESOLUTION ADOPTING AMENDMENTS TO THE 2019-2020 BUDGET
(3) MID-YEAR PERSONNEL CHANGES**

RECOMMENDATION: Adopt Resolution

BACKGROUND: The Finance Department performs an ongoing review of the City’s financial performance and provides updates on the General Fund results to the City Council Finance Committee. This report presents the City’s financial condition in the current fiscal year (2019-2020) based on actual revenue and expenditure performance for the period July 1 through December 31, 2019, and budget actions taken through January 21, 2020, as compared to the budget approved by City Council on July 15, 2019.

Based on this review and analysis, revisions are recommended to address the following categories:

- (1) Revenue projections
- (2) Expenditure plan changes

In addition, budget neutral personnel changes are being recommended for mid-year implementation.

The staff recommendations contained in this report were reviewed by the City Council Finance Committee (Mayor Phillips and Councilmember Gamblin) at its January 23, 2020 public meeting.

FOR CITY CLERK ONLY

Council Meeting: _____

Disposition: _____

ANALYSIS:

GENERAL FUND:

Revenues and Other Sources:

There have been no recommended changes to revenue and other funding sources since the budget was approved. Based on the activity of the first six months of the fiscal year, staff is forecasting additional revenues of approximately \$200,000. There are a couple of reasons for this.

First, a portion of this increase is attributed to higher than anticipated sales tax receipts received during the first four months of the fiscal year resulting from the three-month lag time from when the City receives sales tax revenue from the State of California.

Secondly, staff is now forecasting higher than expected revenues, based on the year to date activity of the Community Development Department's plan checks and building permit fees. This is a result of several large projects on the horizon; some which were unexpected and others that were originally budgeted in the last fiscal year but came in this year. These fees are one-time in nature and are not expected to continue into the future. Additionally, these fees are offset by additional expenses as services are provided. This could impact expenses into the next fiscal year as fees collected this year could have services performed into the following fiscal year. Staff may recommend additional adjustments to the revenue and respective expenses related to these activities at year-end as well.

Expenditures and Other Uses:

Due to inflation and high demand in the market, the costs for utilities, construction, contract services and vegetation management costs are continuing to increase at higher than expected rates. While departments are actively working to reduce expenses, the aforementioned costs are integral to maintaining current levels of City services. Furthermore, due to the combination of firefighter vacancies and difficulty in recruiting and hiring firefighter/paramedics, overtime is expected to increase by \$600,000, approximately 20% higher than originally budgeted. This increase is somewhat offset by savings from vacant positions although not a total offset. Staff does not believe it can fully absorb these additional costs in its current budget and is requesting the increase in revenues be allocated towards increasing appropriations in the amount of \$200,000.

Staff expects to end the current fiscal year with a slight deficit. While the City is making reductions to expenses for the current budget period, the trend of expenses increasing at a rate faster than revenues as a result of market inflation continues. At this rate, there will continue to be several City goals that remain underfunded or unfunded, most notably, building maintenance for non-public safety related property, below ground infrastructure maintenance/replacement, and new initiatives. Additionally, if current trends related to revenue growth and expenses continue, the ability for the City to maintain current level of services (i.e., emergency medical response times, etc.) may be at risk.

Operating Results:

With the proposed increase to revenues of \$200,000 offset with the proposed increase to appropriations of \$200,000, the recommended changes have no impact on the operating results of the General Fund.

Table 1 summarizes the status of the General Fund.

Table 1

General Fund	Adopted Budget FY 2019-20	Approved Changes	Current Budget	Proposed Changes	Revised Budget
Revenues	80,282,912	-	80,282,912	200,000	80,482,912
Transfers in	4,701,350		4,701,350	-	4,701,350
FY19-20 Resources	84,984,262	-	84,984,262	200,000	85,184,262
FY18-19 P.O. reserve	-	230,624	230,624	-	230,624
Total Resources	84,984,262	230,624	85,214,886	200,000	85,414,886
Expenditures	78,881,189	-	78,881,189	200,000	79,081,189
P.O. Rollover	-	230,624	230,624	-	230,624
Operating Transfer out	2,000,000	59,439	2,059,439	-	2,059,439
Capital Transfer out (from Measure E to SREF)	4,077,000	-	4,077,000	-	4,077,000
Total Appropriations	84,958,189	290,063	85,248,252	200,000	85,448,252
Net Result	26,073	(59,439)	(33,366)	-	(33,366)

Since fiscal year 19-20 budget adoption, approved changes to the general fund expenditures and transfers out were the incorporation of purchase order commitments of \$230,624 from the previous year and a transfer to the Loch Lomond #10 Community Facilities District Fund of \$57,563 per the engineer’s report approved June 3, 2019 for this fiscal year and an additional \$1,876 charged during the period (column two of Table 1). The approved changes decrease the operating results by \$59,439 in the current budget for the fiscal year.

The changes to General Fund Resources and Appropriations are summarized in Tables I and II of Exhibit I to the attached Resolution.

OTHER FUNDS:

The adopted budgeted appropriations for Other Funds, including carryforward of funds approved in prior years and changes approved since July 1, 2019, total \$83,885,247 (Table 2). These expenditures are primarily in the areas of infrastructure and maintenance (e.g., streets, storm drain and buildings). Key projects contributing to the use of funds are: Public Safety Center, Fire Station 57, and Street Resurfacing.

Proposed changes to the Other Funds revenues, expenditures and transfers are detailed in Table 2:

Table 2

Resources:	
Total proposed changes to revenues/transfers in	
Adaptive Traffic Control System – funds transferred to the Gas Tax Fund (206) to reimburse costs as prior year expenses went through the Gas Tax Fund and should have gone through the Traffic Mitigation Fund as a qualifying project	\$360,168
Uses:	
Library - Additional building improvement and material costs supported by available fund balance in the Library Fund (214)	40,000
Police - Pay off body worn cameras with available fund balance in the Police Equipment Replacement Fund (613)	90,000
Increase in appropriations to the Traffic Mitigation Fund (246) for qualifying projects	502,642
Adaptive Traffic Control System – funds transferred from Traffic Mitigation Fund (246) to reimburse costs as prior year expenses went through the Gas Tax Fund and should have gone through the Traffic Mitigation Fund as a qualifying project	360,168
Total proposed changes to uses/transfers out:	\$992,810
Net proposed changes to Other Funds (Resources less Uses):	(\$632,642)
Expenditures and Transfers out as adopted fiscal year 2019-2020	\$74,917,147
Expenditures and Transfers out as adjusted through Jan 21, 2020	\$83,885,247
Expenditures and Transfers out with proposed changes	\$84,878,057

The net impact of all proposed changes on Other Funds is \$632,642. The changes are comprised of additional appropriations for various traffic mitigation projects, one-time improvements to the Library and the payoff of debt for the Axon police body worn cameras. These proposed changes are all covered by available fund balance that has been accumulating over the last several years specifically for the purpose of projects, equipment and one-time improvements.

Additionally, as part of the Recreation and Library merger, staff recommends moving the After-School Enrichment program from the Recreation Fund (222) to the Child Care Fund (208) as effective January 1, 2020, overall management of the program is moving under the Child Care Program Manager and the program aligns closely with the services provided by the Child Care section. This change has no fiscal impact as it is only a reclassification of revenue and expenses from one fund to another.

