

RESOLUTION 24-06

RESOLUTION OF THE CITY OF SAN RAFAEL PLANNING COMMISSION RECOMMENDING THE CITY COUNCIL CERTIFY AN ENVIRONMENTAL IMPACT REPORT, MAKE FINDINGS OF FACT TO ADOPT A STATEMENT OF OVERRIDING CONSIDERATIONS, AND ADOPT A MITIGATION MONITORING AND REPORTING PROGRAM FOR THE NORTHGATE TOWN SQUARE PROJECT, PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (APNS 175-060-12, 175-060-40, 175-060-59, 175-060-61, 175-060-66 & 175-060-67) (SCH #2021120187)

WHEREAS, the Northgate Mall, located at 5800 Northgate Drive, began operation in 1964, underwent major renovations in 1987 to enclose the original open-air design, and was subsequently renovated and altered in 2008, and currently consists of approximately 721,507 square feet of commercial space in multiple buildings plus a movie theater, parking structure and surface parking lots; and

WHEREAS, in 2017 Merlone Geier Partners purchased the property from The Macerich Company; and

WHEREAS, on March 10, 2021, David Geiser, on behalf of Merlone Geier Partners submitted project applications to the City of San Rafael Community and Economic Development Department for a Planned Development (PD) Rezoning (ZC21-001), Vesting Tentative Subdivision Map (TS21-002), Master Use Permit (UP21-007), Environmental and Design Review Permit (ED21-024) and associated Density Bonus application, Master Sign Program (SR24-002), and Development Agreement (DA21-001) for the phased redevelopment of the Northgate Mall, into a mixed-use development with retail and residential components, referred to as the Northgate Town Square Project and/or the Northgate Mall Redevelopment Project; and

WHEREAS, during initial review of the application materials, the City of San Rafael determined that the proposed redevelopment is defined as a "project" pursuant to Section 15378 of the California Environmental Quality Act (CEQA) Guidelines; and

WHEREAS, the City of San Rafael obtained the services of LSA Associates, Inc. to prepare documentation of environmental impacts consistent with CEQA; and

WHEREAS, on September 14, 2021, the San Rafael Planning Commission and Design Review Board held a Joint Study Session to provide feedback to the applicant regarding land use and design components; and

WHEREAS, on December 9, 2021, a Notice of Preparation (NOP) of an Environmental Impact Report (EIR) was published with the State Clearinghouse, filed with the Marin County Clerk, published on the City of San Rafael website, circulated in the Marin Independent Journal, and mailed to all owners and occupants of properties within a 300 foot radius of the Project Site, commencing a public comment period on the scope of the EIR, extending through January 14, 2022; and

WHEREAS, on January 11, 2022, in compliance with local regulations and CEQA Section 21083.9, the Planning Commission held a duly noticed public scoping meeting on the NOP for preparation of an EIR to assess the impacts of the Northgate Town Square Project; and

WHEREAS, commenters provided verbal comments at the January 11, 2022, scoping meeting and 55 written comments during the NOP comment period; and

WHEREAS, comments received in response to the NOP generally relate to: consistency with the San Rafael General Plan and other planning and policy documents; residential density and inclusionary housing; visual character, scenic views, and nighttime lighting; archaeological and tribal resources; stability of site soils; water quality, stormwater treatment, and nearby waterways; hazards and hazardous materials; vehicle trips, vehicle miles traveled, circulation,

emergency access, alternative modes of travel, and parking; air quality and health risks; greenhouse gas emissions, energy consumption, and use of backup energy sources; noise and vibration; public services; parks and recreational services; water supply, infrastructure improvement, and solid waste services; nesting birds, bats, and wildlife corridors; wildfire and emergency evacuation; and cumulative impacts; and

WHEREAS, on March 9, 2022 the applicant submitted revisions to the project application in response to feedback at the joint study session of the Planning Commission and Design Review Board held on September 14, 2021; and

WHEREAS, on May 17, 2022 the City of San Rafael Design Review Board held a public meeting to provide feedback on the project, including revisions made to address comments provided at the September 14, 2021 Joint Study Session of the Planning Commission and Design Review Board; and

WHEREAS, on November 29, 2022, the Planning Commission conducted a Study Session to provide feedback and comments on revisions made to address Planning Commission, Design Review Board, and community feedback; and

WHEREAS, on May 8, 2023, the applicant submitted revisions to the project application in response to feedback from both the Design Review Board and Planning Commission; and

WHEREAS, on July 21, 2023, the applicant submitted further revisions and refinements to the project application; and

WHEREAS, on July 18, 2023 the Design Review Board held a public meeting to provide feedback on the project, including revisions made to address comments provided at the preceding study sessions and public meetings; and

WHEREAS, on September 6, 2023 the Design Review Board held a public meeting to provide feedback on the project, including revisions made to address comments provided at the preceding study sessions and public meetings; and

WHEREAS, on November 3, 2023, the applicant submitted revisions to the project application; and

