



AGENDA

**SAN RAFAEL PLANNING COMMISSION
REGULAR MEETING
TUESDAY, December 11, 2018, 7:00 P.M.
COUNCIL CHAMBERS, CITY HALL, 1400 FIFTH AVENUE
SAN RAFAEL, CALIFORNIA**

**CALL TO ORDER
PLEDGE OF ALLEGIANCE
RECORDING OF MEMBERS PRESENT AND ABSENT
APPROVAL OR REVISION OF ORDER OF AGENDA ITEMS
PUBLIC NOTIFICATION OF MEETING PROCEDURES**

URGENT COMMUNICATION

Anyone with an urgent communication on a topic not on the agenda may address the Commission at this time. Please notify the Community Development Director in advance.

CONSENT CALENDAR

1. Minutes 11/13/18

PUBLIC HEARING

2. **5800 Northgate Drive (Northgate Mall)** – Appeal of an Administrative (staff) approval of a Temporary Use Permit (UP18-027) approving a base camp/staging operation area for the movie production for “13 Reasons Why” in a portion of the Northgate Mall Shopping Center parking lot; APN: 175-060-67; General Commercial (GC) Zoning District; XGP XI Northgate LLC, owner; Dan Kemp (for Paramount Television), applicant; Mary Anne Hoover, appellant. File No.: AP18-003. Project Planner: Caron Parker
3. Preparation in advance of Annual Meeting of Planning Commission to include: a) distribution of Planning Commission “Rules and Procedures” for review before annual meeting in January 2019; and b) assignment of Planning Commission liaisons for 2019 DRB meetings. Project Planner: Raffi Boloyan

**DIRECTOR'S REPORT
COMMISSION COMMUNICATION
ADJOURNMENT**

- I. Next Meeting: December 26, 2018 (THIS MEETING WILL BE CANCELLED)
- II. I, Anne Derrick, hereby certify that on Friday, December 7, 2018, I posted a notice of the December 11, 2018 Planning Commission meeting on the City of San Rafael Agenda Board.

- Sign interpreters and assistive listening devices may be requested by calling 415/485-3085 (voice) or 415/ 485-3198 (TDD) at least 72 hours in advance. Copies of documents are available in accessible formats upon request.
- Public transportation to City Hall is available through Golden Gate Transit, Line 20 or 23. Paratransit is available by calling Whistlestop Wheels at 415/454-0964.
- To allow individuals with environmental illness or multiple chemical sensitivity to attend the meeting/hearing, individuals are requested to refrain from wearing scented products.

Any records relating to an agenda item, received by a majority or more of the Agency Board less than 72 hours before the meeting, shall be available for inspection in the Community Development Department, Third Floor, 1400 Fifth Avenue, and placed with other agenda-related materials on the table in front of the Council Chamber prior to the meeting.

THE PLANNING COMMISSION WILL TAKE UP NO NEW BUSINESS AFTER 11:00 P.M. AT REGULARLY SCHEDULED MEETINGS. THIS SHALL BE INTERPRETED TO MEAN THAT NO AGENDA ITEM OR OTHER BUSINESS WILL BE DISCUSSED OR ACTED UPON AFTER THE AGENDA ITEM UNDER CONSIDERATION AT 11:00 P.M. THE COMMISSION MAY SUSPEND THIS RULE TO DISCUSS AND/OR ACT UPON ANY ADDITIONAL AGENDA ITEM(S) DEEMED APPROPRIATE BY A UNANIMOUS VOTE OF THE MEMBERS PRESENT. APPEAL RIGHTS: ANY PERSON MAY FILE AN APPEAL OF THE PLANNING COMMISSION'S ACTION ON AGENDA ITEMS WITHIN FIVE BUSINESS DAYS (NORMALLY 5:00 P.M. ON THE FOLLOWING TUESDAY) AND WITHIN 10 CALENDAR DAYS OF AN ACTION ON A SUBDIVISION. AN APPEAL LETTER SHALL BE FILED WITH THE CITY CLERK, ALONG WITH AN APPEAL FEE OF \$350 (FOR NON-APPLICANTS) OR A \$4,476 DEPOSIT (FOR APPLICANTS) MADE PAYABLE TO THE CITY OF SAN RAFAEL, AND SHALL SET FORTH THE BASIS FOR APPEAL. THERE IS A \$50.00 ADDITIONAL CHARGE FOR REQUEST FOR CONTINUATION OF AN APPEAL BY APPELLANT.

IN THE COUNCIL CHAMBERS OF THE CITY OF SAN RAFAEL, November 13, 2018



Regular Meeting

San Rafael Planning Commission Minutes

For a complete video of this meeting, go to <http://www.cityofsanrafael.org/meetings>

CALL TO ORDER

Present: Jack Robertson
Barrett Schaefer
Sarah Loughran
Jeff Schoppert
Mark Lubamersky
Aldo Mercado

Absent: Berenice Davidson

Also Present: Alicia Giudice, Senior Planner
Alan Montes, Assistant Planner
Paul Jensen, CDD Director

PLEDGE OF ALLEGIANCE
RECORDING OF MEMBERS PRESENT AND ABSENT
APPROVAL OR REVISION OF ORDER OF AGENDA ITEMS
PUBLIC NOTIFICATION OF MEETING PROCEDURES
URGENT COMMUNICATION

CONSENT CALENDAR

1. [Minutes, 10/23/18](#)

Mark Lubamersky moved and Jack Robertson seconded to approve Minutes with change as follows: On Agenda Item #2 1005 and 1010 Northgate strike consensus comment #5. The vote is as follows:

AYES: Jack Robertson, Barrett Schaefer, Sarah Loughran, Jeff Schoppert, Mark Lubamersky,
Aldo Mercado
NOES: None
ABSTAIN: None
ABSENT: Berenice Davidson

PUBLIC HEARING

2. [1833 and 1835 Fourth \(Shell Fueling Station\) - Request for and Environmental and Design Review, Use Permit, and Sign Program to demolish and rebuild the gas station; APN: 011231-24/25; West End Village \(WEV\) Zone; Muthana Ibrahim, Applicant; AU Energy LLC, Owner; ED17-054, SP18-005, UP17-019. Project Planner: Alan Montes](#)

[Staff Report](#)

Jack Robertson moved and Mark Lubamersky seconded to approve project as presented. The vote is as follows:

AYES: Jack Robertson, Barrett Schaefer, Sarah Loughran, Jeff Schoppert, Mark Lubamersky,
Aldo Mercado
NOES: None
ABSTAIN: None
ABSENT: Berenice Davidson

3. Discussion of Housing Topics and Issues (P18-010) Project Planner: Paul Jensen

[Staff Report](#)

Mark Lubamersky moved and Jeff Schoppert seconded to accept report as presented. The vote is as follows:

AYES: Jack Robertson, Barrett Schaefer, Sarah Loughran, Jeff Schoppert, Mark Lubamersky,
Aldo Mercado
NOES: None
ABSTAIN: None
ABSENT: Berenice Davidson

DIRECTOR'S REPORT

COMMISSION COMMUNICATION

ADJOURNMENT

ANNE DERRICK, Administrative Assistant III

APPROVED THIS ____ DAY ____ OF _____, 2018

Sarah Loughran, Chair



SAN RAFAEL
THE CITY WITH A MISSION

Community Development Department – Planning Division

Meeting Date: December 11, 2018
Agenda Item: 2
Case Numbers: AP18-003
Project Planner: Caron Parker–
415-485-3094

REPORT TO PLANNING COMMISSION

SUBJECT: 5800 Northgate Drive (Northgate Mall) – Appeal of an Administrative (staff) approval of a Temporary Use Permit (UP18-027) approving a base camp/staging operation area for the movie production for “13 Reasons Why” in a portion of the Northgate Mall Shopping Center parking lot; APN: 175-060-67; General Commercial (GC) Zoning District; XGP XI Northgate LLC, owner; Dan Kemp (for Paramount Television), applicant; Mary Anne Hoover, appellant. File No.: AP18-003.

EXECUTIVE SUMMARY

On September 10, 2018, pursuant to Section 14.05.020 of the San Rafael Municipal Code (SRMC), Dan Kemp, applicant (for Paramount Television), submitted a Temporary Use Permit for staging operations associated with film production for the movie “13 Reasons Why”. Previous to the application submittal, staff received information about a complaint from a nearby resident about staging operations for several days in August 2018 (in the parking lot fronting on Northgate Drive near the former Sears Building). The staging was no longer in operation, but Staff contacted Paramount Pictures and informed them that a Temporary Use Permit would be required for any future staging activities.