Table 3 presents the adopted budget, approved changes and proposed changes to the FY2019-2020 Other Funds budget.

Table 3

Other Funds	Adopted Budget FY 2019-20	Approved Changes	Current Budget	Proposed Changes	Revised Budget
Revenues	47,056,328	-	47,056,328	-	47,056,328
Transfers in	6,248,000	59,439	6,307,439	360,168	6,667,607
FY19-20 Sources	53,304,328	59,439	53,363,767	360,168	53,723,935
FY18-19 Rollover		4,410,231	4,410,231		4,410,231
FY18-19 CIP Carry Over		-	-		-
Total Resources	53,304,328	4,469,670	57,773,998	360,168	58,134,166
Expenditures	70,044,797	8,968,100	79,012,897	632,642	79,645,539
Transfer out	4,872,350	-	4,872,350	360,168	5,232,518
Total Appropriations	74,917,147	8,968,100	83,885,247	992,810	84,878,057
Net Results	(21,612,819)	(4,498,430)	(26,111,249)	(632,642)	(26,743,891)

These proposed changes to Other Fund Sources and Appropriations are presented in Table III of Exhibit I to the attached Resolution.

CITY-WIDE APPROPRIATIONS SUMMARY:

The following table summarizes the impact of the recommended appropriation and transfer out changes across all funds. The approved changes reflect the updates made during the fiscal year by specific staff reports and resolutions approved by Council and a roll forward of prior year projects already approved that span over a period longer than one year.

Table 4

All Funds	Adopted Budget FY 2019-20	Approved Changes	Current Budget	Proposed Changes	Revised Budget
General Fund	84,958,189	290,063	85,248,252	200,000	85,448,252
Other Funds	74,917,147	8,968,100	83,885,247	992,810	84,878,057
Total Expenditures and transfers	159,875,336	9,258,163	169,133,499	1,192,810	170,326,309

Proposed Personnel Changes:

This section of the report seeks Council consideration of recommended personnel actions. Periodically, the Human Resources Department seeks to establish, reallocate, or delete positions to reorganize or restructure staffing to most effectively and efficiently serve the community and city goals. During this mid-year budget review, staff is presenting five (5) reclassifications, and one (1) reduction of an FTE position as a result of departmental reorganization. The information below provides details of staff's proposed recommendations for each department respectively, for Council consideration.

Human Resources Department

The Director of Employee Experience and Culture oversees the Human Resources (HR) Department. The position was hired earlier this year to assess, transform and modernize our human resources service delivery model over time. To help identify short, mid and long-term department priorities, staff partnered with a firm called MRG, public sector human resource consultants, to analyze the department's current state of work processes, policies, and procedures. MRG recommends that the Human Resources team approach the department's long-term redesign in three phases, starting with updating the department's service delivery model and team structure, similar to the approach that led to the recently redesigned Digital Service and Open Government department.

The department has recently focused targeted time and resources towards designing a new service delivery model that will position the department to provide HR services through an internal consultative model. With access to newer technology systems, the department now has an opportunity to reimagine and redesign how the City provides state of the art workforce management services across all internal departments, and to those who seek potential employment with the City. The HR department's work plan for 2020 will set the foundation towards a longer-term vision to create a strategic employee experience and culture model that will incorporate the needs of our changing workforce. HR's redesign efforts will support the City's workplace culture initiative, Together San Rafael. As the City's workplace culture develops over time, this new way of approaching how work is accomplished will create an enhanced experience of employee engagement cross departmentally and cross generationally. This vision also includes a key focus on diversity and inclusion programs and other continuous system improvement efforts. Connecting our internal operations thoughtfully and strategically to Together San Rafael through this work is an effort to bring staff and leadership together to modernize and refresh the way that the City provides services to our community.

The Human Resources Department consists of four full time employees in the following roles: 1) Employee Experience and Culture Director, 2) HR Coordinator, 3) HR Representative I and 4) Administrative Assistant II. The incumbent currently occupying the HR Coordinator role has consistently displayed strong operational leadership, guiding the department's day to day operations and informal oversight of the HR Representative I and Administrative Assistant II. The MRG consultant team conducted a classification and compensation study of the HR Coordinator's current workload and responsibilities and determined that the incumbent is performing higher level work, both technically as well as supervisory responsibilities, thereby qualifying the incumbent for a reclassification to the HR Operations Manager classification being proposed. Bigger picture, having a mid-management level employee within the HR department will create leadership capacity to develop an internal consultative service delivery model.

Staff recommends creating a new, full time, regular HR Operations Manager position, which would be a single class position that will work as a mid-management employee within the HR Department. This action will add one mid-management level position. The job description for the HR Operations Manager position is provided as an attachment to this report. The Local 1 bargaining unit has been noticed of this intent of personnel change and staff will work with Local 1 and meet all requirements of the Meyers Milias Brown Act (MMBA) prior to implementing this change.

The fiscal impact of adding this new position will cost approximately \$41,239 (as shown in Table 5) annually and will be funded by reducing the department's consulting budget, thereby offsetting the total expense for this year and future years.

Table 5. Budget Impact – HR Classification

Re-Classification	FTE	Budget
Delete:		
HR Coordinator (Local 1)	1.0	\$174,210
Add/Reclassify to:		
HR Operations Manager (Mid-Management)	1.0	\$215,449
Net Cost:		\$ 41,239
Funding Sources		
Department Budget		\$ 41,239

Library and Recreation Department

As of July 1, 2019, the Community Services and Library departments officially merged into one department, which was approved by City Council along with the FY 19-20 budget. Since that time, the newly created department has been working collaboratively to integrate its functions and continue evolving its organizational structure. The summary below reflects the next iteration of proposed changes to the departmental organizational chart.

Management Level Proposed Changes:

Since the two departments merged, there was no longer a need for two director level positions. Therefore, in September 2019, City Council approved the deletion of the Library Director position and created the Assistant Library & Recreation Director position. This change resulted in \$39,338 in savings annually. During the Council meeting, staff indicated that this savings would be used to fund forthcoming leadership-level changes that support the integration of the two departments.

Currently, staff are proposing to delete the Community Services Director position and create a new Library & Recreation Director position to oversee both operations. If approved, the current Community Services Director would then be transferred into the newly created Library & Recreation Director position.

Staff conducted a salary survey of similar director level positions in fully integrated Library and Recreation departments. Based on that analysis, the City is recommending setting the Library and Recreation Director salary at 10% above the current Community Service Director pay scale. This increase in compensation would reflect the increased workload due to the expanded scope of work and span of control of approximately an additional 30 FTEs. In addition, staff is proposing to delete the Assistant Library Director position and promote the incumbent into the Assistant Library & Recreation Director position.

Staff Level Proposed Changes:

In September, staff commissioned RGS, a human resources consultant organization, to conduct a classification study on three (3) positions in the Library and Recreation department. Staff identified these three individuals as potentially undertaking roles and responsibilities that more closely align with a different classification than their current classifications. The study recommended the reclassification of all three positions, as summarized below:

- Reclass Childcare Bookkeeper II to Administrative Assistant II
- Reclass Senior Administrative Assistant to Administrative Analyst
- Reclass Circulation Services Supervisor to Supervising Librarian

SEIU has been noticed and supports these reclassifications. Staff also recommends the increase of a 0.75 FTE Librarian II to a 1.0 FTE Librarian II position. Staff is requesting this change in order to increase efficiency in staffing and to better provide consistent service to the community, as this increase in hours will reduce the need for additional temporary staffing. Staff is recommending eliminating a currently vacant Senior Library Assistant position to fund the proposed changes above. SEIU was also noticed about this change and did not have any concerns.