WHEREAS, on January 5, 2024 a Notice of Completion (NOC) and Notice of Availability (NOA) of the Draft EIR (DEIR) was filed with the State Clearinghouse and the Marin County Clerk, circulated in the Marin Independent Journal, and mailed to interested persons, property owners and occupants of properties within the 94903 zip code, and to all responsible, trustee and other public agencies, and was published on the City's website, and made available for a 45-day public comment period, beginning on January 5, 2024 and closing at 5:00 p.m. on February 19, 2024; and

WHEREAS, the City prepared and distributed copies of the DEIR in conformance with CEQA, specifically CEQA Guidelines Section 15086, to those public agencies that have jurisdiction by law with respect to the project and to other interested persons and agencies, and sought the comments of such persons and agencies; and

WHEREAS, on January 25, 2024, the City of San Rafael extended the 45-day public comment period on the DEIR to March 5, 2024; and

WHEREAS, the Planning Commission held a public hearing on February 13, 2024, to consider the DEIR, the purpose of the hearing being to inform the public about the contents of the DEIR and to receive oral comments about the adequacy and accuracy of the DEIR; and

WHEREAS, written and oral comments on the DEIR have been received and responses to those comments have been prepared in the form of a Final Environmental Impact Report ("FEIR"), which together with the DEIR constitutes the Project EIR; and,

WHEREAS, on June 4, 2024, the applicant submitted a Revised Project to respond to comments received from the Planning Commission, Design Review Board, and members of the public and for evaluation in the FEIR; and

WHEREAS, the Revised Project now is the final version of the project before the City for consideration and includes a two-phase, mixed-use development, described as the 2025 Master Plan (Phase 1) and 2040 Vision Plan (Phase 2); and

WHEREAS, Phase 1 of the Revised Project consists of demolition of approximately 308,946 square feet of existing commercial space, ongoing use of approximately 457,561 square feet of existing commercial space, construction of approximately 44,380 square feet of new commercial space (resulting in approximately 501,941 square feet of net total commercial space), construction of 864 residential units (inclusive of 87 low-income units), construction of an approximately 56,975 square foot Town Square, construction of an approximately 9,604 square foot bike hub with amenities, and construction of other site improvements including but not limited to bicycle and pedestrian facilities, parking areas, fencing, lighting, landscaping, stormwater management areas, and signage; and

WHEREAS, Phase 2 of the Revised Project includes demolition of another approximately 339,861 square feet of the original existing commercial space, ongoing use of the remaining approximately 117,700 square feet of original existing commercial space plus the approximately 44,380 square feet of new Phase 1 commercial space, construction of approximately 57,300 square feet of additional new commercial space (resulting in approximately 219,380 square feet of net total commercial space), and construction of an additional 558 residential units (inclusive of 56 affordable units); and

WHEREAS, at full buildout, the Revised Project includes 219,380 square feet of commercial space, 1,422 residential units (inclusive of 143 units affordable to lower income households), and all site improvements and amenities including the 56,975 square foot Town Square, 9,604 square foot bike hub with amenities, bicycle and pedestrian facilities, parking areas, fencing, lighting, landscaping, stormwater management areas, and signage; and

WHEREAS, on June 4, 2024, as part of the Revised Project the applicant withdrew the Development Agreement (DA21-001) application; and

WHEREAS, on August 26, 2024, Merlone Geier Partners held a Community Open House at the project site to engage with the community about the Revised Project; and

WHEREAS, the Revised Project is described in the FEIR, including analysis of any changes in the environmental impacts or feasible mitigation from the original project analyzed in the DEIR; and

WHEREAS, as outlined in Chapter 2 of the FEIR, the Revised Project is determined to not present a substantial modification to the project description as analyzed in the DEIR, does not result in any new impacts or require changes to or additional mitigation measures and therefore does not trigger requirements for recirculation consistent with CEQA guidelines; and

WHEREAS, the environmental effects of the Revised Project have been analyzed and compared to the environmental effects presented in the DEIR, and that analysis has been included in the FEIR, concluding that:

- a) No new significant environmental impacts not previously identified in the DEIR would result from the Revised Project, and
- b) No substantial increase in the severity of a previously identified environmental impact has been identified as resulting from the Revised Project, and no additional mitigation measures are necessary to reduce such impacts to a level of insignificance, and
- c) There is no feasible alternative or mitigation measure considerably different from others previously analyzed in the DEIR that would clearly lessen significant environmental impacts of the Revised Project and that the Project applicant declines to adopt; and

WHEREAS, on September 24, 2024, the Planning Commission held a publicly noticed study session to review the Revised Project and provide clarification of the scope of the project and anticipated milestones; and

WHEREAS, the notice of public hearing was published in the Marin Independent Journal on October 12, 2024, posted onsite, and mailed to interested persons, property owners and occupants of all properties within the 94903 zip code, and to all responsible, trustee and other public agencies that commented on the DEIR, informing them of the Planning Commission hearing on October 29, 2024, for recommendation to the City Council, and the Project EIR was released for public review on October 18, 2024; and

WHEREAS, the FEIR was circulated for more than the required 10-day public review period beginning on October 18, 2024, and extending through City Council consideration, tentatively scheduled for November 18, 2024; and