The Temporary Use Permit application (UP18-027) proposed a base camp and crew parking area located in the parking lot at the north end of Northgate Mall Shopping Center (fronting on Las Gallinas Avenue). The approved use was set to operate between September 14, 2018 and February 28, 2019, for approximately 1-10 days/month with approximate 12 hours of use during each day. The base camp consisted of an area for crew parking and an area for make-up trailers, a wardrobe truck, a catering truck, pick-up trucks to help transfer equipment to other locations, and the use of portable lights and generators (if necessary). Also approved was the use of shuttle vans to pick up cast and crew and take them to film locations.

The Temporary Use Permit (UP18-027) was approved by staff on September 14, 2018. Pursuant to Section 14.21.060, a public notice/hearing is not required for an Administrative Use Permit. However, staff was alerted by the City’s Event Coordinator that there was a neighbor on Sao Augustine Way who was concerned about the project, and therefore a copy of the approval letter was also e-mailed to this neighbor as a courtesy on September 14, 2018. Planning staff and Code Enforcement staff subsequently met with the concerned neighbor on September 20, 2018 to discuss her concerns, but she indicated that she intended to appeal the decision.

On September 20, 2018, the same concerned neighbor submitted a letter of appeal. The main points of the appeal were: 1) potential lack of enforcement and lack of identification of a specific location for the required alternative staging/parking area during the holiday period; and 2) traffic/noise impacts on residential neighbors.

Due to the appeal, Paramount was unable to continue staging operations at the approved site. A new Temporary Use Permit application (UP18-035) was subsequently submitted and approved on November 7, 2018 for base camp/staging operations at 400 Las Gallinas Avenue (parking area behind the Michael's store) at Northgate III Shopping Center. However, Paramount recently informed staff that staging activities at Northgate III were abandoned due to holiday traffic impacts in the Michael's parking lot area.

RECOMMENDATION

It is recommended that the Planning Commission adopt the attached Draft Resolution (Exhibit 2) denying the appeal (AP18-003) and upholding the staff administrative approval of Temporary Use Permit (UP18-027) allowing the proposed base camp/parking staging operations at Northgate Mall Shopping Center.

PROPERTY FACTS

| | | | |
|--------------------------|----------------------|--------------------------|-------------|
| Address/Location: | 5800 Northgate Drive | Parcel Number(s): | 175-250-14 |
| Property Size: | 240,450 sf | Neighborhood: | Terra Linda |

| Site Characteristics | | | |
|-----------------------------|---------------------------------|---------------------------------|---------------------------------------|
| | General Plan Designation | Zoning Designation | Existing Land-Use |
| Project Site: | General Commercial (GC) | GC | Commercial retail |
| North: | GC, Office | Office | Retail, Offices |
| South: | Residential (LDR), Open Space | R7.5EA, PD 1635, PD1821, Office | Residential, Residential Care, Office |
| East: | GC, P/QP | Office | Commercial Retail, Cemetery |
| West: | Office, Open Space | GC | Retail, Offices |

Site Description/Setting:

The subject property is a flat parcel developed with commercial buildings and paved parking (see Exhibit 1: Project Vicinity Map). The staging area is located in the portion of the Northgate Mall parking lot fronting on Las Gallinas Avenue, and surrounded primarily by commercial properties. The staging area would utilize 2 areas of the parking lot, totaling up to approximately 150 parking stalls.

BACKGROUND

September 10, 2018: Daniel Kemp (Location Manager, Paramount Pictures), submitted a Temporary Use Permit application to use the parking lot at 5800 Northgate Drive as a base camp/staging area for the "13 Reasons Why" film production. The application was initiated due to a complaint from an adjacent property owner about staging operations that had occurred in August 2018 (in the parking lot adjacent to Sears, fronting on Northgate Drive).

September 14, 2018: Temporary Use Permit (UP18-027) was approved. Due to concerns from a neighbor near the proposed Northgate Drive staging area, staff conditioned the approval on relocating the base camp/parking to the north side of the mall in the parking lot area fronting on Las Gallinas Avenue (see approved site plan, Exhibit 5).

PROJECT DESCRIPTION

Paramount Pictures (applicant) will be periodically filming the movie "13 Reasons Why" in several locations in San Rafael and neighboring locations. The Temporary Use Permit was approved to allow staging operations in the parking lot area at the Northgate Mall Shopping Center (see Exhibit 5: Approved Site Plan). No filming is proposed at the staging area. The staging area would provide a base camp/parking for approximately 1-10 days/month with approximate 12 hours of use during each day, **beginning on September 14, 2018 and ending on February 28, 2019**. The proposed base camp would consist of hair and make-up trailers, a wardrobe truck, a catering truck, pick-up trucks to help transfer equipment to other locations, the use of portable lights and generators (if necessary), and shuttle vans to pick up cast and crew and take them to other locations (see Exhibit 6: Project Description).

ANALYSIS

The General Plan Land Use Designation and Zoning District for the project site is General Commercial. Detailed Findings of Approval for the Temporary Use Permit, are discussed on Pages 1-2 in the Use Permit approval letter (Exhibit 4).

In summary, given the temporary nature of the proposed staging operations, and limited number of days per month the site would be utilized, staff found the proposed project to be consistent with following applicable General Plan policies: Land Use Policy LU-14 (Land Use Compatibility), and LU-23 (Land Use Map Categories), and N-4 (Noise from New Non-Residential Development). Further, staff determined that the proposed project was consistent with Zoning Ordinance Section 14.05.020, which allows Temporary Uses with approval of a Use Permit. Staff's response to the appeal points are listed below. The applicant's response to the appeal points is included as Exhibit 7.

Appeal of Zoning Administrator Design Review Permit approval on September 20, 2018

An appeal of the Zoning Administrator action was filed by Mary Anne Hoover. The appeal letter cited two (2) appeal points. The appeal points are quoted directly below. Each appeal point is followed by staff's response:

Appeal Point #1: Enforcement: Which stakeholder is going to enforce the requirements of the Temporary Use Permit? From my own experience having resided in my home for 26 years, the police department, the mall and code enforcement have limited resources and restricted ability to enforce use permits and/or zoning ordinances.

Location: Beginning in November the "Base Camp" according to the permit will need to be relocated due to parking demands at the mall because of the holidays. November is only 2 months away. Why is the permit silent about the location to where "Base Camp" will relocate? If there is an intention to relocate to the southern portion of the mall where they "camped" a few weeks ago without a permit, that should be disclosed. And why is the applicant for this permit seeking a permit now? Should the applicant have requested a permit previously? (Please see the photograph depicting that encampment which I have attach to this correspondence as Exhibit A.)

Staff Response:

The Temporary Use Permit approval included several specific "conditions of approval" from three City Departments: Planning, Public Works and Fire Prevention, as delineated in the Exhibit 4. All conditions of approval are the responsibility of the property owner and applicant to implement. If issues of non-compliance arise and the City receives a complaint, staff does respond in a timely manner to investigate.

Any violations of conditions are subject to Code Enforcement action, through the City's Code Enforcement Division. In addition, Use Permits are also subject to "revocation" pursuant to SRMC Section 14.21.150 and Section 14.30.070. With respect to noise, the project is required to comply with the Noise Ordinance (SRMC Chapter 8.13), which is specifically stated in Temporary Use Permit (UP18-027) Condition of Approval #2. In terms of logistics, noise complaints are handled by the San Rafael Police Department. According to Captain Dave Starns, the Police Department *"will respond as soon as we can, depending on priority calls that are going on in the city at the time of the complaint. The PD does have noise meters and we will take measurements if needed to assist on the call."* The Police can issue citations, pursuant to SRMC Section 8.13.080. According to Captain Starnes, *"the first offense would be an infraction, and it could rise to the level of a misdemeanor if we have to issue more citations for the same violation."*

Staff acknowledges that at times, Planning staff and Code Enforcement staff resources are limited. However, if complaints about a temporary use permit arise, Planning staff responds in a timely manner to all complaints received, with a site visit and follow-up calls to the applicant and/or property owner. Planning has the option to bring the Use Permit up for further review/modifications, which may be subject to a public hearing. In the case of continual non-compliance, Code Enforcement would also be notified, and a Pre-Citation would be issued. Continued non-compliance would be subject to fines and ultimately, staff can pursue the option to revoke the Use Permit, pursuant to Zoning Ordinance Section 14.21.150. Use Permit revocations are required to be reviewed by the Planning Commission, pursuant to Section 14.130.070, and would be subject to a public hearing. Typically in the case of a Temporary Use Permit the nature of the use is temporary, so while the potential noise can have impacts, these impacts are not a permanent disruption to neighbors or businesses.