Table 1 below shows the positions that would be deleted and added, along with the total budget impact. Table 2 shows the breakdown of the total cost or savings for management staff as well as within the Library and Child Care divisions.

Table 6: Budget Impact – Library & Recreation

Classification	FTE	Budget
Delete		
Community Services Director	-1.0	-\$253,898
Assistant Library Director	-1.0	-\$233,438
Childcare Bookkeeper II	-1.0	-\$114,933
Senior Administrative Assistant	-1.0	-\$136,914
Circulation Services Supervisor	-1.0	-\$111,529
Librarian II	-0.75	-\$98,337
Sub-Total:	-5.75	-\$949,049
Add		
Library and Recreation Director	1.0	\$277,805
Assistant Library and Recreation Director	1.0	\$243,975
Administrative Assistant II	1.0	\$118,837
Administrative Analyst	1.0	\$141,214
Supervising Librarian	1.0	\$134,654
Librarian II	1.0	\$128,027
Sub-Total:	6.00	\$1,044,512
Net Cost:	0.25	\$95,463

Funding Sources		
Savings from September Council Action		-\$39,338
Eliminate Senior Library Assistant	-1.0	-\$107,775
Sub-Total:	-1.0	-\$147,113
Net Cost:	0.25	\$95,463
NET SAVINGS:	-0.75	-\$51,650

The proposed changes within the Library division will eventually result in savings of approximately \$50,000 annually. The estimated savings for the Fiscal Year 19/20 is \$28,000. Staff will need to utilize this years' savings to offset annual increases to ongoing contracts such as the City/County contract with MarinNet, library security, and others.

Community Development Department

The Community Development Department is currently staffed with twenty-two (22) full time staff positions (FTE). The Planning Division is currently budgeted for six (6) full time FTEs, which includes the Planning Manager (mid-manager), two Senior Planners, two Associate/Assistant Planners (currently recruiting) and a Permit Services Coordinator. The two Senior Planner positions are non-management roles and are represented by the SEIU Local 1021 bargaining unit. The Planning Division has had various organizational structures over the years based on the needs of the department. Prior to 2008, there were two Principal Planner positions overseeing Current Planning and Long Range/Advanced Planning. When the current department director was hired the department changed their structure by replacing the two Principal Planners with a Planning Manager.

Since the Planning Division no longer has a Principal Planner that is responsible for Long-Range/Advanced Planning, the 2040 General Plan preparation and management work is being currently conducted by a contractor and their work will be completed when the General Plan is adopted later this summer.

Following 2040 General Plan adoption, the Community Development department leadership is foreseeing a need for General Plan oversight and active management of its implementation. To fill this need, staff recommends the creation of a Principal Planner position, rather than continue using contractor support. The benefits of this approach include:

- Plan oversight and implementation would be best done by staff that is most familiar with the community and issues; and
- Plan policies and programs will require hands-on knowledge of Current Planning, land development and permit processing. Hiring a contractor with primary expertise in Long-Range/Advanced Planning would not be beneficial to successful Plan implementation and policy interpretation.

Staff recommends that the Principal Planner position be re-activated into the SEIU bargaining unit. If Council approves this recommendation, the department would hold an internal, promotional recruitment to fill the position. Other indirect advantages include allowing for the Planning Manager to fully delegate the Long-Range/Advanced Planning tasks and projects to the Principal Planner allowing the Planning Manager and the Community Development Director the capacity to focus on strategic goals and objectives.

The fiscal impact of this change (assuming a Senior Planner is promoted), is \$26,155 and can be supported by the department funds currently being used for contract work. Staff recommends moving the Principal Planner job classification from the mid-management salary schedule in to a supervisory position, represented by the SEIU Local 1021 bargaining unit.

Table 7: Budget Impact – Community Development

Re-Classification	FTE	Budget
Delete:		
Senior Planner (SEIU)	1.0	\$174,820
Add/Reclassify to:		
Principal Planner (from Mid-management to SEIU)	1.0	\$200,975
Net Cost:		\$ 26,155
Funding Sources		
Department Budget		\$ 26,155

Digital Services and Open Government

In November, the City moved to a managed service model for day-to-day technology support. The department was able to shift many of the responsibilities to the managed service provider (Xantrion) and administrative needs related to contract management, invoices, and purchasing have shifted to other department managers.

After assessing the new department's changing needs, it was determined that a technology operations manager position was no longer needed. Staff is recommending that the position be deleted from the mid-management salary schedule.

All relevant attachments including job classification/descriptions and salary schedules can be found in the attachments.

RECOMMENDED ACTION: Adopt Resolution.

ATTACHMENTS:

- Resolution with attached Exhibit “I” (Amendment)
- Proposed Personnel Changes
 - 2020 Executive Management Salary Schedule
 - 2020 Mid-Management Salary Schedule
 - 2020 SEIU Local 1021 Salary Schedule
 - 2020 PEU Local 1 Salary Schedule
 - Human Resources Operations Manager Job Description
 - Library and Recreation Director Job Description
 - Principal Planner Job Description

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN RAFAEL ADOPTING AMENDMENTS TO THE 2019-2020 BUDGET

WHEREAS, the City Council approved Resolution No. 14713 adopting the fiscal year 2019-2020 budget; and

WHEREAS, the changes in available funding sources and operational needs require adjustments to some City budgets; and

WHEREAS, existing and anticipated staffing vacancies provide opportunities to address changing personnel needs and, following a review by departments and human resources, have resulted in proposed staffing and position changes; and

WHEREAS, it is the intention of this Council to review recommendations from staff regarding the City's financial and operational condition, including revenue projections, expenditure plan changes, staffing considerations; and

WHEREAS, after examination, deliberation and due consideration, the City Council has approved the staff report and recommendations and directs the City Manager to proceed with the implementation of these recommendations;

NOW, THEREFORE, BE IT RESOLVED, by the San Rafael City Council that Resolution No. 14713 for fiscal year 2019-2020 is amended to increase total general fund revenues to \$80,482,912, general fund expenditures to \$79,311,813, increase other fund expenditures to \$79,645,539 as well as transfers in and transfer out as represented on Exhibit I Table I, II and III attached hereto; These changes result in City-wide General Fund appropriations of \$85,448,252 and other fund appropriations of \$84,878,057 as summarized on Exhibit I Table IV; and

BE IT FURTHER RESOLVED, by the San Rafael City Council that the following personnel actions are approved and authorized:

Effective on or after January 1, 2020 -

- A. Reclassify Bookkeeper II position to an Administrative Assistant II position
- B. Reclassify Senior Administrative Assistant position to Administrative Analyst
- C. Reclassify Circulation Services Supervisor position to Supervising Librarian
- D. Reclassify HR Coordinator position to HR Operations Manager position
- E. Reclassify Senior Planner position to Principal Planner position
- F. Add Library and Recreation Director position
- G. Delete Childcare Bookkeeper II position
- H. Delete Senior Administrative Assistant position
- I. Delete Circulation Supervisor position