WHEREAS, the City distributed copies of the FEIR in conformance with CEQA to those public agencies that have jurisdiction by law with respect to the project and to other interested persons and agencies, and sought the comments of such persons and agencies; and

WHEREAS, the Planning Commission held a duly noticed public hearing on October 29, 2024 at which time it considered the Project EIR and accepted public testimony, and thereafter adopted recommendations to the City Council concerning the Project EIR and the pending project applications; and

WHEREAS, Section 21081(a) of the Public Resources Code requires the City Council to make one or more findings with respect to each significant adverse environmental effect of the Revised Project and to evaluate alternatives to the Revised Project; and

WHEREAS, the Project EIR identified several potentially significant impacts that will be reduced to a less than significant level with specified mitigation measures; therefore, approval of the Revised Project will require adoption of Findings on Impacts and Mitigations as set forth in Exhibit A, attached hereto and incorporated herein by reference; and

WHEREAS, Section 21081(a)(3) of the Public Resources Code requires the City Council to make one or more findings with respect to alternatives studied in the Project EIR if all significant effects of the Revised Project are not mitigated to insignificance; and

WHEREAS, general findings and findings regarding each significant adverse environmental effect of the Revised Project are set forth in Exhibit A and

WHEREAS, the Project EIR identified several potentially significant impacts of the Revised Project that cannot be reduced to a less than significant level by feasible mitigation measures or be so reduced or avoided by a feasible alternative, as set forth in Exhibit A; and

WHEREAS, Public Resources Code Section 21081(b) requires that the City Council find that specific economic, legal, social, technological or other considerations outweigh any significant

environmental effects of the Revised Project which cannot be mitigated to a less than significant level or avoided by an alternative; and

WHEREAS, a Statement of Overriding Considerations consisting of the City's findings and determination regarding the Revised Project's benefits as compared to its significant and unavoidable effects is contained in Exhibit A, Section 6.0; and

WHEREAS, the Revised Project does not have the potential to have a significant adverse impact on wildlife resources as defined in the State Fish and Game Code, either individually or cumulatively, though it is not exempt from Fish and Game filing fees; and

WHEREAS, the Revised Project is not located on a site listed on any Hazardous Waste Site List compiled by the State pursuant to Section 65962.5 of the California Government Code; and

WHEREAS, the Project EIR identified several potentially significant impacts that will be reduced to a less than significant level with specified mitigation measures, and pursuant to CEQA Guidelines Section 15091(d), a Mitigation Monitoring and Reporting Program has been prepared and set forth in **Exhibit B**, attached hereto and incorporated herein by reference, to ensure that all feasible mitigation measures which serve to reduce environmental impacts of the Revised Project as recommended by the Project EIR are fully implemented; and

WHEREAS, on October 29, 2024, the Project EIR was presented to the Planning Commission of the City of San Rafael and the Planning Commission reviewed and considered the information presented in the Project EIR prior to making recommendations to the City Council; and

WHEREAS, the custodian of the documents and other materials that constitute the record of proceedings for the Revised Project is the City of San Rafael, Community and Economic Development Department, San Rafael City Hall, 1400 Fifth Ave, San Rafael, CA 94901;

NOW THEREFORE BE IT RESOLVED by the Planning Commission that the above recitals are true and correct and incorporated by reference.

BE IT FURTHER RESOLVED that the Planning Commission makes the following recommendations to the City Council:

1. Certify that the Northgate Town Square Project EIR (SCH# 2021120187) contains all the requirements of CEQA Guidelines Section 15132, inclusive of the DEIR, FEIR, references, appendices, and all attachments thereto, which have been completed in compliance with CEQA.
2. Certify (a) that the Project EIR was presented to the City Council, which has reviewed and considered the information contained in the Project EIR prior to taking action regarding approval of the Revised Project, and (b) that the Project EIR reflects the City of San Rafael's independent judgment and analysis regarding the Revised Project.
3. As required by CEQA and based on substantial evidence in the record, adopt the Findings regarding potentially significant effects of the Revised Project in **Exhibit A**, and the

Statement of Overriding Considerations in **Section 6.0 of Exhibit A**, which are incorporated herein by reference.

- 4. Adopt the Mitigation Monitoring and Reporting Program set forth in the attached **Exhibit B**, which is incorporated herein by reference, to ensure that all mitigation measures relied on in the Findings are fully implemented. Compliance with the Mitigation Monitoring and Reporting Program set forth therein shall be a condition of any subsequent Project approval.

- 5. Find that for each identified mitigation measure that requires the cooperation or action of another agency, adoption, and implementation of each such mitigation measure is within the responsibility and jurisdiction of the public agency identified, and the measures can and should be adopted and/or implemented by said agency.

Moved by Commissioner _____ and seconded by Commissioner _____.

AYES: Commissioners:
NOES: Commissioners:
ABSENT: Commissioners:
ABSTAIN: Commissioners:

SAN RAFAEL PLANNING COMMISSION

ATTEST: _____
Margaret Kavanaugh-Lynch, Secretary

BY: _____
Jon Haveman, Chair