Location: With respect to the appeal point about site location, part of the review process for all Temporary Use Permits is to consider impacts to any adjacent properties (in all zoning districts). In the case of the staging area at Northgate Mall, the initial complaint referenced staging activities in the Sears parking lot in August 2018. These staging activities were not reviewed or approved by the Planning Department and definitely required submittal of a Temporary Use Permit. Paramount Pictures was informed that any future staging operations (other than strictly vehicle parking) would require a Temporary Use Permit. Paramount Pictures then submitted a Temporary Use Permit application on September 10, 2018. The Planning Department reviewed the project and in light of Ms. Hoover's concerns, staff required that the staging operations be re-located to the north end of the parking lot (fronting on Las Gallinas Avenue), away from the residential neighborhood to the south of Northgate Drive. In addition, because of the high demand for parking in this area of Northgate Mall during the holiday season, the City's Public Works Department expressed concern about potential traffic congestion along public streets entering the Mall during the holiday season.

In order to minimize impacts to traffic and circulation, DPW added the following condition of approval (COA) to the Temporary Use Permit:

- COA #1.1: "If any events are scheduled between November 15th and January 7th, specific approval shall be required from the Department of Public Works. Mitigation measures may be required to reduce impacts."

The Planning Department also included the following condition of approval in the temporary use permit:

- COA #1c: "Base camp operations and parking for production crew vehicles shall be in the location as designated on the approved site plan, except that the staging area shall be relocated to a parking area near Sears (or a similarly less impactful parking area at Northgate Mall) during the period of November 15, 2018 through January 7, 2019. Specific approval shall be required by the Department of Public Works (DPW) in advance."

The Temporary Use Permit was approved on September 14, 2018. Contrary to the appellant's statement that the permit is "silent" on the exact relocation, Use Permit COA #1c specifically states that the "*staging area shall be relocated to a parking area near Sears (or a similarly less impactful parking area at Northgate Mall)*". Staff's intent was that Planning and DPW would work with the applicant to identify an appropriate alternative location for staging operations before November 15, 2018. The applicant (Paramount Pictures) was fully aware that the staging would need to be relocated before they came back to the project site in November. While the specific site for relocation was not identified in the use permit approval, staff was aware of the appellant's concerns about noise and traffic and these factors would have been at the forefront of any decision about the alternative location, along with discussions with any concerned residents. As part of the decision, staff had the option of modifying the staging operations to further minimize potential impacts. For example, restricting staging to only vehicle parking without the other base camp activities, in order to eliminate potential impacts from human activity, food trailers, generators and lighting.

Appeal Point #2: Traffic/Noise: The residential portion of San Rafael adjacent to the southern portion of Northgate Mall has dealt with mall traffic and noise for years. However, there was an expectation that for the most part, there would not be traffic during the hours the mall was closed. From experience, automobiles, trailers, vans, etc. will be coming in and out of "Base Camp" during what is not considered "business hours" for most of the population. Will those involved in this "Movie" who will be driving to the "Base Camp" be restricted to entering the "Base Camp" from the North end of the mall or will they drive along the South end of the mall thereby creating noise, congestion and a nuisance during the hours from 11:00 p.m. to 7:00 a.m.? This residential section of Terra Linda has been protected, for the most part, by the zoning ordinance. I fear that this Temporary Use Permit will infringe upon our right to quiet enjoyment of our property.

Staff Response:

The expectation that there would not be traffic while the mall is closed is valid. For a majority the year, except for early business deliveries, this is certainly the case. The approved Master Use Permit for Northgate Mall (UP07-56) details overall permitted activities, hours of operation, and includes two pertinent conditions of approval:

- COA #25: Other special events, or events outside of normal business hours, shall require a temporary use permit.
- COA #26: Outdoor events shall not create a noise nuisance to residential neighborhoods.

The proposed staging operations were approved for 6 months (September 2018 through February 2019) and was set to occur between 1-10 days each month. The approved staging area was on the north side of the mall, close to commercial development and approximately 2,000 feet away from the appellant's residence on Sao Augustine. The approved staging area in the northern parking lot at Northgate Mall would not have the same potential impacts to residences as the unpermitted staging activities that occurred in August 2018 (located basically right across the street from the appellant's residence). The approval did not include a specific restriction regarding the approach route to the site, although it seems unlikely that large trucks would use Northgate Drive to access the parking along Las Gallinas Avenue. The more direct approach from north or south Hwy 101 would be Las Gallinas Avenue. As such, the south end of the mall would not be subjected to "noise, congestion and a nuisance during the hours of 11:00 pm and 7:00 am" as stated on Page 2 of the appellant's letter.

In reviewing Use Permits, staff must balance the needs of both businesses and residences. Based on staff review of the site conditions, the temporary nature of the proposed use, and with the added

stipulated conditions of approval, staff determined that approval of the Temporary Use Permit was warranted.

ENVIRONMENTAL DETERMINATION

The proposed project is exempt from the requirements of the California Environmental Quality Act (CEQA), pursuant to Section 15304(e) of the CEQA Guidelines which exempts "minor temporary use of land having negligible or no permanent effects on the environment."

NEIGHBORHOOD MEETING / CORRESPONDENCE

Notice of this appeal hearing before the Planning Commission have been conducted in accordance with noticing requirements contained in Chapter 29 of the Zoning Ordinance. Notice of the public hearing for the project was mailed to the appellant, the applicant, and all property owners and occupants within a 300-foot radius of the site, the appropriate neighborhood group (Quail Hill Townhouses and Villa Marin HOA) at least 15 calendar days prior to the date of the public hearing.

Staff received response letters to the appeal from the applicant (Exhibit 7) and the property owner's representative (Exhibit 8). No other calls from the public were received.

OPTIONS

The Planning Commission has the following options:

1. Deny the appeal and uphold staff's Administrative approval of the Temporary Use Permit (staff recommendation);
2. Deny the appeal and uphold staff's Administrative approval of the project with modifications, changes or additional conditions of approval related to the location of staging areas for the three (3) months (December, January and February) remaining under the approved Use Permit (UP18-027);
3. Uphold the appeal and deny the project, reversing the decision of staff and direct staff to return with a revised Resolution; or
4. Continue the matter to allow the applicant, appellant and/or staff to address any comments or concerns of the Planning Commission.

EXHIBITS

1. Project Vicinity Map
2. Draft Resolution Denying Appeal and Upholding staff Administrative Temporary Use Permit approval
3. Letter of appeal from Mary Anne Hoover, September 19, 2018
4. Temporary Use Permit (UP18-027) approval letter, September 14, 2018
5. Temporary Use Permit (UP18-027) approved Site Plan
6. Paramount Pictures (applicant) project description
7. Applicant's response to appeal letter, dated 12/3/18
8. Property owner's response to appeal letter, dated 12/6/18

cc: Mary Anne Hoover, appellant, 5 Sao Augustine Way, San Rafael, CA 94901

cc via e-mail:

Dan Kemp Location Manager, Paramount Pictures, applicant, baylocations@comcast.net

Elisa L. Pastor, epastor@glaserweil.com

May Mar, agent for property owner, mmar@merlonegeier.com

Brian Auger, City of San Rafael Events Coordinator, brian.auger@cityofsanrafael.org



Exhibit 1

RESOLUTION NO. _____

RESOLUTION OF THE SAN RAFAEL PLANNING COMMISSION DENYING AN APPEAL (AP18-003) AND UPHOLDING THE SEPTEMBER 14, 2018 ADMINISTRATIVE APPROVAL OF A TEMPORARY USE PERMIT (UP18-027) TO ALLOW FILM PRODUCTION STAGING OPERATIONS IN THE PARKING LOT (FRONTING ON LAS GALLINAS AVENUE) AT NORTHGATE MALL BETWEEN SEPTEMBER 14, 2018 AND FEBRUARY 28, 2019 AT 5800 NORTHGATE DRIVE (APN: 175-060-67).