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 City Council of said City on Monday, the 3rd of February 2020, by the following vote, to wit:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:

LINDSAY LARA, City Clerk

TABLE I
CHANGES TO GENERAL FUND REVENUES AND OTHER SOURCES

General Fund	Adopted Budget FY 2019-20	Approved Changes	Current Budget	Proposed Changes	Revised Budget
Revenues	80,282,912	-	80,282,912	200,000	80,482,912
Transfers in	4,701,350		4,701,350	-	4,701,350
FY19-20 Resources	84,984,262	-	84,984,262	200,000	85,184,262
FY18-19 Rollover		230,624	230,624		230,624
Total Resources	84,984,262	230,624	85,214,886	200,000	85,414,886

TABLE II
CHANGES TO GENERAL FUND EXPENDITURES AND OTHER USES

General Fund	Adopted Budget FY 2019-20	Approved Changes	Current Budget	Proposed Changes	Revised Budget
Expenditures	78,881,189	230,624	79,111,813	200,000	79,311,813
Transfer out	2,000,000	59,439	2,059,439	-	2,059,439
Transfer out-CIP	4,077,000		4,077,000	-	4,077,000
Total Appropriations	84,958,189	290,063	85,248,252	200,000	85,448,252

TABLE III
CHANGES TO OTHER FUND EXPENDITURES AND OTHER USES

Other Funds	Adopted Budget FY 2019-20	Approved Changes	Current Budget	Proposed Changes	Revised Budget
Revenues	47,056,328	-	47,056,328	-	47,056,328
Transfers in	6,248,000	59,439	6,307,439	360,168	6,667,607
FY19-20 Resources	53,304,328	59,439	53,363,767	360,168	53,723,935
FY18-19 Rollover		4,410,231	4,410,231		4,410,231
FY18-19 CIP Carry Over		-	-		-
Total Resources	53,304,328	4,469,670	57,773,998	360,168	58,134,166
Expenditures	70,044,797	8,968,100	79,012,897	632,642	79,645,539
Transfer out	4,872,350	-	4,872,350	360,168	5,232,518
Total Appropriations	74,917,147	8,968,100	83,885,247	992,810	84,878,057
Net Results	(21,612,819)	(4,498,430)	(26,111,249)	(632,642)	(26,743,891)

TABLE IV
CITY-WIDE APPROPRIATION SUMMARY

All Funds	Adopted Budget FY 2019-20	Approved Changes	Current Budget	Proposed Changes	Revised Budget
General Fund	84,958,189	290,063	85,248,252	200,000	85,448,252
Other Funds	74,917,147	8,968,100	83,885,247	992,810	84,878,057
Total Expenditures	159,875,336	9,258,163	169,133,499	1,192,810	170,326,309

**SAN RAFAEL UNREPRESENTED EXECUTIVE MANAGEMENT
SALARY SCHEDULE
Effective February 3, 2020**

Grade	Position	A	B	C	D	E
2501	Assistant City Attorney	\$ 11,289	\$ 11,854	\$ 12,446	\$ 13,069	\$ 13,722
2001	Assistant City Manager	\$ 13,354	\$ 14,022	\$ 14,723	\$ 15,459	\$ 16,232
TBD	Library and Recreation Director*	\$ 12,400	\$ 13,020	\$ 13,671	\$ 14,354	\$ 15,072
2300	Community Development Director	\$ 13,028	\$ 13,679	\$ 14,363	\$ 15,081	\$ 15,836
8104	Community Services Director*	\$ 11,272	\$ 11,836	\$ 12,428	\$ 13,049	\$ 13,702
4205	Director of Digital Service & Open Government	\$ 11,805	\$ 12,396	\$ 13,015	\$ 13,666	\$ 14,349
2801	Director of Economic Development & Innovation	\$ 11,805	\$ 12,395	\$ 13,015	\$ 13,666	\$ 14,349
2205	District Manager/Engineer (SRSD)	\$ 11,805	\$ 12,395	\$ 13,015	\$ 13,666	\$ 14,349
2140	Finance Director	\$ 11,805	\$ 12,395	\$ 13,015	\$ 13,666	\$ 14,349
7101	Fire Chief	\$ 13,288	\$ 13,953	\$ 14,651	\$ 15,383	\$ 16,152
1106	Human Resources Director	\$ 11,805	\$ 12,395	\$ 13,015	\$ 13,666	\$ 14,349
6101	Police Chief	\$ 13,288	\$ 13,953	\$ 14,651	\$ 15,383	\$ 16,152
2201	Public Works Director	\$ 13,028	\$ 13,679	\$ 14,363	\$ 15,081	\$ 15,836

*Changes per FY 19/20 Mid-Year Budget review; 2/3/2020 Council action

Position	Monthly Salary
City Manager (Appointed)	\$ 19,686

The City Manager is appointed by the City Council and is not subject to the terms and conditions of the Management Resolution

SAN RAFAEL UNREPRESENTED MID-MANAGEMENT
SALARY SCHEDULE
Effective February 3, 2020

Grade	Position	A	B	C	D	E
7315	Accounting Manager	\$ 8,700	\$ 9,135	\$ 9,591	\$ 10,071	\$ 10,575
8406	Assistant Director of Community Services**	\$ 9,470	\$ 9,943	\$ 10,440	\$ 10,962	\$ 11,510
2400	Assistant Library and Recreation Director	\$ 9,943	\$ 10,440	\$ 10,962	\$ 11,510	\$ 12,086
2125	Assistant Library Director**	\$ 9,470	\$ 9,943	\$ 10,440	\$ 10,962	\$ 11,510
2202	Assistant Public Works Director / City Engineer	\$ 11,284	\$ 11,848	\$ 12,440	\$ 13,062	\$ 13,716
2302	Chief Building Official	\$ 10,486	\$ 11,011	\$ 11,561	\$ 12,139	\$ 12,746
4203	Civic Design Manager	\$ 9,470	\$ 9,943	\$ 10,440	\$ 10,962	\$ 11,510
2122	Code Enforcement Supervisor	\$ 7,217	\$ 7,578	\$ 7,957	\$ 8,355	\$ 8,773
4204	Data & Infrastructure Manager	\$ 10,486	\$ 11,011	\$ 11,561	\$ 12,139	\$ 12,746
1105	Deputy City Attorney I	\$ 9,503	\$ 9,978	\$ 10,477	\$ 11,001	\$ 11,551
1109	Deputy City Attorney II	\$ 10,478	\$ 11,002	\$ 11,552	\$ 12,129	\$ 12,736
2120	Deputy Fire Marshall	\$ 8,925	\$ 9,372	\$ 9,840	\$ 10,332	\$ 10,849
2135	Deputy Public Works Director	\$ 10,251	\$ 10,764	\$ 11,302	\$ 11,867	\$ 12,461
7313	Economic Development Coordinator	\$ 8,612	\$ 9,042	\$ 9,494	\$ 9,969	\$ 10,468
2128	Economic Development Manager	\$ 9,470	\$ 9,943	\$ 10,440	\$ 10,962	\$ 11,510
7117	Emergency Services Manager	\$ 8,402	\$ 8,822	\$ 9,263	\$ 9,727	\$ 10,213
9005	Events Coordinator*	\$ 7,318	\$ 7,684	\$ 8,068	\$ 8,471	\$ 8,895
TBD	Human Resources Operations Manager**	\$ 8,440	\$ 8,862	\$ 9,305	\$ 9,770	\$ 10,259
2208	Operations and Maintenance Manager	\$ 9,201	\$ 9,661	\$ 10,144	\$ 10,652	\$ 11,184
2703	Parking Services Manager	\$ 8,612	\$ 9,042	\$ 9,494	\$ 9,969	\$ 10,468
7312	Parks Superintendent	\$ 8,402	\$ 8,822	\$ 9,263	\$ 9,727	\$ 10,213
2116	Planning Manager	\$ 9,644	\$ 10,126	\$ 10,632	\$ 11,164	\$ 11,722
9453	Principal Planner**	\$ 8,612	\$ 9,042	\$ 9,494	\$ 9,969	\$ 10,468
1202	Public Works Administrative Manager	\$ 8,611	\$ 9,042	\$ 9,494	\$ 9,969	\$ 10,467
8103	Recreation Supervisor	\$ 7,218	\$ 7,578	\$ 7,957	\$ 8,355	\$ 8,773
2206	Senior Civil Engineer (SRSD)	\$ 9,980	\$ 10,479	\$ 11,003	\$ 11,553	\$ 12,130
7317	Senior Code Enforcement Supervisor	\$ 7,966	\$ 8,365	\$ 8,783	\$ 9,222	\$ 9,683
2105	Senior Management Analyst	\$ 8,205	\$ 8,615	\$ 9,046	\$ 9,498	\$ 9,973
2203	Senior Project Manager	\$ 8,644	\$ 9,076	\$ 9,530	\$ 10,007	\$ 10,507
8102	Senior Recreation Supervisor	\$ 7,966	\$ 8,364	\$ 8,783	\$ 9,222	\$ 9,683
7310	Sewer Maintenance Superintendent	\$ 8,402	\$ 8,822	\$ 9,263	\$ 9,727	\$ 10,213
7311	Street Maintenance Superintendent	\$ 8,402	\$ 8,822	\$ 9,263	\$ 9,727	\$ 10,213
2150	Sustainability Program Manager	\$ 6,916	\$ 7,261	\$ 7,624	\$ 8,006	\$ 8,406
4202	Technology Operations Manager**	\$ 11,063	\$ 11,616	\$ 12,197	\$ 12,806	\$ 13,447

*Events Coordinator Y-rated effective 6/1/18; Technology Operations Manager Y-rated effective 12/17/18

**Changes per FY 19/20 Mid-Year Budget review; 2/3/2020 Council action

City of San Rafael
SEIU - SALARY SCHEDULE
Effective February 3, 2020

Grade	Position	A	B	C	D	E
7241	Accountant I	\$ 5,671	\$ 5,955	\$ 6,253	\$ 6,565	\$ 6,894
7240	Accountant II	\$ 5,955	\$ 6,253	\$ 6,566	\$ 6,894	\$ 7,239
7200	Accounting Assistant I	\$ 4,131	\$ 4,337	\$ 4,554	\$ 4,782	\$ 5,021
7201	Accounting Assistant II	\$ 4,550	\$ 4,777	\$ 5,016	\$ 5,267	\$ 5,531
7299	Accounting Technician	\$ 5,673	\$ 5,957	\$ 6,255	\$ 6,567	\$ 6,896
7205	Administrative Analyst	\$ 5,271	\$ 5,534	\$ 5,811	\$ 6,102	\$ 6,407
7211	Administrative Assistant I	\$ 4,282	\$ 4,496	\$ 4,720	\$ 4,956	\$ 5,204
7212	Administrative Assistant II	\$ 4,721	\$ 4,957	\$ 5,205	\$ 5,465	\$ 5,738
7295	Senior Administrative Assistant	\$ 5,083	\$ 5,337	\$ 5,604	\$ 5,884	\$ 6,179
7216	Administrative Assistant to the City Clerk	\$ 5,083	\$ 5,337	\$ 5,604	\$ 5,884	\$ 6,179
7210	Assistant Planner	\$ 5,962	\$ 6,260	\$ 6,573	\$ 6,901	\$ 7,246
7208	Associate Planner	\$ 6,579	\$ 6,908	\$ 7,254	\$ 7,616	\$ 7,997
7217	Building Inspector I	\$ 5,402	\$ 5,672	\$ 5,956	\$ 6,254	\$ 6,567
7218	Building Inspector II	\$ 5,962	\$ 6,260	\$ 6,573	\$ 6,901	\$ 7,247
7475	Building Technician I	\$ 4,659	\$ 4,892	\$ 5,136	\$ 5,393	\$ 5,663
7220	Business License Examiner	\$ 4,777	\$ 5,016	\$ 5,266	\$ 5,530	\$ 5,806
7224	Child Care Bookkeeper I*	\$ 4,134	\$ 4,337	\$ 4,554	\$ 4,782	\$ 5,021
7262	Child Care Bookkeeper II*	\$ 4,550	\$ 4,777	\$ 5,016	\$ 5,267	\$ 5,531
7222	Code Enforcement Official I	\$ 4,328	\$ 4,544	\$ 4,771	\$ 5,010	\$ 5,261
7223	Code Enforcement Official II	\$ 4,775	\$ 5,014	\$ 5,265	\$ 5,528	\$ 5,804
7380	Code Enforcement Official III	\$ 5,671	\$ 5,955	\$ 6,253	\$ 6,565	\$ 6,894
2119	Construction Inspector - SRSD	\$ 5,872	\$ 6,166	\$ 6,474	\$ 6,798	\$ 7,137
7224	Custodian	\$ 4,042	\$ 4,244	\$ 4,457	\$ 4,679	\$ 4,913
4210	Data Analyst I	\$ 6,090	\$ 6,394	\$ 6,714	\$ 7,050	\$ 7,402
4211	Data Analyst II	\$ 6,699	\$ 7,034	\$ 7,385	\$ 7,755	\$ 8,142
4212	Data Analyst III	\$ 7,369	\$ 7,737	\$ 8,124	\$ 8,530	\$ 8,957
7226	Deputy City Clerk	\$ 5,211	\$ 5,471	\$ 5,745	\$ 6,032	\$ 6,334
7120	Emergency Management Coordinator	\$ 4,896	\$ 5,141	\$ 5,398	\$ 5,667	\$ 5,951
7121	Environmental Management Coordinator	\$ 4,896	\$ 5,141	\$ 5,398	\$ 5,667	\$ 5,951
7232	Facility Repair Supervisor	\$ 6,435	\$ 6,757	\$ 7,095	\$ 7,450	\$ 7,822
7291	Facility Repair Worker I	\$ 4,567	\$ 4,795	\$ 5,035	\$ 5,286	\$ 5,551
7233	Facility Repair Worker II	\$ 5,036	\$ 5,288	\$ 5,552	\$ 5,830	\$ 6,122
7294	Facility Repair Worker III	\$ 5,420	\$ 5,691	\$ 5,976	\$ 6,274	\$ 6,588
7108	Fire Prevention Inspector I	\$ 6,826	\$ 7,168	\$ 7,526	\$ 7,902	\$ 8,298
7107	Fire Prevention Inspector II	\$ 7,525	\$ 7,902	\$ 8,297	\$ 8,712	\$ 9,147
7298	IT Help Desk Supervisor	\$ 6,699	\$ 7,034	\$ 7,385	\$ 7,755	\$ 8,142
7243	Librarian I	\$ 5,225	\$ 5,486	\$ 5,760	\$ 6,048	\$ 6,351
7244	Librarian II	\$ 5,488	\$ 5,763	\$ 6,051	\$ 6,353	\$ 6,671
2404	Library Aide	\$ 2,504	\$ 2,630	\$ 2,761	\$ 2,899	\$ 3,044
7246	Library Assistant I	\$ 3,440	\$ 3,612	\$ 3,793	\$ 3,982	\$ 4,181
7247	Library Assistant II	\$ 3,890	\$ 4,085	\$ 4,289	\$ 4,504	\$ 4,729
7248	Library Circulation Supervisor*	\$ 4,974	\$ 5,223	\$ 5,484	\$ 5,758	\$ 6,046