WHEREAS, on September 10, 2018, Dan Kemp, Location Manager for Paramount Television, submitted a Temporary Use Permit application (UP18-027) to allow a base camp/staging operation at Northgate Mall Shopping Center to be used for trailers, food trucks and crew parking associated with the movie production of "13 Reasons Why" for 6 months (from September 14, 2018 to February 28, 2019); and

WHEREAS, the Temporary Use Permit application request was reviewed by the Department of Public Works and Fire Department of the City of San Rafael and was recommended for approval subject to conditions; and

WHEREAS, upon review of the application, the project was determined to be exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15304(e) of the CEQA Guidelines which exempts "minor temporary use of land having negligible or no permanent effects on the environment"; and

WHEREAS, on September 14, 2018, the Temporary Use Permit (UP18-027) was conditionally approved at staff level, allowing the proposed base camp/staging area to operate between September 14, 2018 and February 28, 2019 for between 1-10 days/month with approximately 12 hours of use per day, finding that the proposed project was consistent with Findings pursuant to Zoning Ordinance Section 14.22.080 and also consistent with the Temporary Uses Performance Standards listed in Zoning Ordinance Section 14.17.130.E; and

WHEREAS, Pursuant to Section 14.21.060, public notice of an Administrative Use Permit approval decision is not required, and as such, a public hearing notice was not mailed for this approval. However, staff was alerted by the City's Event Coordinator that there was a neighbor who was concerned about the project, and therefore a copy of the approval letter was e-mailed to this neighbor as a courtesy on September 14, 2018; and

WHEREAS, on September 20, 2018, San Rafael resident Mary Anne Hoover filed a timely appeal (AP18-003) of the staff level Administrative Temporary Use Permit approval (UP18-027), pursuant to Chapter 28 (*Appeals*) of the City's Zoning Ordinance, citing that: 1) the Police Department, the Mall and City's Code Enforcement staff have limited resources and restricted ability to enforce use permits; 2) the Use Permit failed to identify the location for the required "relocated" staging area from the period between November 15th to January 7th; and 3) the proposed project would create traffic/noise and be a nuisance to residential properties between the hours of 11:00 pm to 7:00 am; and

WHEREAS, on December 11, 2018, the San Rafael Planning Commission held a duly- noticed public hearing on the proposed appeal, accepting all oral and written public testimony and the written report of the Community Development Department staff and closed said hearing on that date; and

WHEREAS, upon review of the appeal and the scope of the project, the Planning Commission has confirmed that the project is Categorically Exempt, pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15304(e); 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 Planning Commission hereby **denies** the Appeal (AP18-003) and reaffirms the September 14, 2018 Administrative approval, conditionally approving a Temporary Use Permit (UP18-027) located in the parking lot at Northgate Mall Shopping Center (fronting on las Gallinas Avenue) with an expiration date of February 28, 2019. The base camp activities consist of an area for crew parking, make-up trailers, wardrobe trailers, a catering truck, pick-up trucks to help transfer equipment to other locations, use of portable lights and generators (if necessary), and shuttle vans to pick up cast and crew and take them to film locations. The base camp would operate for approximately 1-10 days/month with approximate 12 hours of use during each day. The Planning Commission affirms and incorporates herein the findings and staff Administrative approval action approving the project (cited below) and makes the following findings related to the appeal points.

The Planning Commission finds and determines that the points of the appeal cannot be supported for the following reasons:

Appeal Point #1:

Enforcement: Which stakeholder is going to enforce the requirements of the Temporary Use Permit? From my own experience having resided in my home for 26 years, the police department, the mall and code enforcement have limited resources and restricted ability to enforce use permits and/or zoning ordinances

Location: Beginning in November the “base Camp” according to the permit will need to be relocated due to parking demands at the mall because of the holidays. November is only 2 months away. Why is the permit silent about the location to where “Base camp” will locate? If there is an intention to relocate to the southern portion of the mall where they “camped” a few weeks ago without a permit, that should be disclosed. And why is the applicant for this permit seeking a permit now? Should the applicant have requested a permit previously? (Please see the photograph depicting that encampment which I have attach to this correspondence as Exhibit A.)

Enforcement: The Temporary Use Permit approval (UP18-027) included several specific “conditions of approval” from three City Departments: Planning, Fire and Public Works, as delineated in September 14, 2018 conditional approval letter (Exhibit 4 of staff report). All conditions of approval are the responsibility of the property owner and applicant to implement. If issues of non-compliance arise and the City receives a complaint, staff does respond in a timely manner to investigate. Any violations are subject to Code Enforcement action, through the City’s Code Enforcement Division. In addition, Use Permits are also subject to “revocation” pursuant to SRMC Section 14.21.150 and 14.30.070.

With respect to noise, the temporary use is required to comply with the Noise Ordinance (SRMC Chapter 8.13), which is specifically stated in Temporary Use Permit (UP18-027) Condition of Approval #2. In terms of logistics, noise complaints are handled by the San Rafael Police Department. According to San Rafael Police Captain Dave Starnes, the Police Department “*will respond as soon as we can, depending on priority calls that are going on in the city at the time of the*

complaint. The PD does have noise meters and we will take measurements if needed to assist on the call.” With respect to enforcement, the Police can issue citations, pursuant to SRMC Section 8.13.080. According to Captain Starnes, *“the first offense would be an infraction, and it could rise to the level of a misdemeanor if we have to issue more citations for the same violation”*. Typically, in the case of a Temporary Use Permit, the nature of the use is temporary, so the sounds and activity noise heard from the project would not be long-term nor be a permanent disruption to neighbors or businesses.

Although Planning and Code Enforcement staff resources are limited, staff responds in a timely manner to all complaints received from residents, with a site visit and follow-up calls to the applicant and/or property owner. In the case of continual non-compliance, Code Enforcement would also be notified and a “Pre-Citation” would be issued, with a deadline for compliance. Limited staff resources or ability to enforce conditions of approval are not an appropriate reason to deny a temporary use permit. Continued non-compliance would be subject to fines and ultimately, staff can pursue the option to revoke the Use Permit. Pursuant to Zoning Ordinance Section 14.21.150, *“an administrative use permit that is exercised in violation of a condition of approval or provision of this title may be revoked, as provided in Chapter 14.29 (Enforcement).”* As such, Planning has the option to bring the Use Permit up for further review/modifications, and ultimately revocation if deemed appropriate. Pursuant to Section 14.130.070, Use Permit revocations are required to be reviewed by the Planning Commission and are subject to a public hearing.

Location: Part of the review process for *all* Temporary Use Permits is to consider impacts to all adjacent properties. In the case of the staging area approved at Northgate Mall, the initial complaint to staff referenced staging activities in the Sears parking lot fronting on Northgate Drive in August 2018. No temporary use permit application was submitted for this staging activity, nor were the August activities (as shown by appellant’s photo on Page 3 of Exhibit 3) reviewed or approved by the Planning Department. By the time Planning was informed, the August staging activities had been terminated. Planning informed Paramount Pictures that any future staging operations (other than strictly vehicle parking) would require a Temporary Use Permit. Paramount Pictures then submitted a Temporary Use Permit application on September 10, 2018. The Planning Department reviewed the project, and in light of Ms. Hoover’s concerns, the staging area was re-located to the north end of the mall parking lot (fronting on Las Gallinas Avenue) approximately 2,000 feet away from the residential neighborhood to the south of Northgate Drive. However, because of the high demand for parking at Northgate Mall during the holiday season, the City’s Public Works Department (DPW) expressed concern about potential traffic congestion along public streets from cars entering the Mall parking lots. As such, in order to minimize impacts to traffic and circulation, DPW added the following condition of approval (COA) to the Temporary Use Permit (UP18-027):

- COA #1.1: *“If any events are scheduled between November 15th and January 7th, specific approval shall be required from the Department of Public Works. Mitigation measures may be required to reduce impacts.”*

The Planning Department also included the following condition in the Temporary Use Permit:

- COA #1c: *“Base camp operations and parking for production crew vehicles shall be in the location as designated on the approved site plan, except that the staging area shall be relocated to a parking area near Sears (or a similarly less impactful parking area at Northgate Mall) during the period of November 15, 2018 through January 7, 2019. Specific approval shall be required by the Department of Public Works (DPW) in advance.”*

The Temporary Use Permit was approved on September 14, 2018. Contrary to the appellant's statement that the permit is "silent" on the exact relocation, Use Permit COA #1c specifically states that the "staging area shall be relocated to a parking area near Sears (or a similarly less impactful parking area at Northgate Mall)." Staff's intent was that Planning and DPW would work with the applicant to identify an appropriate alternative location for staging operations before November 15, 2018. The applicant (Paramount Pictures) was fully aware that the staging would need to be relocated before they returned to the project site in November. The appellant is correct in pointing out that the approved Temporary Use Permit COA #1c did not identify a specific alternate location for staging during the holiday period (November 15th through January 7th). However, staff was aware of the appellant's concerns about noise and traffic and these factors would have been at the forefront of any decision about the alternative location, as well as coordinating with any residents expressing concerns. Also, staff had the option of modifying the staging operations to further minimize potential impacts. For example, allowing "vehicle parking" only without the other base camp activities in order to eliminate potential impacts from human activity, food trailers, generators and lighting. Staff was confident that the Use Permit Condition of Approval language in COA #1c provided adequate time to evaluate and approve an alternative staging location between November 15th and January 7th.

Appeal Point #2: Traffic/Noise: The residential portion of San Rafael adjacent to the southern portion of Northgate Mall has dealt with mall traffic and noise for years. However, there was an expectation that for the most part, there would not be traffic during the hours the mall was closed. From experience, automobiles, trailers, vans, etc. will be coming in and out of "Base Camp" during what is not considered "business hours" for most of the population. Will those involved in this "Movie" who will be driving to the "Base Camp" be restricted to entering the "Base Camp" from the North end of the mall or will they drive along the South end of the mall thereby creating noise, congestion and a nuisance during the hours from 11:00 p.m. to 7:00 a.m.? This residential section of Terra Linda has been protected, for the most part, by the zoning ordinance. I fear that this Temporary Use Permit will infringe upon our right to quiet enjoyment of our property.