2405	Library Tech Services Supervisor	\$ 4,974	\$ 5,223	\$ 5,484	\$ 5,758	\$ 6,046
7292	Literacy Program Supervisor	\$ 6,055	\$ 6,358	\$ 6,676	\$ 7,009	\$ 7,360
7249	Mail and Stores Clerk	\$ 3,700	\$ 3,885	\$ 4,079	\$ 4,283	\$ 4,497
7255	Network Analyst	\$ 6,091	\$ 6,395	\$ 6,715	\$ 7,051	\$ 7,403
7274	Network Support Technician	\$ 4,659	\$ 4,892	\$ 5,136	\$ 5,393	\$ 5,663
7285	Office Assistant I	\$ 3,523	\$ 3,699	\$ 3,884	\$ 4,079	\$ 4,283
7284	Office Assistant II	\$ 3,980	\$ 4,179	\$ 4,388	\$ 4,607	\$ 4,838
7256	Park Equipment Mechanic	\$ 5,290	\$ 5,554	\$ 5,832	\$ 6,124	\$ 6,430
7257	Parking Attendant I	\$ 2,017	\$ 2,118	\$ 2,224	\$ 2,335	\$ 2,452
7275	Parking Attendant II	\$ 2,221	\$ 2,332	\$ 2,449	\$ 2,572	\$ 2,700
6208	Parking Enforcement Officer	\$ 4,921	\$ 5,167	\$ 5,425	\$ 5,696	\$ 5,981
6212	Parking Equipment Technician	\$ 4,681	\$ 4,915	\$ 5,161	\$ 5,419	\$ 5,690
6209	Parking Maintenance & Collections	\$ 4,681	\$ 4,915	\$ 5,161	\$ 5,419	\$ 5,690
6211	Parking Operations Supervisor	\$ 6,435	\$ 6,757	\$ 7,095	\$ 7,449	\$ 7,822
7258	Parks & Graffiti Worker	\$ 4,246	\$ 4,458	\$ 4,681	\$ 4,915	\$ 5,161
2123	Parks Lead Maintenance Worker	\$ 5,420	\$ 5,691	\$ 5,976	\$ 6,274	\$ 6,588
7271	Parks Maintenance Supervisor	\$ 6,435	\$ 6,757	\$ 7,095	\$ 7,450	\$ 7,822
7236	Parks Maintenance Worker I	\$ 4,458	\$ 4,681	\$ 4,915	\$ 5,161	\$ 5,419
7238	Parks Maintenance Worker II	\$ 4,681	\$ 4,915	\$ 5,161	\$ 5,419	\$ 5,690
7296	Permit Services Coordinator	\$ 6,435	\$ 6,757	\$ 7,095	\$ 7,450	\$ 7,822
7261	Planning Technician	\$ 4,659	\$ 4,892	\$ 5,136	\$ 5,393	\$ 5,663
9453	Principal Planner*	\$ 8,612	\$ 9,042	\$ 9,494	\$ 9,969	\$ 10,468
7234	Printing Press Operator	\$ 4,607	\$ 4,837	\$ 5,079	\$ 5,333	\$ 5,600
1201	Program Coordinator	\$ 4,896	\$ 5,141	\$ 5,398	\$ 5,667	\$ 5,951
7290	Public Works Dispatcher	\$ 4,681	\$ 4,915	\$ 5,161	\$ 5,419	\$ 5,690
7263	Revenue Supervisor	\$ 7,236	\$ 7,598	\$ 7,978	\$ 8,377	\$ 8,795
2309	Senior Building Inspector	\$ 7,077	\$ 7,431	\$ 7,802	\$ 8,193	\$ 8,602
7219	Senior Building Technician	\$ 5,403	\$ 5,673	\$ 5,956	\$ 6,254	\$ 6,567
7265	Senior Library Assistant	\$ 4,086	\$ 4,290	\$ 4,504	\$ 4,730	\$ 4,966
7264	Senior Planner	\$ 7,445	\$ 7,818	\$ 8,208	\$ 8,619	\$ 9,050
2204	Sewer Lead Maintenance Worker	\$ 5,977	\$ 6,275	\$ 6,589	\$ 6,919	\$ 7,265
7266	Sewer Maintenance Worker I	\$ 4,797	\$ 5,037	\$ 5,288	\$ 5,553	\$ 5,830
7267	Sewer Maintenance Worker II	\$ 5,162	\$ 5,420	\$ 5,691	\$ 5,976	\$ 6,274
7281	Sewers Supervisor	\$ 6,756	\$ 7,094	\$ 7,449	\$ 7,821	\$ 8,212
7269	Shop & Equipment Supervisor	\$ 6,435	\$ 6,757	\$ 7,095	\$ 7,450	\$ 7,822
7280	Street Lead Maintenance Worker	\$ 5,420	\$ 5,691	\$ 5,976	\$ 6,274	\$ 6,588
7209	Street Maintenance Supervisor	\$ 6,435	\$ 6,757	\$ 7,095	\$ 7,450	\$ 7,822
7250	Street Maintenance Worker I	\$ 4,458	\$ 4,681	\$ 4,915	\$ 5,161	\$ 5,419
7251	Street Maintenance Worker II	\$ 4,681	\$ 4,915	\$ 5,161	\$ 5,419	\$ 5,690
7283	Street Sweeper Operator	\$ 4,915	\$ 5,161	\$ 5,419	\$ 5,690	\$ 5,975
7245	Supervising Librarian	\$ 6,055	\$ 6,358	\$ 6,676	\$ 7,009	\$ 7,360
8523	Supervising Parking Enforcement Officer	\$ 5,534	\$ 5,810	\$ 6,101	\$ 6,406	\$ 6,726
7288	Supervising Vehicle/Equipment Mechanic	\$ 5,693	\$ 5,977	\$ 6,276	\$ 6,590	\$ 6,920
7286	Vehicle/Equipment Mechanic I	\$ 4,797	\$ 5,037	\$ 5,288	\$ 5,553	\$ 5,831
7287	Vehicle/Equipment Mechanic II	\$ 5,290	\$ 5,554	\$ 5,832	\$ 6,123	\$ 6,430
2131	Volunteer Program Assistant	\$ 4,721	\$ 4,957	\$ 5,205	\$ 5,465	\$ 5,738

*Change per FY 19/20 Mid-Year Budget review; 2/3/2020 Council action

**PEU LOCAL 1 - CONFIDENTIAL
SALARY SCHEDULE
Effective February 3, 2020**

Grade	Position	A	B	C	D	E
7122	ADMIN ASST I (CONFIDENTIAL)	\$4,367	\$4,585	\$4,815	\$5,055	\$5,308
7123	ADMIN ASST II (CONFIDENTIAL)	\$4,815	\$5,056	\$5,308	\$5,574	\$5,853
7215	ADMIN ASSISTANT TO THE CM	\$5,586	\$5,865	\$6,158	\$6,466	\$6,790
7207	ADMIN ASST TO THE CHIEF OF POLICE	\$4,938	\$5,185	\$5,444	\$5,716	\$6,002
2106	ASSOCIATE MANAGEMENT ANALYST	\$5,491	\$5,765	\$6,054	\$6,356	\$6,674
2127	HUMAN RESOURCES COORDINATOR	\$6,613	\$6,943	\$7,290	\$7,655	\$8,038
2109	HUMAN RESOURCES REPRESENTATIVE I	\$5,457	\$5,730	\$6,017	\$6,318	\$6,634
2110	HUMAN RESOURCES REPRESENTATIVE II	\$6,012	\$6,312	\$6,628	\$6,960	\$7,307
7242	LEGAL ASSISTANT I	\$5,586	\$5,865	\$6,158	\$6,466	\$6,790
9205	LEGAL ASSISTANT II	\$6,155	\$6,463	\$6,786	\$7,125	\$7,482
7204	MANAGEMENT ANALYST	\$6,040	\$6,342	\$6,660	\$6,992	\$7,342
7203	PAYROLL TECHNICIAN	\$5,673	\$5,957	\$6,255	\$6,567	\$6,896
7316	PRINCIPAL ACCOUNTANT	\$7,394	\$7,763	\$8,151	\$8,559	\$8,987
2136	SENIOR ADMIN ASST (CONFIDENTIAL)	\$5,184	\$5,443	\$5,716	\$6,001	\$6,301
2130	SENIOR ACCOUNTANT	\$6,587	\$6,917	\$7,263	\$7,626	\$8,007

***Change per FY 19/20 Mid-Year Budget review; 2/3/2020 Council action*

**City of San Rafael
Job Class Specification**

Job Title: Human Resources Operations Manager

SUMMARY:

To manage and direct a division and/or assist the Human Resources Director in managing the day to day functions of the Human Resources Department in the areas of recruitment and retention, classification, compensation, training, benefits, labor relations and workers' compensation programs; performs highly complex managerial and professional level work in the implementation of the Human Resources goals and objectives; perform related work as directed.

SUPERVISION RECEIVED AND EXERCISED:

Receives general direction from the Human Resources Director. Supervises professional, technical and support staff assigned to the department.

CLASS CHARACTERISTICS:

This single position class will be assigned to oversee all day to day Human Resources functions including full responsibility in benefit administration and assistance to the Human Resources Director in Employee and Labor Relations functions. This class is distinguished from the Human Resources Director in that the latter has the overall management responsibility for all personnel services, activities and functions.

EXAMPLES OF RESPONSIBILITIES AND DUTIES responsibilities and duties may include, but are not limited to the following:

- Assists in the development and implementation of goals, objectives, policies, procedures and work standards for the department; assists in administering the department's budget.
- Plans, organizes, administers, reviews and evaluates the activities of professional and technical support staff. Assist the Human Resources Director in employee relations and labor negotiations.
- Confers with City employees regarding personnel, employee relations, or related activities or problems and may assist the Director in conferring with supervisors and managers on the same matters.
- Prepare complex written reports and make presentations to the City Council as required.
- Assists the Director in managing the training program for the City in assessing training needs and in developing programs to enhance the skill and performance level of employees.
- Selects assigned staff and provides for their training and professional development; interprets City policies and procedures to employees.
- Directs and conducts analytical studies; develops and reviews reports of findings, alternatives and recommendations.
- Helps in preparing the department's annual operating budget; monitors expenditures to ensure that the department operates within the allocated budget.
- Oversees the recruitment testing and certification program for the City; reviews and approves recruitment and examination plans for open and promotional recruitments using

established guidelines and authorities; works with subordinate staff to design and implement appropriate internal procedures to assure that the recruitment, testing and certification meet accepted standards.

- Periodically review and evaluates established recruitment and selection procedures and recommends and implements changes when required.
- Manages and directs the City's employee benefits program including leave management programs; negotiates with insurance carriers on rates and coverage; works with insurance brokers to obtain the best rates and coverage for a variety of products; monitors industry trends and recommends strategies to the Human Resources Director dealing with cost and quality.
- Participate in labor relations activities, including contract negotiations, meet and confer sessions and meet and consult sessions.
- Serve as HR lead regarding Information Systems/Technological management; explore the application of new human resource technologies to the division's function and programs and recommends the acquisition of technologies when appropriate.
- May be required to conduct investigations into discrimination complaints and make recommendations for resolving complaints; coordinates city response to state and federal enforcement agencies when required.

KNOWLEDGE OF:

- The principles, practices and techniques of personnel assessment and employment testing including, but not limited to the Uniform Guidelines on Employee Selection Procedures; the Standards for Educational and Psychological Testing and other authorities.
- The principles, practices and techniques of position classification and compensation management.
- Principles, practices and technique of program analysis.
- Pertinent Federal, State and local laws, codes and regulations dealing with the employment process.
- The principles, practices and techniques of employment benefit management.
- The principles, practices and techniques of employee evaluation and performance management programs and employee counseling.

ABILITY TO:

- Resolve complex personnel management issues in a constructive manner.
- Plan, direct and supervise the work of professional, technical and support staff; develop work plans and monitor job performance; conduct performance reviews.
- Prepare complex written reports in a clear and precise manner.
- Analyze data and develop appropriate conclusions.
- Make public presentations before the City Council and other authorities.
- Maintain cooperative and constructive relationships with the position's stakeholders.
- Apply rules, regulations, labor agreements, state and federal laws to complex personnel management problems.
- Use a variety of computer applications to manage information.

MINIMUM QUALIFICATIONS:

Sufficient education, training and/or work experience to demonstrate possession of the following knowledge, skills and abilities which would typically be acquired through:

Possession of a bachelor's degree with major course work in business or public administration, industrial relations, human resources management or a closely related field and five years of professional experience in public administration required, including two years of direct supervision preferably in a public agency. A Master's degree in Human Resources Management, Public Administration or a related field is preferred.

FLSA Status: Exempt
Prepared By: MRG Consulting / City of San Rafael
Prepared Date: February 2020
Approved Date:

City of San Rafael
Job Class Specification

Job Title: Library and Recreation Director

SUMMARY:

Directs the City's library, recreation, arts and childcare programs and facilities.

ESSENTIAL DUTIES AND RESPONSIBILITIES include the following. This list is meant to be representative, not exhaustive. Some incumbents may not perform all the duties listed while in other cases related duties may also be assigned.