The expectation that there would not be traffic while the mall is closed is a valid statement. For a majority the year, except for early business deliveries, this is certainly the case. The Master Use Permit for Northgate Mall (UP07-56) approved in 2007 detailed overall permitted activities, hours of operation, and included two pertinent conditions of approval:

- COA #25: Other special events, or events outside of normal business hours, shall require a temporary use permit.
- COA #26: Outdoor events shall not create a noise nuisance to residential neighborhoods.

The applicant submitted a Temporary Use Permit application for the proposed staging activities, and therefore is in compliance with COA #25. In terms of COA #26, staff considered the potential noise and traffic impacts from the proposed staging operations on site, which were proposed to occur between on average between 1-10 days each month from September 14, 2018 through February 28, 2019. The approved staging area is located on the north side of the mall, close to commercial development and approximately 2,000 feet away from residential properties, including the appellant's residence. The approved staging area in the northern parking lot at Northgate Mall would not have the same potential impacts to residences as the unpermitted staging activities that occurred in August 2018, which were located directly across the street from the appellant's residence.

The appellant is correct that the Use Permit approval did not include a *specific* restriction regarding the approach route to the site, although it seems unlikely that large trucks would use Northgate Drive to access the parking along Las Gallinas Avenue. The more direct approach from north or south Hwy 101 would be to use Las Gallinas Avenue. As such, staff determined that the south end of the mall (near Northgate Drive) would not be subjected to “noise, congestion and a nuisance during the hours of 11:00 pm and 7:00 am” as stated on Page 2 of the appellant’s letter.

In reviewing Use Permits, staff must balance the needs of both businesses and residences. Based on staff review of the site conditions, the temporary nature of the proposed use, and with the added stipulated conditions of approval, staff determined that conditional approval of the Use Permit was warranted.

BE IT FURTHER RESOLVED, that the time within which to seek judicial review of this decision is governed by the Code of Civil Procedure Section 1094.6.

BE IT FURTHER RESOLVED, that the Planning Commission reaffirms the approval of Temporary Use Permit (UP18-027), based on the following findings as originally presented and approved by the Administrative Temporary Use Permit approval:

**Findings
Temporary Use Permit (UP18-027)**

1. The proposed project would be consistent with General Plan Land Use Element Policies LU-14 (Land Use Compatibility); LU-23 (Land Use Map Categories); and N-4 (Noise from New Non-Residential Development) in that: a) the proposed project is limited to a commercial parking lot area and leased to the applicant for temporary use; b) the proposed use would be temporary in nature and is located in an area designed to keep vehicles and activity away from residential uses, thereby minimizing potential impacts; and c) the proposed use would provide additional job opportunities for San Rafael residents and provide additional tax revenue for the City.
2. The operation of the temporary base camp for a movie production at Northgate Mall (as designated in the approved site plan, and subject to Planning COA #1c) would operate for 6 months (September 2018 through February 2019) and would not endanger or otherwise constitute a menace to the public health, safety or general welfare because the project has been reviewed by applicable City departments and conditions of approval are proposed to protect the public health, safety and welfare.
3. The project site is adequate in size and shape to accommodate the proposed temporary base camp, including the trailers, vehicles and other activities proposed to occur, and would not cause material detriment to the use and enjoyment of other adjacent properties given that the parking lot at the Northgate Mall lease area is surrounded by commercial development. The approved site fronting on Las Gallinas Avenue is a location chosen in order to respond to a neighbor’s concern about noise at the unpermitted staging area used in August near Northgate Drive.
4. The proposed project has been reviewed by the City’s Traffic Engineer who determined that in order to mitigate potential traffic and circulation conflicts during the holiday shopping season, the base camp/parking area specified on the approved site plan shall be **relocated** to another location at Northgate Mall **during the period from November 15, 2018 through January 7, 2019**. The applicant shall coordinate with DPW and Planning for review and approval of the proposed new site for this period, prior to setting up base camp activities on the proposed alternate site. See Planning Condition of Approval #1c.

5. The project site is designed to provide a base camp for the on-going movie production, including staging operations, support vehicles and trailers, and parking for actors and crew. The proposed site is adequate in size to accommodate the activity.

BE IT FURTHER RESOLVED, that the Planning Commission of the City of San Rafael **reaffirms the approval** of the Temporary Use Permit (UP18-027) subject to the following conditions of approval:

**Conditions of Approval
Temporary Use Permit (UP18-027)**

Planning Division

- 1) This Use Permit (UP18-027) authorizes a base camp/parking area for cast and crew for up to 10 days/month, from **September 14, 2018 to February 28, 2019**. Any extension to this time period shall first require approval of an *amendment* to this Use Permit (UP18-027). Base camp would allow the following activities and functions:
 - a) Trailers for movie production, including hair and make-up trailers, wardrobe truck, bathroom trailer, dressing rooms, a catering truck, and a pop-up tent.
 - b) Other associated activities, such as food service, admin support for crew and a shuttle van.
 - c) **Parking: Base camp operations and parking for production crew vehicles shall be in the location as designated on the approved site plan, except that the staging area shall be relocated to a parking area near Sears (or a similarly less impactful parking area at Northgate Mall) during the period of November 15, 2018 through January 7, 2019. Specific approval shall be required by the Department of Public Works (DPW) in advance. Mitigation measures may be required to reduce impacts (see also DPW condition of approval 10.1 below).**
 - d) Generators and lighting as described in the attached approved project description.
 - e) No other use other than that described by the approved project description and these conditions is allowed.
- 2) Generators must comply with the SRMC Chapter 8.13 Noise Ordinance.
- 3) Any pop-up tent or fuel truck is subject to the review and approval of the Fire Department. Any approval of the fuel truck or tent shall occur before they are placed on site.
- 4) No raised platforms or advertisement or signage shall be allowed (including banners, flags, signs, or any other method used to gain attention). No fencing is approved as part of this Use Permit (UP18-027).
- 5) Cars shall be parked in an orderly fashion and consistent with the approved site plan.
- 6) Fire access lane shall be maintained at all times.
- 7) A contact information sign shall be posted on the site and shall include the name and phone number of the responsible party, to provide the public and the city with contact information should any issues arise, particularly at times when the base camp is not in use.
- 8) The site shall be kept free and clear of litter and trash at all times. Adequate measures shall be taken for the collection, storage, and removal of garbage, litter or debris from the site and any trash

generated from the site on surrounding properties to the satisfaction of the Planning Division. Upon expiration of the Use Permit, all equipment shall be removed from the project site.

- 9) Any exterior lighting on the site shall be shielded down. All exterior lighting shall be subject to a lighting level review by the Planning Division staff to insure compatibility with the surrounding area.

Public Works Department (DPW)

10) Parking and Traffic

10.1 This temporary use should only be implemented when surplus parking and traffic capacity is available. During the holiday season, parking and traffic may be difficult, specifically in this area. Therefore, if any events are scheduled between November 15th and January 7th, specific approval shall be required from the Department of Public Works. Mitigation measures may be required to reduce impacts.

10.2 Traffic control or signage extending into the Right-of-Way shall require an encroachment permit.

10.3 We recommend that mobilizations be scheduled outside of peak hours, to minimize traffic impacts.

11.0) Drainage

11.1 Restroom facilities shall be adequately anchored and include secondary containment.

11.2 Trash receptacles shall be kept covered while not in use.

11.3 Site shall be kept clean and free of litter.

11.4 Any fueling activity shall include secondary containment, such as drip pans. Spill kits shall be kept on-site or on the mobile fueling vehicles.

Please contact Josh Minshall at the Department of Public Works with questions regarding these comments, by phone at 415.485.3158 or email at Josh.Minshall@cityofsanrafael.org

Fire Prevention Bureau

12) Tents over 400 square feet in size are subject to a Fire Prevention Bureau permit application and approval prior to installation.

13) Each food truck vendor must have one 2-A: 10BC fire extinguisher that is serviced, tagged, visible, and mounted for immediate use.

14) Each hair, make up trailer, and mobile dressing room must have one 2-A: 10BC fire extinguisher near the exit door that is serviced, tagged, visible, and mounted for immediate use.

15) There can be no parking or staging of vehicles within 15 feet of a fire hydrant.

16. Flammable liquids for gas generators must be in approved containers and properly stored.

Please contact Bob Sinnott, Deputy Fire Chief 415-485-5067 or Robert.sinnott@cityofsanrafael.org

The foregoing Resolution was adopted at the regular City of San Rafael Planning Commission meeting held on the 11th day of December, 2018.

Moved by Commissioner _____ and seconded by _____

AYES: Commissioners:

NOES: Commissioners:

ABSENT: Commissioners:

ABSTAIN: Commissioners:

SAN RAFAEL PLANNING COMMISSION

ATTEST: _____
Paul A. Jensen, Secretary

BY: _____
Berenice Davidson, Chair

RECEIVED
SEP 20 2018
PLANNING

Mary Anne Hoover
5 Sao Augustine Way
San Rafael, CA 9490

Caron Jo Parker
City of San Rafael
1400 Fifth Avenue
San Rafael, CA 94901

Re: 5800 Northgate Mall Permit (UP18-027)

9/19/18

Dear Ms. Parker,

Please let this letter serve as my appeal of the Temporary Use Permit granted by the City of San Rafael on or about 9/14/18.

Some of my concerns and the basis of my appeal are as follows:

1. **Enforcement:** Which stakeholder is going to enforce the requirements of the temporary permit? From my own experience having resided in my home for 26 years, the police department, the mall and code enforcement have limited resources and restricted ability to enforce use permits and/or zoning ordinances.

Location: Beginning in November the "Base Camp" according to the permit will need to relocate due to parking demands at the mall because of the holidays. November is only 2 months away. Why is the permit silent about the location to where "Base Camp" will relocate? If there is an intention to relocate to the southern portion of the mall where they "camped" a few weeks ago without a permit, that should be disclosed. And why is the applicant for this permit seeking a permit now? Should the applicant have requested a permit previously? (Please see the photograph depicting that encampment which I have attached to this correspondence as Exhibit A.)

2. **Traffic/Noise:** The residential portion of San Rafael adjacent to the southern portion of Northgate Mall has dealt with mall traffic and noise for years. However, there was an expectation that for the most part, there would not be traffic during the hours the mall was closed. From experience, it is clear that automobiles, trailers, vans, etc. will be coming in and out of the "Base Camp" during what is not considered "business hours" for most of the population. Will those involved in this "Movie" who will be driving to the "Base Camp" be restricted to entering the "Base Camp" from the North end of the mall or will they drive along

Exhibit 3
AP18-003

the South end of the mall thereby creating noise, congestion and a nuisance during the hours from 11:00 p.m. to 7:00 a.m? This residential section of Terra Linda has been protected, for the most part, by the zoning ordinance. I fear that this Temporary Use Permit will infringe upon our right to quiet enjoyment of our property.

In conclusion, the above reflects part if not all of my present concerns.

I hereby appeal the Temporary Use Permit for Base Camp for Netflix Movie Shoot at 5800 Northgate Mall; APN 175-060-67.

Thank you for your consideration.


Mary Anne Hoover

Property Owner

5 Sao Augustine Way

San Rafael, CA 94903



Exhibit 3 - 2



Ex A

Exhibit 3-3



September 14, 2018

Paramount Television
Dan Kemp, Location Manager
400 Mare island Way
Vallejo, CA 94590

Via E-mail

**RE: [UP18-027] Temporary Use Permit for Base Camp for Netflix Movie Shoot
At 5800 Northgate Mall; APN 175-060-67.**

Dear Mr. Kemp:

The City of San Rafael has received your application for a Temporary Use Permit to use a portion of the parking lot at 5800 Northgate Mall for a base camp and crew parking for the "13 Reasons Why" movie film production. The proposed application requests use of the base camp/parking for approximately 1-10 days/ month with approximate 12 hours of use during each day, **beginning on September 14, 2018 and ending on February 28, 2019**. The proposed base camp would consist of hair and make-up trailers, a wardrobe truck, a catering truck, pick-up trucks to help transfer equipment to other locations, and the use of portable lights and generators (if necessary), and shuttle vans to pick up cast and crew and take them to other locations.

Staff has completed its review of the plans and application materials you have submitted, which included a referral to the City's Public Works Department and Fire Department. The City has approved the Temporary Use Permit, based on the findings of fact and subject to conditions of approval listed below. Please review the conditions of approval, as these will be required to maintain the Use Permit in a compliant fashion. Failure to comply with Use Permit UP18-027 could result in citations, fines or requirement to cease the use.

Temporary Use Permit Findings (UP18-027)

1. The proposed project would be consistent with General Plan Land Use Element Policies LU-14 (Land Use Compatibility); LU-23 (Land Use Map Categories); and N-4 (Noise from New Non-Residential Development) in that: a) the proposed project is limited to a commercial parking lot area and leased to the project proponent for temporary use; b) the proposed use would be temporary in nature and is located in an area designed to keep vehicles and activity away from residential uses, thereby minimizing potential impacts; and c) the proposed use would provide additional job opportunities for San Rafael residents and provide additional tax revenue for the City.
2. The operation of the temporary base camp for a movie production at Northgate Mall (as designated in the approved site plan, and subject to Planning COA #1c) would

- operate for 6 months (September 2018 through February 2019) and would not endanger or otherwise constitute a menace to the public health, safety or general welfare because the project has been reviewed by applicable City departments and conditions of approval are proposed to protect the public health, safety and welfare.
3. The project site is adequate in size and shape to accommodate the proposed temporary base camp, including the trailers, vehicles and other activities proposed to occur, and would not cause material detriment to the use and enjoyment of other adjacent properties given that the parking lot at the Northgate Mall lease area is surrounded by commercial development. The approved site fronting on Las Gallinas Avenue is a new location – the change was implemented in order to respond to a neighbor's concern about noise at the previous location on the Mall property.
 4. The proposed project has been reviewed by the City's Traffic Engineer who determined that in order to mitigate potential traffic and circulation conflicts during the holiday shopping season, the base camp/parking area specified on the approved site plan shall be **relocated** to another location at Northgate Mall **during the period from November 15, 2018 through January 7, 2019**. The applicant shall coordinate with DPW for review and approval of the proposed new site for this period, prior to setting up base camp activities on the proposed alternate site. See Planning Condition of Approval #1c.
 5. The project site is designed to provide a base camp for the on-going movie production, including staging operations, support vehicles and trailers, a check in location for staff and crew and parking. The proposed site is adequate in size to accommodate the activity.

**Conditions of Approval
5800 Northgate Mall (UP18-027)**

Planning Division

- 1) This Use Permit (UP18-027) authorizes a base camp/parking area for cast and crew for up to 10 days/month, from **September 14, 2018 to February 28, 2019**. Any extension to this time period shall first require approval of an *amendment* to this Use Permit (UP18-027). Base camp would allow the following activities and functions:
 - a) Trailers for movie production function, including hair and make-up trailers, wardrobe truck, bathroom trailer, dressing rooms, a catering truck, and pop-up tent.
 - b) Other associated activities, such as food service, admin support for crew and a shuttle van.
 - c) **Parking: Base camp operations and parking for production crew vehicles shall be in the location as designated on the approved site plan, except that the staging area shall be relocated to a parking area near Sears (or a similarly less impactful parking area at Northgate Mall) during the period of November 15, 2018 through January 7, 2019. Specific approval shall be required by the Department of Public Works (DPW) in advance. Mitigation measures may be required to reduce impacts (see also DPW condition of approval 1.1 below).**
 - d) Generators and lighting as described in the attached approved project description.
 - e) No other use other than that described by the approved project description and these conditions is allowed.

- 2) Generators must comply with the SRMC Chapter 8.13 Noise Ordinance.
- 3) Any pop-up tent or fuel truck is subject to the review and approval of the Fire Department. Any approval of the fuel truck or tent shall occur before they are placed on site.
- 4) No raised platforms or advertisement or signage shall be allowed (including banners, flags, signs, or any other method used to gain attention). No fencing is approved as part of this Use Permit (UP18-027).
- 5) Cars shall be parked in an orderly fashion and consistent with the approved site plan.
- 6) Fire access lane shall be maintained at all times.
- 7) A contact information sign shall be posted on the site and shall include the name and phone number of the responsible party, to provide the public and the city with contact information should any issues arise, particularly at times when the base camp is not in use.
- 8) The site shall be kept free and clear of litter and trash at all times. Adequate measures shall be taken for the collection, storage, and removal of garbage, litter or debris from the site and any trash generated from the site on surrounding properties to the satisfaction of the Planning Division. Upon expiration of the Use Permit, all equipment shall be removed from the project site.
- 9) Any exterior lighting on the site shall be shielded down. All exterior lighting shall be subject to a lighting level review by the Planning Division staff to insure compatibility with the surrounding area.

Public Works Department (DPW)

1.0 Parking and Traffic

- 1.1 This temporary use should only be implemented when surplus parking and traffic capacity is available. During the holiday season, parking and traffic may be difficult, specifically in this area.
Therefore, if any events are scheduled between November 15th and January 7th, specific approval shall be required form the Department of Public Works. Mitigation measures may be required to reduce impacts.
- 1.2 Traffic control or signage extending into the Right-of-Way shall require and encroachment permit.
- 1.3 We recommend that mobilizations be scheduled outside of peak hours, to minimize traffic impacts.

2.0 Drainage

- 2.1 Restroom facilities shall be adequately anchored and include secondary containment.
- 2.2 Trash receptacles shall be kept covered while not in use.
- 2.3 Site shall be kept clean and free of litter.
- 2.4 Any fueling activity shall include secondary containment, such as drip pans. Spill kits shall be kept on-site or on the mobile fueling vehicles.

Please contact Josh Minshall at the Department of Public Works with questions regarding these comments, by phone at 415.485.3158 or email at Josh.Minshall@cityofsanrafael.org

Fire Department

1. Tents over 400 square feet in size are subject to a Fire Prevention Bureau permit application and approval prior to installation.
2. Each food truck vendor must have one 2-A: 10BC fire extinguisher that is serviced, tagged, visible, and mounted for immediate use.
3. Each hair, make up trailer, and mobile dressing room must have one 2-A: 10BC fire extinguisher near the exit door that is serviced, tagged, visible, and mounted for immediate use.
4. There can be no parking or staging of vehicles within 15 feet of a fire hydrant.
5. Flammable liquids for gas generators must be in approved containers and properly stored.

Please contact Bob Sinnott, Deputy Fire Chief 415-485-5067 or Robert.sinnott@cityofsanrafael.org

Any aggrieved party may appeal this decision by submitting a letter of appeal and the appropriate fees within five (5) working days of the date of approval, or by **Friday, September 21, 2018, at 5:00 p.m.**

Should you have any questions or comments regarding this matter contact me at 415-485-3094, or caron.parker@cityofsanrafael.org.

Sincerely,

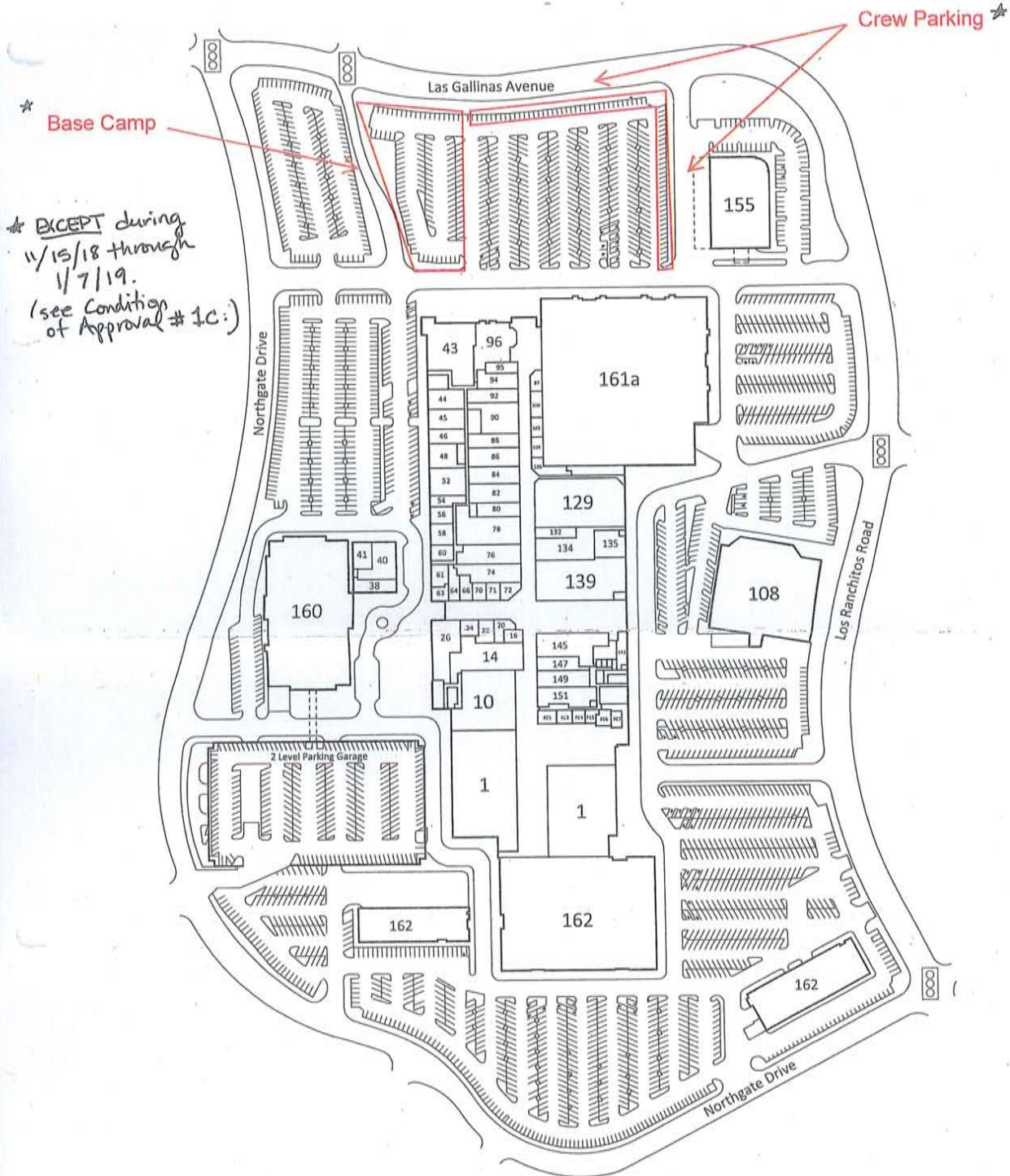


Caron Parker
CITY OF SAN RAFAEL
Associate Planner

cc: May Mar, General Manager, Northgate Mall mmar@merlonegeier.com
Brian Auger, Events Coordinator brian.auger@cityofsanrafael.org

APPROVED
 SAN RAFAEL PLANNING DIVISION
 By: Caron Parker
 Date: 9/14/18
 File No: UP18-027

Site Plan
 13 Reasons Why



* EXCEPT during
 11/15/18 through
 1/7/19.
 (see Condition
 of Approval # 1C.)



This exhibit is for reference only and is not a representation as to size, dimension, or location of any tenant in the shopping center. All building, improvements, their occupants, and their uses as shown on this plan are subject to modification at the landlord's discretion.

Exhibit B - Site Plan
 Northgate Mall
 San Rafael, CA
 Property #731
 February 2017

Exhibit 5
 Approved Site Plan

San Rafael Community Development
1400 Fifth Ave.
San Rafael, CA 94901
415 485-3094

| | |
|--|---------------|
| APPROVED SAN RAFAEL PLANNING DIVISION | |
| By: | Cannon Parker |
| Date: | 9/14/18 |
| File No: | UP 18-027 |

re: Paramount Television Temporary Use Permit for periodic basecamp & crew parking at Northgate Mall, during season 3 of 13 Reason Why.

Paramount Television will be periodically filming in San Rafael from now until mid February, 2019.

We have made a deal with MGP XI Northgate, LLC ("Northgate") to park our basecamp vehicles and crew cars at the Northgate Mall lot on days that we will be filming in San Rafael.

Our next filming dates are Friday 9/14/18- Wednesday 9/19/18.
Future filming dates are to be determined right now, and should be from one to ten days per month.

As requested, here are more details about the activity and sound profile at the basecamp.

At the beginning of the day the crew will arrive and grab a "walking breakfast" from our food truck. Most will then get into shuttle vans and be driven to the filming location. Once breakfast is over the truck will move to that days lunch service site, off of the Northgate property.

Our principal actors and background extras will change into wardrobe in the mobile dressing rooms or wardrobe truck.
The actors will ten get into the hair and make-up trailer to get prepared for the days work.

Occasionally there will be transferring of camera, grip & electric equipment from the larger trucks into smaller stake bed trucks, depending on access to the locations that day.

If we are there before or after daylight hours we will likely rely on the existing parking lot lights rather than our portable area safety lights. Those portable lights have wheeled bases with small put-put generators. They are about the same footprint as a child wagon, and stand about 7' tall with a 2 foot diffused light at the top the directs soft light to the area below and adjacent.

The basecamp trailers and trucks normally have their own small generators built in, but we normally set up a "whisper quiet" towed generator to distribute power to the various vehicles. (see example photos attached to the email).

Paramount hired a 3rd party sound engineer to produce a study of the sound profile of our company working on location in July 2016.
That study was shared with the City of San Rafael at the time.

Exhibit 6
Project Description

The larger 1500 amp generator that was measured in that study had a reading of 57.3 dBA from across the street, and 65.8 dBA when adjacent.
General crew activity averaged 50-55dBA, for the larger filming company on location. The much smaller crew at the basecamp can be expected to have a comparable or smaller sound profile.

We typically work 12 hour filming days, with the trucks moving into place or opening up basecamp 1-2 hours before the crew arrives, and closing or leaving 1-2 hours after the crew is wrapped.

I hope this additional information helps the City understand the modest impact that our basecamp activity adds to the normal ambient light and sound that exists adjacent to this active commercial area.

Daniel Kemp, Location Manager
Paramount Television
400 Mare Island Way
Vallejo, CA 94590
Office 415 599-0245
Mobile 415 717-9059

| | |
|--|--------------|
| APPROVED SAN RAFAEL PLANNING DIVISION | |
| By: | Caron Parker |
| Date: | 9/14/18 |
| File No: | UP18-027 |

Paramount Pictures

Paramount TV / Anonymous Content / Netflix
nt

Caron Parker
City of San Rafael Planning Department
1400 5th Ave.
San Rafael, CA 94901

Re. 2800 Northgate Mall TUP appeal (UP18-027)
Response to Mary Anne Hoover appeal letter dated 9/19/18

12/3/18

Before I respond to the specific concerns raised by Ms. Hoover I would like to note that basecamp, working vehicles and crew parking for film productions in other municipalities are covered by Film Permits or Encroachment Permits. San Rafael is the only city that periodically requires a Temporary Use Permit.

1. On the question of who will enforce the Temporary Use Permit, Paramount is questioning the necessity for a Temporary Use Permit.
2. Location: Paramount's position is that the Northgate Mall is the Central Business District for the Terra Linda area, and its parking lot should not be subject to the limitations that normally apply to strictly residential neighborhoods.
3. Traffic: The expectation that there will not be traffic and other activity related to commercial activities on Northgate Drive is simply wrong. Northgate Drive is a major arterial that services the entire Mall. Commercial shipping is something that happens 24 hours a day, 7 days a week as we have moved to a just-in-time business model.
4. Right to Quiet Enjoyment: The notion of "Quiet Enjoyment" for Ms. Hoover's property must take into account that it backs up to Northgate Drive, directly across from the former Sears store. The former Sears store is also the location for a large subterranean warehouse with a large loading dock area. The City of San Rafael should take into account the reality and the necessity of economic activity in a modern metropolitan area.

I would like to point out that the show Paramount is producing last season brought in \$3,565,164 of direct spending in Marin County. Almost all of that activity took place in San Rafael.

Daniel Kemp, Location Manager
Paramount Television
400 Mare Island Way
Vallejo, CA 94590

Paramount Pictures Corp.
415.599.0266

Exhibit 7
Applicant's response

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December 6, 2018

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VIA E-MAIL AND FIRST CLASS MAIL

City of San Rafael, Planning Division
c/o Caron Jo Parker
1400 Fifth Avenue
San Rafael, CA 94901

Re: Response to Appeal of Temporary Use Permit UP 18-027 - 5800 Northgate Drive

Dear Ms. Parker:

We represent the owner of the property located at 5800 Northgate Drive (the "Property"). This letter responds to Mary Anne Hoover's (the "Appellant") frivolous appeal ("Appeal") to Temporary Use Permit UP 18-027 (the "Permit") dated September 19, 2018 (the "Appeal Letter"). We urge the City of San Rafael to **deny the Appeal** and allow Paramount Television ("Paramount") to continue using a portion of the parking lot at the Property in accordance with the duly issued Permit.

In Point 1 of the Appeal, the Appellant questions the enforcement of the Permit's requirements, and implies that no enforcement will occur. As a preliminary matter, this point is wholly irrelevant to the grounds under which the Permit was issued or any issue on Appeal.

In any event, the San Rafael Municipal Code is clear on this issue. Pursuant to San Rafael Municipal Code Chapter 14.30, the Code Enforcement Division is the appropriate authority tasked with the "primary responsibility [of] enforcement of the zoning ordinance." San Rafael Municipal Code §14.30.020. Notwithstanding the Appellant's vague concerns about enforcement, the permittee Paramount is required by the Permit to abide by its terms and there is no evidence that Paramount has ever failed to do so. Appellant's concern is purely speculative.

Appellant also raises a concern regarding the location of the Base Camp based on an unsubstantiated concern about parking during the holidays. Due to the Appeal, Paramount relocated its Base Camp off the Property - to Northgate III for one month, and elsewhere for an additional two months. Paramount anticipates that it will again use the north end of the Property - a location far away from Appellant's property near the south end of the Property - beginning in January of 2019. Thus, any "concern"

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about a lack of parking at the Property due to the holidays is moot since Paramount will not occupy the Property during the holiday season.

Appellant's objections to Paramount using the north end of the Property are puzzling. This portion of the Property is ideal for parking, as it is located in a commercial area adjacent to the major arterial of the Manual T Freitas Parkway, and the 101 Highway. Ingress and egress to parking at this location will be naturally limited to the northern portions of the Property, thereby eliminating any disturbances to the Appellant, who resides south of the southernmost portion of the Property.

Appellant's concerns regarding traffic and noise are also misguided in light of the proposed location for Paramount's activity. First, as noted above, Paramount will locate its activities on the northern side of the Property, in a commercial area adjacent to a major arterial and a highway. Any increase in traffic or noise would be minimal as compared to any general activity in the area, and would be a long distance from the residence of the Appellant.

Even so, Appellant has failed to present any substantial evidence of a violation of the noise limitations set forth in Chapter 8.13 of the San Rafael Municipal Code. Appellant has similarly failed to offer any evidence of a nuisance or disturbance beyond an imprecise claim that the Permit "...will infringe upon our right to quiet enjoyment of our property." Every point is purely speculative.

Finally, Appellant is misguided about the operations of a commercial business. There is nothing which prohibits the hours for truck traffic at the Property. Even if Paramount's trucks were using the south end of the Property, which they are not, no regulations prevent such use.

For the reasons set forth above, we respectfully request that the City reject the Appeal.

Respectfully,



ELISA L. PASTER
of GLASER WEIL FINK HOWARD AVCHEN & SHAPIRO LLP

ELP:es



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THE CITY WITH A MISSION

Community Development Department – Planning Division

Meeting Date: December 11, 2018
Agenda Item: 3
Case Numbers: P18-020
Project Planner: Raffi Boloyan (415) 485-3095

REPORT TO PLANNING COMMISSION

SUBJECT: Preparation in advance of Annual Meeting of Planning Commission to include: a) distribution of Planning Commission “Rules and Procedures” for review before annual meeting in January 2019; and b) assignment of Planning Commission liaisons for 2019 DRB meetings

The Commission is required to hold its annual meeting at their first meeting of a calendar year. The first scheduled meeting in January 2019 will be January 15, 2018. If there are no other items scheduled for that meeting, the annual meeting will occur at the next meeting of 2019 where items are scheduled. The purpose of the annual meeting is to elect new officers and review its Rules and Procedures and typically to sign up Commissioners to serve as DRB liaison for the next year.

Rules and Procedures

I am distributing the current rules and procedures (attached). These procedures were last revised at the last annual meeting on January 9, 2018. Over the past few years before last, the Commission has reviewed these each year, but has not made any changes. This past January, the Commission made one minor change to the timing of Commission questions (Section II.I.2.c). That section was modified from having the Commission hold their questions of staff, the applicant or the public until the conclusion of public comment period, to allowing the Commission to ask questions following each presentation, (ie following each presentation by staff, applicant and public).

Staff does not have any further areas of concern with the rules and procedures, therefore does not offer any recommended changes. However, the Commission can consider further modifications or requests for staff investigate possible changes. Please review the current rules and procedures and if there are any changes that you would like to suggest or possible modifications that warrant staff research, please inform staff before the annual meeting, so that we can research the item and provide any draft revisions at the Annual Meeting. If we hear no suggestions for edits, we will present the current Rules and Procedures for adoption as is.

Selection of PC liaison to DRB meetings for 2019

Since the annual meeting will be after the 1st scheduled DRB meeting (Jan 8th), we need to have PC liaisons for DRB already established by early January, we are distributing the 2019 DRB meeting schedule (attached) now and plan to get signups at for the January and February slots at the December 11th Planning Commission meeting. At this time, we do have one item tentatively scheduled for January 8, 2019 meeting.

Commissioners (with the exception of the new Chair) will be requested to serve as liaison in two month increments, which involves attendance at up to four, regular DRB meetings during the two selected months of service. Although we don't yet have the Chair elected, the current Vice Chair for 2018 (Commissioner Loughran) is in line to be the Chair for 2019

So, at the December 11th meeting, we will need a volunteer to assume the January/February slot and the remaining months can be filled after the election at the 1st Commission meeting in January

Attachments

1. Current Planning Commission "Rules and Procedures," Revised January 9, 2018
2. PC liaison for DRB meeting 2019 Signup Sheet