- Provides administrative oversight to the Library and Recreation Department.
- Develops and administers department-wide policies and procedures. Interprets and applies City policies, procedures, rules and regulations.
- Directs, oversees and participates in the development of the Department's work plan to include long-range plans to meet community needs.
- Plans and directs the design and development of new programs and facilities and improvements to existing programs and facilities.
- Assigns work activities, projects and programs; monitors workflow; reviews and evaluates work products, methods and procedures.
- Supervises and participates in the development and administration of the Library and Recreation budget. Directs the forecast of additional funds needed for staffing, equipment, materials and supplies. Monitors and approves expenditures and implements mid-year adjustments.
- Serves as the appointing authority for the department, selecting, hiring, evaluating and disciplining staff. Oversees ongoing staff development.
- Analyzes problems, identifies alternative solutions, projects consequences of proposed actions and implements recommendations in support of department and City goals.
- Conducts research, prepares and presents reports to the City Manager, City Council, the Parks and Recreation Commission, the Board of Library Trustees, and the Measure D Committee.
- Develops programs to encourage community participation regarding parks, recreation and libraries.
- Performs related duties as required.

KNOWLEDGE OF:

- Principles, practices and methods used in recreation, library, arts and childcare administration and management.
- Principles and practices of program and facility design and maintenance.
- Principles and practices of leadership, motivation, team building and conflict resolution.
- Pertinent local, State and Federal laws, rules and regulations.
- Organizational and management practices as applied to the analysis and evaluation of programs, policies and operational needs.
- Principles and practices of organization, administration and personnel management.

- Principles and practices of budget preparation and administration.
- Principles of supervision, training and performance evaluation.
- PCs and related software.

ABILITY TO:

- Plan, direct and control the administration and operations of the Library and Recreation department.
- Develop short, intermediate and strategic plans.
- Develop and implement department policies and procedures.
- Successfully develop, control and administer departmental budget and expenditures.
- Analyze budget and technical reports, forecast trends and estimate costs.
- Know and interpret laws, regulations, codes and procedures.
- Plan programs, facilities and renovations.
- Promote and market library and recreation activities and events.
- Supervise, train and evaluate assigned personnel.
- Manage a large staff of full and part-time employees.
- Problem solve department related issues.
- Gain cooperation through discussion and persuasion.
- Communicate clearly and concisely, both orally and in writing.
- Establish and maintain effective working relationships with those contacted in the course of work.

EDUCATION and/or EXPERIENCE:

Any combination of education and experience that demonstrates possession of the requisite knowledges, skill and abilities. A typical way to obtain these would be a bachelor's degree in recreation administration, library science, public administration, or related field, and seven years of experience in municipal recreation administration including a senior supervisory and management role with budget and revenue generation experience. A Master's Degree is desirable.

CERTIFICATES, LICENSES, REGISTRATIONS:

Must possess and maintain a valid California Class C driver's license and have a satisfactory driving record. Maintenance of a valid California driver's license is a condition of employment.

PHYSICAL DEMANDS:

The physical demands described here are representative of those that must be met by an employee to successfully perform the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

While performing the duties of this job, the employee is regularly required to stand, walk, and talk or hear. The employee frequently is required to sit; use hands to finger, handle, or feel; and reach with hands and arms. The employee must regularly lift and/or move up to 10 pounds and occasionally lift and/or move up to 25 pounds. Specific vision abilities required by this job

include close vision, distance vision, peripheral vision, depth perception, and ability to adjust focus.

WORK ENVIRONMENT:

The work environment characteristics described here are representative of those an employee encounters while performing the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

While performing the duties of this job, the employee is frequently exposed to video display and outdoors weather conditions and frequently works in evenings or weekends and inside environmental conditions. The employee occasionally works with use of personal vehicle. The noise level in the work environment is usually moderate.

Prepared By:	Catherine Quffa/Susan Andrade-Wax
Prepared Date:	August 2019
Bargaining Unit:	Unrepresented Executive Management
Exempt Status:	Exempt
Approved:	

**City of San Rafael
Job Class Specification**

Job Title: Principal Planner

SUMMARY:

This position is a lead Supervisor, non-mid-management-level position committed to seeking innovative solutions, fostering cross-department partnerships and modeling an inclusive and supportive environment. The position performs a variety of management and complex planning functions which may include the supervision of either the Current or Long-Range Planning sections of the Planning Division and/or as a cross department co-lead for special projects related to permit services improvement programs. Supervises subordinate members of the Planning Division.

ESSENTIAL DUTIES AND RESPONSIBILITIES include the following. This list is meant to be representative, not exhaustive. Some incumbents may not perform all the duties listed while in other cases related duties may also be assigned.

- Plans, organizes, and directs the overall work activities of the long-range planning, current planning, and/or permit service programs.
- Reviews and evaluates the job performance of subordinate personnel, identifies professional development needs, and provides training as needed.
- Oversees the review and analysis of development proposals or planning studies, including participation in more complex and major projects.
- Interprets, implements, and enforces the General Plan, zoning codes, and other codes related to the maintenance of community standards.
- Make presentations on planning background recommendations before the Design Review Board, Planning Commission, City Council, community groups and organizations.
- Works with other City departments and governmental jurisdictions in coordinating the division's programs and projects.
- Conducts research and analysis of land use and related issues. Prepares environmental review documents. Prepares written reports.
- Supervises a professional and clerical planning staff.
- Solicit, select, contract with and manage consulting contracts.
- Produces and/or Coordinates public events, committee meetings, and community workshops.
- Assists the Director with budget preparation and manages the section's budget.
- Assigns new project applications, monitors/manages workload, creates procedures and guidelines to improve permitting process.
- Serves as lead advisor to the Planning Commission. Coordinates the agenda for Planning Commission meetings.
- Performs related duties as required.

KNOWLEDGE OF:

- Principles, methods and practices of urban planning and zoning administration
- California Planning Law, Environmental Quality Act and Subdivision Map Act
- Principles and practices of effective organizations
- Principles of supervision/and emerging trends in effective supervision
- Current and Long-Range Planning.

ABILITY TO:

- Plan, organize and coordinate section personnel, programs and project
- Formulate and implement administrative procedures
- Collect, analyze, interpret and apply complex zoning and planning data.
- Make effective decisions regarding planning and zoning.
- Communicate effectively, orally and in writing.
- Plan for and facilitate effective community meetings.
- Work effectively with the public, community groups, boards and commissions, other City personnel and governmental jurisdictions.
- Ability to attend evening meetings.

EDUCATION AND/OR EXPERIENCE:

Any combination of education and experience that demonstrates possession of the requisite knowledges, skill and abilities. A typical way to obtain these would be:

- AICP Certification or Masters in planning; and
- five years municipal planning experience including two years in a lead or supervisory position.

PHYSICAL DEMANDS:

The physical demands described here are representative of those that must be met by an employee to successfully perform the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions. While performing the duties of this job, the employee is regularly required to stand, walk, sit, and talk or hear. The employee frequently is required to use hands to finger coordination, handle, or feel and reach with hands and arms. The employee is occasionally required to climb or balance and stoop, kneel, crouch, or crawl. The employee must regularly lift and/or move up to 10 pounds and occasionally lift and/or move up to 25 pounds. Specific vision abilities required by this job include close vision, distance vision, color vision, peripheral vision, depth perception, and ability to adjust focus.

WORK ENVIRONMENT:

The work environment characteristics described here are representative of those an employee encounters while performing the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions. While performing the duties of this job, the employee is regularly exposed to video display and regularly works in inside environmental conditions. The employee is occasionally exposed to outdoor weather conditions and occasionally works in evenings or weekends and occasionally works with use of personal vehicle. The noise level in the work environment is usually quiet.

FLSA Status: Non-exempt
Prepared By: City of San Rafael
Prepared Date: February 2020
Approved Date: