

RESOLUTION NO. 12330

RESOLUTION OF THE SAN RAFAEL CITY COUNCIL CERTIFYING THE VILLAGE AT LOCH LOMOND MARINA FINAL ENVIRONMENTAL IMPACT REPORT (FEIR) AND APPROVING THE MITIGATION MONITORING AND REPORTING PROGRAM (MMRP) FOR THE VILLAGE AT LOCH LOMOND MARINA DEVELOPMENT LOCATED AT 110 LOCH LOMOND DRIVE AND POINT SAN PEDRO ROAD (APNS 016-070-020, 030, 040, 050, 060, 009-141-050, 070, 080 AND 009-142-070)

The City Council of the City of San Rafael finds and determines that:

WHEREAS, in February 2005, Thompson/Dorfman, the project sponsor submitted planning applications to the City of San Rafael requesting approval of the Village at Loch Lomond Marina, a planned, mixed-use development of marina uses, neighborhood commercial use buildings, 84 residential units and associated park and recreation improvements on a 29+ acre portion of the 131+ acre Loch Lomond Marina site located at Point San Pedro Road and Loch Lomond Drive, herein referred to as "the initial project design;" and

WHEREAS, planning applications include a request to amend the General Plan 2020, a Rezoning (amendment to the adopted PD-W/O District), Master Use Permit, Environmental and Design Review Permit and Vesting Tentative Map; and

WHEREAS, upon a review of the subject applications, in February 2005 an Initial Study was prepared consistent with the requirements of the City of San Rafael Environmental Assessment Procedures Manual and the California Environmental Quality Act (CEQA) Guidelines, finding that the proposed development had the potential to result in significant environmental effects; and

WHEREAS, a Draft Environmental Impact Report (DEIR) was prepared and published in February 2006, which was subject to a 60-day public review period from February 10, 2006 through April 11, 2006, which included a Planning Commission public hearing to accept oral comments on the DEIR on April 11, 2006; and

WHEREAS, the City received and evaluated numerous comments from public agencies, utilities, organizations, special interest groups and persons who reviewed the DEIR and has prepared responses to comments received during the 60-day public review period; and

WHEREAS, on September 12, 2006 and October 24, 2006, the Planning Commission held two public study sessions on the topics of traffic and parking, respectively. The study sessions were held to provide a focused review and discussion of the numerous traffic and parking studies prepared for the DEIR; and

WHEREAS, a Final Environmental Impact Report (FEIR) was prepared and published on January 26, 2007. The FEIR consists of an edited Draft Environmental Impact Report volume (Volume 1), a Response to Comments volume (Volume 4) and appendices containing technical background studies (Volumes 2 and 3). Volume 4 contains all written and verbal comments and recommendations received on the DEIR, either verbatim or in summary, and an inventory of agencies, organizations, special interest groups and persons commenting on the DEIR; and

WHEREAS, as a result of numerous public meetings with the Planning Commission, Design Review Board and the Park & Recreation Commission and recommendations made

hereto, and in response to recommendations identified in the DEIR, the project sponsor prepared a 'Mitigated Plan,' which reflected some changes to the general layout and distribution of land uses and a reduction in the number of residential units (from 84 to 82 units total). Volume 4 (Response to Comments), pages 2.0-60 through 2.0-137 includes a detailed assessment of the Mitigated Plan, comparing the potential environmental effects with the project plans submitted in February 2005. The FEIR concludes that the Mitigated Plan would not result in any new, significant environmental effects that were not previously identified, and that the Mitigated Plan responds to a number of recommendations in the FEIR intended to eliminate or reduce environmental effects; and

WHEREAS, in March 2007, the planning applications for the initial project design were amended to reflect the Mitigated Plan. In response to the Planning Commission review and recommendations for this project (May 8, 2007) and City Council review and recommendations for this project (July 16, 2007), further amendments were made to the Development Plan in July 2007, herein referred to as "the project, as amended," which address the following changes to the layout, scope and design of the project and have resulted in a reduction in the number of residential units (from 82 to 81 units total):

- Full compliance with the 50-foot development-free wetland setback along the eastern edge of the residential area
- Filling Wetland E, the 278-square-foot, geographically isolated drainage ditch located in the eastern portion of the residential area
- Widening the plaza between the grocery store/market and the Loch Lomond Yacht Club building by 15 feet.
- Architectural revisions to the town home cluster located immediately east of the main project entrance to reduce building bulk and mass.
- Architectural and building height revisions to four single-family residential units fronting the marina boardwalk and green for the purpose of maintaining views to the San Pedro Ridge from the marina boardwalk
- Provisions for monitoring the main project access and accommodating a second project vehicle access located east of the main project entrance (parking court designed with emergency vehicle access) that could be installed in the future if warranted.
- Incorporation of 16 dry dock boat storage spaces in the day use vehicle + trailer parking lot.

The project, as amended is presented in the architectural and civil engineering plans prepared by BAR Architect (plan Sheets A-1 through A-61), The Gazzardo Partnership, Landscape Architects (plan Sheets L-1 through L.6-5) and CSW/Stuber-Stroeh Engineering Group, Inc. (plan Sheets C-1 through C-13) dated August 6, 2007 and on file with the Department of Community Development; and

WHEREAS, following publication of the FEIR, the City: a) determined that one document was not included in the published FEIR document, which is a memorandum addressing a parking survey of several City of San Rafael parks; and b) several of the written responses to comments on the DEIR required additional response. Furthermore, it was determined that some minor edits were needed to three (3) FEIR mitigation measures (Mitigation Measures 3.1-2b, 3.6-2 and 3.7-1a), and at the direction of the Planning Commission, a letter was prepared by TRC (formerly TRC-Lowney Associates) to provide clarifying information regarding on-site contaminants and remediation measures. Lastly, in response to questions posed by the City Council at a June 18, 2007 public hearing on FEIR: 1) additional computer-generated visual

simulations were prepared to supplement the simulations published in the FEIR; and 2) TRC prepared and submitted a letter clarifying technical information about the potential for compression and migration of bay mud associated with the site filling and surcharge process. As a result, an errata/supplement has been prepared to address the above issues, which is provided in attached Exhibit A and incorporated herein; and

WHEREAS, consistent with the requirements of the CEQA Guidelines, a Mitigation Monitoring and Reporting Program (MMRP) has been prepared to outline the procedures for implementing all mitigation measures identified in the FEIR. The MMRP, dated revised June 2007 is provided in attached Exhibit B; and

WHEREAS, the City desires and intends to use the FEIR for the Village at Loch Lomond Marina Development as the environmental document required by CEQA for each phase of discretionary action required for this project by the City; and

WHEREAS, on May 8, 2007, the Planning Commission adopted Resolution No. 07-02, recommending to the City Council certification of the Final Environmental Impact Report and approval of the Mitigation Monitoring and Reporting Program; and

WHEREAS, on June 18, 2007, the City Council held a public hearing on the Final Environmental Impact Report and Mitigation Monitoring and Reporting Program, accepting all public testimony and the written report of the Department of Community Development. Following closure of the public hearing, the City Council posed specific questions and requested clarifying information, which has been incorporated into the FEIR errata/supplement provided in Exhibit A. The revised FEIR errata/supplement was reviewed by the City Council on July 16, 2007.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of San Rafael does hereby certify the FEIR inclusive of the errata/supplement presented in Exhibit A, dated July 2007 (revised) and approves the MMRP presented in Exhibit B, dated June 2007, based on the following findings:

A. California Environmental Quality Act (CEQA) Findings

1. The FEIR has been prepared in accordance with CEQA, the State CEQA Guidelines, and the provisions of the City of San Rafael Environmental Assessment Procedures Manual.
2. The FEIR was published, circulated and reviewed in accordance with the requirements of CEQA, the State CEQA Guidelines, and the City of San Rafael Environmental Assessment Procedures Manual and constitutes an accurate, adequate, objective and complete FEIR. The City observed a 60-day public review period on the DEIR and the FEIR (Response to Comments and DEIR text edits) was made available for over 90 days prior to certification.
3. The City has exercised its independent judgment in evaluating the FEIR and has considered the information combined with the FEIR, including comments received during the public review period on the DEIR.
4. Pursuant to CEQA Guidelines Section 15091 and 15092, the City Council hereby adopts Findings of Fact and an MMRP, which has been prepared in accordance with CEQA

Guidelines Section 15097 to ensure that all reasonably feasible mitigation measures are implemented.

B. Findings of Fact Regarding the Final Environmental Impact Report Prepared for the Village at Loch Lomond Marina Development

The FEIR, prepared in compliance with the CEQA, evaluates the potentially significant and significant adverse environmental impacts that could result from approval of the Village at Loch Lomond Marina Development Project, which proposes the development of a 131+ acres bay front site with retention of the existing marina and most of the marina support uses, redevelopment of neighborhood commercial use, development of new residential units, development of recreation and park uses for public use and preservation of seasonal wetlands and a conservation area. The project, as amended is designed to construct one- and two-story buildings that would be accessed and served by Point San Pedro Road, an improved public street.

As the FEIR concludes that implementation of the project, as amended (and the project alternatives) would result in adverse impacts, the City is required under the State CEQA Guidelines to make certain findings with respect to these impacts (CEQA Guidelines Section 15091). The required findings appear in the following sections of this resolution. This resolution lists and describes the following, as analyzed in the FEIR: 1) potential impacts determined to be less-than-significant in the FEIR; 2) significant impacts that can be avoided, minimized, mitigated, or substantially lessened with the implementation of feasible mitigation measures; 3) impacts determined to be insignificant or less-than-significant in the Initial Study Checklist; and 4) project alternatives that were developed and studied consistent with the CEQA Guidelines. The FEIR has determined that the project, as amended to reflect the Mitigated Plan analyzed in FEIR Volume 4, Section 2.2 will not result in any significant, unavoidable impacts for which there is no feasible mitigation. These findings are supported by substantial evidence in the record of proceedings before the City as stated below.

1. IMPACTS FOUND TO BE LESS-THAN-SIGNIFICANT IN THE FEIR

a. Impact 3.1-4: San Francisco Bay Plan (Bay Plan) Policy Consistency
Facts in Support of Finding

As presented in and determined by the analysis contained on page 3.1-32 of the Volume 1 (DEIR, Edited) and Volume IV (Response to Comments), the project, as amended has been evaluated for consistency with the Bay Plan, as implemented by the Bay Conservation and Development Commission (BCDC). The project, as amended would not be in conflict with any of the applicable policies of the Bay Plan that would result in physical, significant impacts. Therefore, approval of the project, as amended would not result in significant Bay Plan policy impacts and no mitigation is required.

b. Impact 3.2-2: Scenic Vistas
Facts in Support of Finding

As presented in and determined by the analysis contained on pages 3.2-56 and 3.2-57 of the Volume 1 (DEIR, Edited), in Volume IV (Response to Comments) and in the FEIR errata/supplement, the proposed project structures and landscaping would not substantially eliminate, block or obstruct an existing scenic view or vista through the site from surrounding vantage points. While elements of the project would block portions of views of the marina and Bay from Point San Pedro Road, the project, as amended reflecting the Mitigated Plan would create a new and improved view of the marina and

waterfront at the project entrance. Further, the development of the marina green, enhanced boardwalk and recreation improvements along the waterfront would improve public access and public views of the marina and Bay. Therefore, the project, as amended would not result in significant impacts to scenic resources and no mitigation is required.

c. Impact 3.2-3: Scenic Resources

Facts in Support of Finding

As presented in and determined by the analysis contained on pages 3.2-57 and 3.2-58 of Volume I, (DEIR, Edited) and Volume IV (Response to Comments), the project site is relatively level and does not include any visually distinctive ridgelines, rock outcroppings, or other special features. While the project, as amended would reduce and obscure existing views from and through segments of the site, it would not impact any significant on-site visual amenities. In addition, the project site does not contain any historic structures, rock outcroppings, topographic features, or other scenic resources. Therefore, the project would not result in a significant impact to scenic resources and no mitigation is required.

d. Impact 3.2-4: Visual Character of Site and Surroundings

Facts in Support of Finding

As presented in and determined by the analysis contained on pages 3.2-58 and 3.2-59 of Volume 1 (DEIR, Edited) and in Volume IV (Response to Comments), the initial project design and the project, as amended would change the visual character of the site by introducing new, one- and two story residential, neighborhood commercial and mixed-use buildings. However, the project, as amended would enhance the view of the marina and waterfront at the project entrance and would include the development of a marina green, enhanced boardwalk and recreation improvements along the waterfront, which would improve public access and public views of the marina and Bay. For these reasons, the change in visual character has been determined to be less-than-significant and no mitigation is required.

e. Impact 3.2-6: Conflicts with Policies Applicable to Aesthetic and Visual Quality

Facts in Support of Finding

As presented in and determined by the analysis contained on pages 3.2-60 through 3.2-67 of Volume 1 (DEIR, Edited) and in Volume IV (Response to Comments), the initial project design and the project, as amended would change the visual character of the site by introducing new, one- and two story residential, neighborhood commercial and mixed-use buildings. However, the project, as amended would not conflict with aesthetic and visual quality-related General Plan policies pertinent to the project site, specifically Policy NH-118, H-3, LU-14 and CD-2 in that: 1) the project is designed to enhance the view of the marina and waterfront at the project entrance; 2) the project would include the development of a marina green, enhanced boardwalk and recreation improvements along the waterfront which would improve public access and public views of the Bay; and 3) the project proposes one-and two-story buildings that are generally in scale and compatible with the existing buildings in the surrounding neighborhood. For these reasons, the change in visual character has been determined to be less-than-significant and no mitigation is required.

f. Impact 3.3-1 Potential for Directly Inducing Population Growth

Facts in Support of Finding

As presented in and determined by the analysis contained on pages 3.3-3 through 3.3-5 of Volume 1 (DEIR, Edited) and Volume IV (Response to Comments), the project, as amended would be well within the residential density and marina and neighborhood commercial intensity limits adopted in the San Rafael General Plan 2020. Further, the population that would be generated by this project would be within the population forecasts anticipated by the San Rafael General Plan 2020. For this reason, the project would not directly induce population growth and project impacts would be less-than-significant.

g. Impact 3.3-2 Potential for Indirectly Inducing Population Growth

Facts in Support of Finding

As presented in and determined by the analysis contained on pages 3.3-5 and 3.3-6 of Volume 1 (DEIR, Edited) and Volume IV (Response to Comments), the project, as amended would generate new employment as a result of the new office and commercial building area. This building area combined with the retention of the existing marina and commercial (Loch Lomond Market) uses would generate an estimated 56 employees at the project site, which amounts to 1.4% of the projected job growth for San Rafael to 2020. The amount of growth that would be generated by the project would be minimal and would not induce growth or trigger substantial migration to the City. For this reason, the project, as amended would not indirectly induce significant population growth and project impacts would be less-than-significant.

h. Impact 3.3-3: Impacts to Citywide Jobs-Housing Ratio

Facts in Support of Finding

As presented in and determined by the analysis contained on pages 3.3-6 of Volume 1 (DEIR, Edited) and Volume IV (Response to Comments), the project, as amended would generate additional housing and some employment opportunities. As more housing is proposed than the employment opportunities, the project would result in a beneficial impact to the community as the City currently provides more jobs and employment than housing. For this reason, the project, as amended would not result in any adverse impacts to the citywide jobs-housing ratio and no mitigation is required.

i. Impact 3.4-1: Construction-Related Traffic

Facts in Support of Finding

As presented in and determined by the analysis contained on pages 3.4-16 through 3.4-18 of Volume 1 (DEIR, Edited) and Volume IV (Response to Comments), the project, as amended would cause an increase in construction-related traffic. However, the amount of traffic that would be generated as a result of importing soil/fill material and construction through project build-out would not exceed the traffic capacity of the street system or the City-adopted level of service standards at local intersections. For this reason, this impact would be less-than-significant and no mitigation is required.

j. Impact 3.4-2: Project Traffic Generation and Impacts to Capacity and Level of Service

Facts in Support of Finding

As presented in and determined by the analysis contained on pages 3.4-18 through 3.4-33 of Volume 1 (DEIR, Edited) and Volume 4 (Response to Comments), two independent traffic analyses were prepared for the FEIR. One traffic analysis was prepared by the project traffic engineer and an updated traffic study prepared by the City Traffic Engineer. Both analyses conclude that the initial project design and the project, as

amended would cause an increase in traffic but finds that this increase in traffic would not result in a significant environmental impact because of the following reasons:

- 1) While the project would increase trip generation at the project site with the introduction of residential use, the Point San Pedro Road/Lochinvar Road/Loch Lomond Drive intersection would continue to operate at level of service (LOS) A.
- 2) The addition of traffic from the initial project design to local intersections under current (baseline) conditions west of the project site would increase delay but the increase would not be significant. At the 3rd Street/Union Street intersection, project build-out would increase delay by 2.9 seconds in the AM peak hour (from 30.4 to 33.3 seconds) and by 3.9 seconds in the PM peak hour (from 45.9 to 49.8). Similarly, the Mitigated Plan (the project, as amended) as described in Volume 4 (Response to Comments) would result in an increase delay at this intersection by 6.1 seconds in the AM peak hour (from 30.4 to 36.5 seconds) and by 1.0 second in the PM peak hour (from 45.9 to 46.9 seconds). However, with the addition of traffic from either the initial project design or the Mitigated Plan (the project, as amended,) under current intersection conditions, this intersection would continue to operate at an acceptable LOS D condition in the AM and PM peak hours.
- 3) Consistent with San Rafael General Plan 2020 Policy C-4 (Safe Roadway Design), pedestrian safety improvements are planned for the 3rd Street/Union Street intersection, which would necessitate a change in the level of service standard to LOS E. Under baseline conditions, the addition of the safety improvements would cause this intersection to operate at LOS E in the AM peak hour and LOS D in the PM peak hour. The addition of traffic from either the initial project design or the Mitigated Plan (the project, as amended) would contribute to an increase in delay at this intersection during the AM peak hour by 6.5 seconds and 8.3 seconds, respectively. However, the addition of this traffic would not substantially impact the operation of level of service at this intersection. The addition of traffic from either the initial project design or the Mitigated Plan (the project, as amended) would contribute to an increase in delay at this intersection during the PM peak hour by 1.9 seconds and 2.5 seconds, respectively. However, the addition of this traffic would not substantially impact the operation of level of service at this intersection. Under cumulative conditions (General Plan growth projected to 2020) the addition of the safety improvements would cause the intersection to operate at LOS E in both the AM and PM peak hours. Traffic from the initial project design and the project, as amended would contribute to cumulative traffic conditions at this intersection by approximately 0.015% in the AM peak hour and 0.006% in the PM peak hour, which is negligible.
- 4) To provide a broad and comprehensive assessment of traffic, an arterial analysis was completed to determine impacts along the 3rd Street arterial. The arterial analysis prepared by the City Traffic Engineer assessed 14 arterial segments finding that the project would not change the level of service along these arterials and would reduce travel speed, on average by approximately 0.1 miles per hour. Along the 3rd Street arterial segment from Union Street to Lincoln Avenue, the City Traffic Engineer estimated that the initial project design and the project, as amended would reduce travel speeds by 0.2 to 0.5 miles per hour during the AM and PM peak hour.
- 5) Given concerns expressed about travel time along the Third Street corridor between the US 101 on- and off-ramps and the project site, the City Traffic Engineer completed a series of vehicle travel 'runs' from the project site to the US 101 southbound on-ramps during AM, PM and midday peak periods. The travel 'runs,' which have been documented by video camera, estimate travel time range of 5-12 minutes during the AM peak hour, 6-11 minutes during the PM peak hour and 5-8

minutes during the midday peak. Given the travel speeds along the 3rd Street corridor and the estimated speed reductions that would be caused by the project, the City Traffic Engineer has concluded that travel time to/from US 101 would not be significantly impacted by the project, as amended.

- 6) The project, as amended would be subject to the payment of City-adopted traffic mitigation fees, which are applied to transportation improvements recommended in the San Rafael General Plan 2020. As this fee is adopted and applied as a condition of project approval, it is not necessary to require this fee as an FEIR mitigation measure.

For the above reasons, this impact would be less-than-significant and no mitigation is required.

k. Impact 3.4-3: Potential Traffic Hazards

Facts in Support of Finding

As presented in and determined by the analysis contained on pages 3.4-33 and 3.4-34 of Volume 1 (DEIR, Edited) and Volume IV (Response to Comments), the project, as amended proposes internal roadways that are reduced in width and length, which could cause an increase in traffic hazards and reduce safety to residents within the project site and the surrounding area. However, road turning radii and reduced road widths have been reviewed by the City Traffic Engineer and the Fire Marshal who have concluded that the road design is safe and maneuverable for emergency vehicles. Further, the City Traffic Engineer determined that the reduced road widths would promote traffic calming within the project, which conversely increases safety to drivers and pedestrians, thus reducing the potential for hazards. For these reasons, this impact would be less-than-significant and no mitigation is required.

l. Impact 3.4-4: Emergency Access

Facts in Support of Finding

As presented in and determined by the analysis contained on pages 3.4-34 through of 3.4-36 of Volume 1 (DEIR, Edited) and Volume IV (Response to Comments), as designed, the initial project design and the project, as amended would be accessed by a single, signalized intersection (Point San Pedro Road/Lochinvar Road/Loch Lomond Drive and one emergency vehicle access (EVA) designed to connect to Point San Pedro Road, which sited within the residential area. The site access and EVA have been reviewed and approved as adequate and safe by the City Traffic Engineer and the Fire Marshal. For these reasons, this impact would be less-than-significant and no mitigation is required. Although, not required, a second vehicle access to the project site is conditionally supported by the City. The project, as amended proposes an EVA that is designed to allow conversion to a full-service second access to the project site. The City will monitor use of the primary, signalized intersection over a period of time following project build-out to determine if conversion of this EVA for a second access is warranted or desired.

m. Impact 3.4-5: Adequacy of Parking

Facts in Support of Finding

As presented in and determined by the analysis contained on pages 3.4-36 and 3.4-60 of Volume 1 (DEIR, Edited) in Volume IV (Response to Comments) and in the FEIR errata/supplement presented in Exhibit A of this resolution, the project, as amended proposes on-site parking that: 1) meets the parking requirements set forth in the San Rafael Municipal Code for the residential, neighborhood commercial and grocery store/market uses; and 2) meets the Marina use and recreation parking demand for peak use periods. These findings are based on two, independent parking studies prepared by

licensed traffic engineers, which analyzed parking over a period of 2.5 years. Nonetheless, the project sponsor has proposed to impose a valet parking program for marina day-use parking during peak holidays and implement a parking reserve as contingency measures for the marina use in the event additional parking is warranted. For these reasons, this impact would be less-than-significant and no mitigation is required.

n. Impact 3.4-6: Conflicts with Alternative Transportation Plans and Policies

Facts in Support of Finding

As presented in and determined by the analysis contained on pages 3.4-60 and 3.4-62 of Volume 1 (DEIR, Edited), the project, as amended proposes internal roadways and pedestrian paths that provide access through the development and access to the waterfront and shoreline. This system of roads and pedestrian paths would not conflict with City-adopted transportation policies. While at present, there is no transit service provided along the San Pedro Peninsula by Golden Gate Bridge, Highway and Transportation District (Golden Gate Transit), the population projected by this project would not trigger the need for new service and the project, as designed would not conflict with future opportunities to expand service to this area. For this reason, this impact would be less-than-significant and no mitigation is required.

o. Impact 3.5-2: Increase in Local and Regional Pollutant Load

Facts in Support of Finding

As presented in and determined by the analysis contained on pages 3.5-19 through 3.5-23 of Volume 1 (DEIR, Edited) and Volume IV (Response to Comments), while the proposed land uses within the project, as amended would slightly increase the local and regional pollutant load, the increase would be insignificant and would not exceed the State-adopted thresholds that would result in a significant impact to air quality. For this reason, this impact would be less-than-significant and no mitigation is required.

p. Impact 3.5-3: Conflicts with Applicable Air Quality Plans and Policies

Facts in Support of Finding

As presented in and determined by the analysis contained on pages 3.5-23 through 3.5-24 of Volume 1 (DEIR, Edited) and Volume IV (Response to Comments), the project, as amended would be well within the residential density and marina and neighborhood commercial intensity limits adopted in the San Rafael General Plan 2020, and thus would be consistent with and within the air quality limits set by the Bay Area Air Quality Plan. For this reason, this impact would be less-than-significant and no mitigation is required.

q. Impact 3.7-2: Disturbance of Nesting Shore Birds

Facts in Support of Finding

As presented in and determined by the analysis contained on page 3.7-28 of Volume 1 (DEIR, Edited), a detailed biological assessment of the project site was prepared by a qualified biologist and 'peer' reviewed by a City-hired biological consultant. The biological assessment concludes that the project site does not provide suitable nesting habitat for shorebirds. For this reason, this impact would be less-than-significant and no mitigation is required.

r. Impact 3.7-5: Removal of Wildlife Habitat

Facts in Support of Finding

As presented in and determined by the analysis contained on page 3.7-32 of Volume 1 (DEIR, Edited) and Volume IV (Response to Comments), a detailed biological

assessment of the project site was prepared by a qualified biologist and ‘peer’ reviewed by a City-hired biological consultant. The biological assessment concludes that the project would remove existing habitat, thereby reducing its availability to local wildlife populations. Removal of this habitat would occur primarily during construction and grading phases of the project. However, the biologists have concluded that the loss would be limited to habitat for common species and the amount of loss would be negligible. For this reason, this impact would be less-than-significant and no mitigation is required.

s. Impact 3.7-6: Altering of Wildlife Movement Corridors

Facts in Support of Finding

As presented in and determined by the analysis contained on page 3.7-32 of Volume 1 (DEIR, Edited) and Volume IV (Response to Comments), a detailed biological assessment of the project site was prepared by a qualified biologist and ‘peer’ reviewed by a City-hired biological consultant. The biological assessment concludes that the project would have no impact on wildlife movement or corridors as the areas of the project site that are proposed for development are partially developed and disturbed, and bordered by existing development. For this reason, this impact would be less-than-significant and no mitigation is required.

t. Impact 3.7-7: Mortality of Wildlife During Project Construction

Facts in Support of Finding

As presented in and determined by the analysis contained on page 3.7-33 of Volume 1 (DEIR, Edited), a detailed biological assessment of the project site was prepared by a qualified biologist and ‘peer’ reviewed by a City-hired biological consultant. The biological assessment concludes that project construction could result in the direct loss of a small amount of wildlife. However, the amount wildlife loss during construction would be negligible in that the areas proposed for development are presently: 1) disturbed, developed or graded; or b) undeveloped but bordered by active marina and neighborhood commercial uses. For this reason, this impact would be less-than-significant and no mitigation is required.

u. Impact 3.8-2: Increase in Storm Water Flows

Facts in Support of Finding

As presented in and determined by the analysis contained on pages 3.8-25 and 3.8-29 of Volume 1 (DEIR, Edited) and Volume IV (Response to Comments), the project would not alter the course of a stream or river but would increase the amount of storm water flows generated on the site. However, the project, as amended incorporates a re-routing of all storm water runoff within the on-site storm water drainage system, which would provide an opportunity for longer periods of runoff concentration. By extending the period of storm water concentration within the storm water system, a slower, overall flow rate from the site during peak 25-year and 100-year storm events would occur. For these reasons, this impact would be less-than-significant and no mitigation is required.

v. Impact 3.8-4: On-site Hazards Associated with Flooding and Rise in Sea Level

Facts in Support of Finding

As presented in and determined by the analysis contained on pages 3.8-30 through 3.8-32 of Volume 1 (DEIR, Edited) and Volume IV (Response to Comments), the project, as amended is designed to import fill and raise portions of the site proposed for development to meet and exceed FEMA 100-year flood hazard standards. Finished grade elevations of +7.0 mean sea level and higher are proposed, and first floor building elevations are +8.0

and higher, which would exceed the FEMA 100-year flood hazard elevation requirement of +6.0 mean sea level, thus providing one-foot or more of freeboard. As reported in the DEIR, in 1995, the Environmental Protection Agency (EPA) published predictions for potential rise in sea level. EPA found that sea levels are projected to rise due to continued global warming, and it is expected that a 0.5 foot rise in the level of San Francisco Bay would occur by 2050. In response to comments on the DEIR, additional research was conducted on global warming and potential rise in sea level to determine the availability of more current data and information. FEIR Master Response HYD-2 (Volume IV, pages 2.0-53 through 2.0-58) cites more current studies and reports on climate change, including Bay level model predictions ranging from 0.5 meters to 5.0 meters by year 2100. Further, the Bay Conservation and Development Commission (BCDC), in conjunction with a planning study on global warming, has published aerial photographs of the San Francisco and San Pablo Bays showing areas that would be effected by a one-meter rise in the Bay levels. BCDC has indicated that given the wide range of predictions in the rise of Bay levels, the aerial photographs should not be used for planning purposes. The BCDC aerial of the San Rafael area shows that some of the upland portions of the project site would be inundated with a one-meter rise in Bay waters. However, this aerial is based on existing topographic conditions and does not assume the planned filling of the site. The additional elevations proposed by the project site filling (discussed above) would address this projected rise. In conclusion, given the wide range of sea level predictions and uncertainties beyond year 2050, this topic has been determined to be too speculative for CEQA evaluation (Per CEQA Guidelines Section 15145). Based on the information that is available to date, this impact would be less-than-significant and no mitigation is required.

w. Impact 3.8-5: Exposure of People or Structures to Hazards Related to Tsunamis
Facts in Support of Finding

As presented in and determined by the analysis contained on pages 3.8-32 and 3.8-33 of Volume 1 (DEIR, Edited) and Volume IV (Response to Comments), the project site is along the San Francisco Bay front, which has exposure to significant hazards related to tsunamis. Based on historic information prepared and gathered by a licensed geotechnical engineer, the occurrence of a tsunami exceeding a height of 1.5 feet (0.5 meters) along the shoreline of the Loch Lomond Marina is considered low. As the project, as amended proposes to fill and raise the developed areas to elevations of +7.0 to 9.8 mean sea level, the risk of flooding due to a potential tsunami event is considered low. For this reason, this impact would be less-than-significant and no mitigation is required.

x. Impact 3.9-1: Exposure of People or Structures to Fault Rupture
Facts in Support of Finding

As presented in and determined by the analysis contained on pages 3.9-20 and 3.9-21 of Volume 1 (DEIR, Edited), the project site is not located within an Alquist Priolo zone, which contains active faults such as the San Andreas and Hayward Faults. Therefore, the potential for ground surface rupture caused by active faults has been determined to be low. For this reason, this impact would be less-than-significant and no mitigation is required.

y. Impact 3.9-5: Potential Hazards Related to Erosion
Facts in Support of Finding

As presented in and determined by the analysis contained on page 3.9-27 of Volume 1 (DEIR, Edited), the project has the potential to result in soil erosion and the loss of

topsoil. The implementation of a Erosion Control Plan and a Storm Water Pollution Prevention Program (SWPPP), which is required as mitigation for other impacts, would reduce the potential of erosion to a less-than-significant and no mitigation is required.

z. Impact 3.10-1: Increased Demand for Fire Protection and Emergency Medical Response Services

Facts in Support of Finding

As presented in and determined by the analysis contained on pages 3.10-8 and 3.10-9 of Volume 1 (DEIR, Edited) and Volume IV (Response to Comments), development of the project site would increase the demand for fire protection and emergency medical response services. However, the population projected by this project, as amended would not substantially impact the ability to provide this service nor would it impact response time. Further, the project, as amended would be required to install standard fire prevention measures including fire sprinkler systems and fire retardant roof materials, which would reduce fire service demands. For these reasons, this impact is less-than-significant and no mitigation is required.

aa. Impact 3.10-3: Increased Demand for Public Education Services

Facts in Support of Finding

As presented in and determined by the analysis contained on pages 3.10-10 and 3.10-11 of Volume 1 (DEIR, Edited) and Volume IV (Response to Comments), the project would increase population in this area, thus generating new student enrollment within the San Rafael City School District. While the FEIR concludes that the San Rafael City School District has adequate capacity in their elementary, middle and high schools to accommodate new students, the project, as amended would be subject to the State-mandate school impact fees. For this reason, this impact is less-than-significant and no mitigation is required.

bb. Impact 3.10-4: Increased Demand for Library Services

Facts in Support of Finding

As presented in and determined by the analysis contained on page 3.10-12 of Volume 1 (DEIR, Edited) and Volume IV (Response to Comments), the project, as amended would increase population in this area, thus generating increased demand for library services. However, the increase in demand for this service is not considered substantial nor would the project generate the need for additional library space or staff. For this reason, this impact is less-than-significant and no mitigation is required.

cc. Impact 3.10-5: Increased Demand for Park and Recreation Facilities

Facts in Support of Finding

As presented in and determined by the analysis contained on pages 3.10-12 through 3.10-15 of Volume 1 (DEIR, Edited) and Volume IV (Response to Comments), the project, as amended would increase population in this area, thus generating new increased demand for recreation and park facilities. The City parkland dedication requirement for this project is 0.63 acres. However, the project, as amended has been designed to provide 2.0-2.5 acres of recreation and park improvements and facilities that would be accessible to the public, which would exceed the parkland dedication requirements. For this reason, this impact is less-than-significant and no mitigation is required.

dd. Impact 3.10-6: Increased Use of Off-Site Public Park Facilities

Facts in Support of Finding

As presented in and determined by the analysis contained on page 3.10-16 of Volume 1 (DEIR, Edited) and Volume IV (Response to Comments), the project would increase population in this area, thus generating new increased demand on recreation and park facilities. However, the project, as amended has been designed to provide 2.0-2.5 acres of recreation and park improvements and facilities that would be accessible to the public, which would reduce the demand for resident use of off-site public parks. For this reason, this impact is less-than-significant and no mitigation is required.

ee. Impact 3.11-1: Increased Demand for Natural Gas and Electric Services

Facts in Support of Finding

As presented in and determined by the analysis contained on page 3.11-5 of Volume 1 (DEIR, Edited) and Volume IV (Response to Comments), the project, as amended would increase population in this area, thus generating new increased demand for natural gas and electricity. However, PG & E has determined that there is adequate service available to serve the project. Further, the project is within the estimated density and intensity limits projected for this site under the San Rafael General Plan 2020 and accompanying EIR. The General Plan 2020 EIR concluded that adequate gas and electrical service is available to accommodate projected growth within the community. For this reason, this impact is less-than-significant and no mitigation is required.

ff. Impact 3.11-2: Increased Demand for Water Supply

Facts in Support of Finding

As presented in and determined by the analysis contained on pages 3.11-6 through 3.11-8 of Volume 1 (DEIR, Edited) and Volume IV (Response to Comments), the project, as amended would increase population in this area, thus generating an increased demand for water service. However, the Marin Municipal Water District (MMWD) has determined that there is adequate service available to serve the project (confirmed via letter dated October 25, 2006 and per verbal communication on June 22, 2007). Further, the project, as amended is within the estimated density and intensity limits projected for this site under the San Rafael General Plan 2020 and accompanying EIR. The General Plan 2020 EIR concluded that adequate water service is available to accommodate projected growth within the community. For this reason, this impact is less-than-significant and no mitigation is required.

gg. Impact 3.11-3: Increased Demand for Wastewater Services

Facts in Support of Finding

As presented in and determined by the analysis contained on pages 3.11-8 through 3.11-10 of Volume 1 (DEIR, Edited) and Volume IV (Response to Comments), the project, as amended would increase population in this area, thus generating an increased demand on wastewater treatment and transporting services and facilities. However, the Central Marin Sanitation Agency (CMSA) has determined that there is adequate service available to serve the project. The San Rafael Sanitation District (SRSD) transports wastewater to the CMSA facilities. The project, as amended would be responsible for contributing to the upgrade of SRSD Loch Lomond Pump Station. For this reason, this impact is less-than-significant and no mitigation is required.

hh. Impact 3.12-3: Potential Impacts to Integrity as a Historic Recreation Area

Facts in Support of Finding

As presented in and determined by the analysis contained on pages 3.12-13 and 3.12-14 of Volume 1 (DEIR, Edited), the project site was reviewed to determine its status as a historic recreation area. The FEIR concludes that the project site does not meet the

criteria as a historic resource, as defined by the CEQA and the State CEQA Guidelines. For this reason, this impact is less-than-significant and no mitigation is required.

ii. Impact 3.12-4: Potential Impacts to Integrity as a Nautical Resource

Facts in Support of Finding

As presented in and determined by the analysis contained on pages 3.12-13 and 3.12-14 of Volume 1 (DEIR, Edited), the project site was reviewed to determine its status as a nautical resource. The FEIR concludes that the project site does not meet the criteria as a historic resource, as defined by the California Environmental Quality Act. Further, the project proposes to retain the full-service marina use. For this reason, this impact is less-than-significant and no mitigation is required.

jj. Impact 3.13-10: Potential to Impair or Interfere with Emergency Response Plan or Emergency Evacuation Plan

Facts in Support of Finding

As presented in and determined by the analysis contained on page 3.13-29 of Volume 1 (DEIR, Edited) and Volume IV (Response to Comments), the project, as amended would not impair or physically interfere with the City-adopted emergency response plan or emergency evacuation plan. Therefore, this impact is less-than-significant and no mitigation is required.

kk. Impact 3.13-11: Potential for Exposure to Wildland Fires

Facts in Support of Finding

As presented in and determined by the analysis contained on pages 3.13-29 and 3.13-30 of Volume 1 (DEIR, Edited), the project site is not located in the vicinity of a wildland area that would be subject to wildfires. Therefore, this impact is less-than-significant and no mitigation is required.

2. SIGNIFICANT IMPACTS WHICH CAN BE AVOIDED OR REDUCED WITH MITIGATION

In this section of the Findings of Fact, the City, as authorized by Public Resources Code Section 21081(a)(1) and Title 14, California Code of Regulations Section Sections 15091 and 15092, identifies the significant impacts that can be eliminated or reduced to a less-than-significant level with the implementation of mitigation measures recommended in the FEIR. These mitigation measures are hereby incorporated into the description of the project and their implementation will be tracked through the Mitigation Monitoring and Reporting Program.

a. Impact 3.1-1: General Plan 2020 Policy Consistency

Significant Impact

As described on pages 3.1-9 through 3.1-17 of Volume 1 (DEIR, Edited), the initial project design has the potential to be in conflict with San Rafael General Plan 2020 Policies CON-3 (Unavoidable Filling of Wetlands) and CON-4 (Wetland Setbacks), as well as the General Plan 2020 vision statement for the Loch Lomond neighborhood in that the project proposes: 1) to fill 622 square feet of jurisdictional wetlands; and 2) wetland setbacks of less than 50-feet. The project, as amended would fill Wetland E, a 278 square foot, geographically isolated drainage ditch and would result in wetland setbacks that are less than 50 feet and would be potentially in conflict with Policies CON-3 and CON-4.

Finding

As authorized by Public Resources Code Section 21081(a)(1) and Title 14, California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the project, or required as a condition of project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in the FEIR. The City further finds that the change or alteration in the project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

Facts in Support of Finding

The significant impact listed above would be reduced to a less-than-significant level with the implementation of Mitigation Measures 3.1-1a and 3.1-1b, as presented in the FEIR and provided in the attached Mitigation Monitoring and Reporting Program. Mitigation Measure 3.1-1a requires that the wetland fill be avoided or mitigated if it is determined that filling cannot be avoided. Mitigation Measure 3.1-1b recommends that if the City decision-makers determine that the wetland setback encroachments are major, the project should be redesigned to comply with the 50-foot wetland setback requirement. Should the decision-makers determine that the wetland setback encroachments are minor, the encroachments would be permitted with proper buffer design and the expansion of the larger seasonal wetlands, as recommended by Mitigation Measure 3.1-1a and 3.1-1b. . The project, as amended has reduced wetland impacts by: 1) limiting wetland fill to one, 278 square-foot drainage ditch and mitigating this fill with a 9,500 square-foot expansion and connection of the two large seasonal wetlands (Wetlands A and B) located southeast of Wetland E; and 2) reducing the amount of improvements and structures within the 50-foot development free wetland setback.

b. Impact 3.1-2: Conflicts with General Plan 2020 Land Use Designation

Significant Impact

As described on pages 3.1-17 through 3.1-21 of Volume 1 (DEIR, Edited), the project has the potential to be in conflict with the San Rafael General Plan 2020 ‘Conservation’ land use designation in that jurisdictional wetlands are proposed to be re-designated for ‘Neighborhood Commercial’ use.

Finding

As authorized by Public Resources Code Section 21081(a)(1) and Title 14, California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the project, or required as a condition of project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in the FEIR. The City further finds that the change or alteration in the project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

Facts in Support of Finding

The significant impact listed above would be reduced to a less-than-significant level with the implementation of Mitigation Measures 3.1-2a and 3.1-2b (amended herein), as presented in the FEIR and provided in the attached Mitigation Monitoring and Reporting Program. Mitigation Measures 3.1-2a and 3.1-2b (amended herein) require that the Conservation area boundaries be adjusted to incorporate those jurisdictional wetlands having natural resource significance. One minor edit to Mitigation Measure 3.1-2b

(amended herein) has been incorporated into the FEIR Errata and Supplement (Exhibit A), which clarifies that Wetland E, a small drainage ditch is exempt from this measure as it does not meet the criteria for designation as a Conservation area.

c. Impact 3.1-3: Conflicts with Zoning Ordinance

Significant Impact

As described on pages 3.1-21 through 3.1-31 of Volume 1 (DEIR, Edited) and Volume IV (Response to Comments), the project, as amended has the potential to be in conflict with the San Rafael Zoning Ordinance provisions regarding wetland fill and wetland setbacks.

Finding

As authorized by Public Resources Code Section 21081(a)(1) and Title 14, California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the project, or required as a condition of project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in the FEIR. The City further finds that the change or alteration in the project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

Facts in Support of Finding

The significant impact listed above would be reduced to a less-than-significant level with the implementation of Mitigation Measure 3.1-3a, as presented in the FEIR and provided in the attached Mitigation Monitoring and Reporting Program. Mitigation Measure 3.1-3a requires implementation of Mitigation Measures 3.1-1a, 3.1-1b and 3.1-2b (amended herein), as described above to address wetland fill and wetland setbacks. The project, as amended has reduced wetland impacts by limiting wetland fill to one, 278 square-foot, geographically isolated wetland (Wetland E) which is mitigated by the 9,500 square-foot expansion and connection of two, large seasonal wetlands (Wetlands A and B); and reducing the amount of improvements and structures within the 50-foot development free wetland setback.

d. Impact 3.2-1: Construction Related Aesthetic Impacts

Significant Impact

As described on pages 3.2-55 and 3.2-56 of Volume 1 (DEIR, Edited) and Volume IV (Response to Comments), the project, as amended has the potential to create temporary aesthetic nuisances associated with construction and grading, which would temporarily alter the visual character and quality of the project site.

Finding

As authorized by Public Resources Code Section 21081(a)(1) and Title 14, California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the project, or required as a condition of project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in the FEIR. The City further finds that the change or alteration in the project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

Facts in Support of Finding

The significant impact listed above would be reduced to a less-than-significant level with the implementation of Mitigation Measure 3.2-1, as presented in the FEIR and provided in the attached Mitigation Monitoring and Reporting Program. This measure requires site screening (fencing) during grading and construction and recommendations for the siting and maintenance of construction staging areas.

e. Impact 3.2-5: Light and Glare

Significant Impact

As described on pages 3.2-59 and 3.2-60 of Volume 1 (DEIR, Edited) and Volume IV (Response to Comments), the project, as amended has the potential to create and increase sources of light and glare, which could adversely impact adjacent properties.

Finding

As authorized by Public Resources Code Section 21081(a)(1) and Title 14, California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the project, or required as a condition of project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in the FEIR. The City further finds that the change or alteration in the project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

Facts in Support of Finding

The significant impact listed above would be reduced to a less-than-significant level with the implementation of Mitigation Measures 3.2-5a and 3.2-5b, as presented in the FEIR and provided in the attached Mitigation Monitoring and Reporting Program. These measures require the preparation of a detailed lighting plan and compliance with specific performance standards for lighting design and intensity to reduce light and glare.

f. Impact 3.5-1: Temporary Construction-Related Air Quality Impacts

Significant Impact

As described on pages 3.5-16 through 3.5-19 of Volume 1 (DEIR, Edited) and Volume IV (Response to Comments), the project, as amended has the potential to result in temporary construction-related air quality impacts.

Finding

As authorized by Public Resources Code Section 21081(a)(1) and Title 14, California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the project, or required as a condition of project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in the FEIR. The City further finds that the change or alteration in the project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

Facts in Support of Finding

The significant impact listed above would be reduced to a less-than-significant level with the implementation of Mitigation Measures 3.5-1a, 3.5b, 3.5-1c and 3.5-1d, as presented in the FEIR and provided in the attached Mitigation Monitoring and Reporting Program. These measures require the implementation of specific techniques and activities to control dust and emissions during grading and construction phases of the project.

g. Impact 3.6-1: Temporary Construction-Related Noise and Vibration Impacts

Significant Impact

As described on pages 3.6-16 through 3.6-19 of Volume 1 (DEIR, Edited) and Volume IV (Response to Comments), the project, as amended has the potential to result in temporary construction-related noise and vibration impacts.

Finding

As authorized by Public Resources Code Section 21081(a)(1) and Title 14, California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the project, or required as a condition of project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in the FEIR. The City further finds that the change or alteration in the project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

Facts in Support of Finding

The significant impact listed above would be reduced to a less-than-significant level with the implementation of Mitigation Measures 3.6-1a, 3.6-1b, 3.6-1c and 3.6-1d, as presented in the FEIR and provided in the attached Mitigation Monitoring and Reporting Program. These measures set forth noise and vibration attenuation requirements to implement during the grading and construction phases of the project. Recommendations include limiting hours of construction and providing notice to property owners within 1,000 feet from the project site when certain noise generating activities are initiated.

h. Impact 3.6-2: Increase in On-site Noise Associated with Project Activities and Uses

Facts in Support of Finding

As presented in and determined by the analysis contained on pages 3.6-20 through 3.6-22 of Volume 1 (DEIR, Edited) and Volume IV (Response to Comments), the project, as amended would generate on-site noise associated with the residential units and commercial activities, which include loading and unloading activities, mechanical equipment operation and parking.

Finding

As authorized by Public Resources Code Section 21081(a)(1) and Title 14, California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the project, or required as a condition of project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in the FEIR. The City further finds that the change or alteration in the project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

Facts in Support of Finding

The significant impact listed above would be reduced to a less-than-significant level with the implementation of Mitigation Measure 3.6-2 (amended herein), as presented in the FEIR and provided in the attached Mitigation Monitoring and Reporting Program. This measure requires that mechanical equipment and loading areas for the commercial buildings be located away from sensitive noise receptors and that these areas be shielded and screened to reduce noise. Further, this measure requires that noise insulation

measures be incorporated into the design of the residential units to ensure that interior noise levels are within City standards, as well as exterior living areas.

i. Impact 3.6-3: Increase in Noise Associated with Vehicular Activity

Significant Impact

As presented in and determined by the analysis contained on pages 3.6-23 through 3.6-28 of Volume 1 (DEIR, Edited) and Volume IV (Response to Comments), the project, as amended may significantly increase noise associated with vehicular activity with the project area and within the project site.

Finding

As authorized by Public Resources Code Section 21081(a)(1) and Title 14, California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the project, or required as a condition of project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in the FEIR. The City further finds that the change or alteration in the project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

Facts in Support of Finding

The significant impact listed above would be reduced to a less-than-significant level with the implementation of Mitigation Measure 3.6-3, as presented in the FEIR and provided in the attached Mitigation Monitoring and Reporting Program. This measure requires that residential units within 220 feet of the centerline of Point San Pedro Road be equipped with mechanical ventilation (e.g., air conditioning or equivalent ventilation system), which provides the resident the option of keeping windows closed to reduce exposure to excessive road noise.

j. Impact 3.7-1: Disturbance of Nesting Special-Status Birds or Other Breeding Birds

Significant Impact

As presented in and determined by the analysis contained on pages 3.7-25 through 3.7-28 of Volume 1 (DEIR, Edited) and Volume 4 (Response to Comments) and Volume IV (Response to Comments), the project, as amended may significantly disturb the nesting of special-status bird species and other breeding birds.

Finding

As authorized by Public Resources Code Section 21081(a)(1) and Title 14, California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the project, or required as a condition of project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in the FEIR. The City further finds that the change or alteration in the project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

Facts in Support of Finding

The significant impact listed above would be reduced to a less-than-significant level with the implementation of Mitigation Measures 3.7-1a (amended herein), 3.7-1b and 3.7-1c, as presented in the FEIR and provided in the attached Mitigation Monitoring and Reporting Program. These measures require: 1) that vegetation removal be limited to the

non-nesting/breeding season (September through February); 2) that pre-construction nesting surveys of the site be conducted to determine the presence of bird nesting and requirements in the event bird nests are present; and 3) that the wetland mitigation and management plan be implemented, which proposes to expand and enhance the large seasonal wetlands in the eastern portion of the project site.

k. Impact 3.7-3: Disturbance of Migratory Fish

Significant Impact

As presented in and determined by the analysis contained on pages 3.7-28 through 3.7-30 of Volume 1 (DEIR, Edited), certain project construction activities (repair of breakwater and pier repair at the Loch Lomond Yacht Club) may significantly disturb migratory fish.

Finding

As authorized by Public Resources Code Section 21081(a)(1) and Title 14, California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the project, or required as a condition of project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in the FEIR. The City further finds that the change or alteration in the project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

Facts in Support of Finding

The significant impact listed above would be reduced to a less-than-significant level with the implementation of Mitigation Measure 3.7-3b, as presented in the FEIR and provided in the attached Mitigation Monitoring and Reporting Program. This measure requires the use of pier repair techniques that do not generate acoustical noise levels in excess of 180 decibels.

l. Impact 3.7-4: Disturbance of Migratory Waterfowl

Significant Impact

As presented in and determined by the analysis contained on pages 3.7-30 and 3.7-31 of Volume 1 (DEIR, Edited) and Volume 4 (Response to Comments), project grading and construction would potentially disturb waterfowl.

Finding

As authorized by Public Resources Code Section 21081(a)(1) and Title 14, California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the project, or required as a condition of project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in the FEIR. The City further finds that the change or alteration in the project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

Facts in Support of Finding

The significant impact listed above would be reduced to a less-than-significant level with the implementation of Mitigation Measure 3.7-4, as presented in the FEIR and provided in the attached Mitigation Monitoring and Reporting Program. This measure requires that all construction and grading work conducted below the mean high water mark be

conducted at low tide during the summer only in order to avoid disturbing waterfowl during winter foraging periods.

m. Impact 3.7-8: Indirect Impacts to Wildlife and Wetlands

Significant Impact

As presented in and determined by the analysis contained on pages 3.7-33 through 3.7-40 of Volume 1 (DEIR, Edited) and Volume 4 (Response to Comments), during project construction and during operational activities (proximity of new residential units to wildlife habitat) indirect significant impacts to wildlife and wetlands would occur.

Finding

As authorized by Public Resources Code Section 21081(a)(1) and Title 14, California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the project, or required as a condition of project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in the FEIR. The City further finds that the change or alteration in the project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

Facts in Support of Finding

The significant impact listed above would be reduced to a less-than-significant level with the implementation of Mitigation Measures 3.7-8a, 3.7-8b, 3.7-8c and 3.7-8d, as presented in the FEIR and provided in the attached Mitigation Monitoring and Reporting Program. These measures requires: 1) that informational signs be posted bordering the conservation and wetland areas explaining the biological value of the area and limitations on pets; 2) that certain adjustments to the site plan be made to reduce encroachments into the 50-foot required wetland setbacks and improve the buffer; 3) that the bird watching platform be installed between the two large seasonal wetlands, which is to be designed to minimize human intrusion into the wetland areas. The project, as amended, complies with these measures by: 1) reducing the amount of improvements and structures within the 50-foot development free wetland setback; and 2) relocating the bird watching platform to an area along the southern edge of the large seasonal wetlands, which is accessed by the breakwater.

n. Impact 3.7-9: Direct Impacts to Wetlands

Significant Impact

As presented in and determined by the analysis contained on pages 3.7-40 through 3.7-45 of Volume 1 (DEIR, Edited) and in Volume 4 (Response to Comments), the initial project design proposed to fill 622 square feet of seasonal wetlands. The project, as amended reduces wetland fill to Wetland E, a 278 square-foot, a geographically isolated drainage ditch.

Finding

As authorized by Public Resources Code Section 21081(a)(1) and Title 14, California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the project, or required as a condition of project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in the FEIR. The City further finds that the change or alteration in the project or the requirement to impose the mitigation as a condition of project approval is

within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

Facts in Support of Finding

The significant impact listed above would be reduced to a less-than-significant level with the implementation of Mitigation Measure 3.7-9, as presented in the FEIR and provided in the attached Mitigation Monitoring and Reporting Program. This measure requires that the wetland fill be avoided or mitigated if it is determined that such filling cannot be avoided. As indicated above, the project, as amended, has reduced wetland impacts by limiting wetland fill to one, 278 square-foot, geographically isolated wetland (Wetland E), which would be mitigated by the proposed 9,500 square-foot expansion and connection of the two larger seasonal wetlands (Wetlands A and B). This mitigation represents a 31:1 ratio of wetland replacement, which far exceeds the 2:1 replacement ratio mandated by General Plan 2020 Policy CON-3.

o. Impact 3.7-10: Degradation of Wetlands by People and Pets

Significant Impact

As presented in and determined by the analysis contained on pages 3.7-45 and 3.7-46 of Volume 1 (DEIR, Edited and in Volume 4 (Response to Comments), the project, as amended would increase the activity of people and pets adjacent to the seasonal wetlands, which may degrade wetland habitat.

Facts in Support of Finding

As authorized by Public Resources Code Section 21081(a)(1) and Title 14, California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the project, or required as a condition of project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in the FEIR. The City further finds that the change or alteration in the project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

Facts in Support of Finding

The significant impact listed above would be reduced to a less-than-significant level with the implementation of Mitigation Measures 3.7-8a, 3.7-8b, 3.7-8c and 3.7-8d, as presented in the FEIR and provided in the attached Mitigation Monitoring and Reporting Program. These measures requires: 1) that informational signs be posted bordering the conservation and wetland areas explaining the biological value of the area and limitations on pets; 2) that certain adjustments to the site plan be made to reduce encroachment into the 50-foot required wetland setbacks and improve the buffer; 3) that the bird watching platform be installed between the two large seasonal wetlands, which is designed to minimize human intrusion into the wetland areas. As indicated above, the project, as amended complies with these measures by: 1) reducing the amount of improvements and structures within the 50-foot development free wetland setback; and 2) relocating the bird watching platform to an area along the southern edge of the large seasonal wetlands, which is accessed by the breakwater.

p. Impact 3.7-11: Impact to Water Quality in Adjacent Surface Waters and Wetlands

Significant Impact

As presented in and determined by the analysis contained on pages 3.7-47 through 3.7-49 of Volume 1 (DEIR, Edited), project grading and construction activities could degrade water quality in the adjacent surface waters and seasonal wetlands.

Finding

As authorized by Public Resources Code Section 21081(a)(1) and Title 14, California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the project, or required as a condition of project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in the FEIR. The City further finds that the change or alteration in the project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

Facts in Support of Finding

The significant impact listed above would be reduced to a less-than-significant level with the implementation of Mitigation Measures 3.7-11a, 3.7-11b, 3.7-11c, 3.7-11d and 3.7-11e, 3.7-11f and 3.7-11g, as presented in the FEIR and provided in the attached Mitigation Monitoring and Reporting Program. These measures require: 1) installation of silt fences around the border of the development area to contain silt and runoff; 2) covering stockpiles of material and dirt for containment; 3) hydro seeding exposed slopes during the grading phases; and 4) implementing erosion and sediment control measures.

q. Impact 3.7-12: Impact to On-Site Trees

Significant Impact

As presented in and determined by the analysis contained on pages 3.7-49 through 3.7-53 of Volume 1 (DEIR, Edited) and Volume IV (Response to Comments), the project, as amended would result in the removal and/or impacts to native oak trees and mature ornamental trees.

Finding

As authorized by Public Resources Code Section 21081(a)(1) and Title 14, California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the project, or required as a condition of project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in the FEIR. The City further finds that the change or alteration in the project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

Facts in Support of Finding

The significant impact listed above would be reduced to a less-than-significant level with the implementation of Mitigation Measure 3.7-12, as presented in the FEIR and provided in the attached Mitigation Monitoring and Reporting Program. This measure requires preservation of native oaks to the extent feasible with replanting at a 3:1 ratio where removal of such trees is proposed. Further, this measure requires the installation of tree protection measures around certain native oaks to be preserved during site grading and construction, and the transplanting one ornamental Canary Island date palm tree. The project design, as amended, would preserve all Coast live oak trees located on the project site with the exception of three, Coast live oak trees located in the area of Wetland E, which is proposed to be filled.

r. Impact 3.8-1: Construction-Related Erosion and Non-Point Source Pollution into the San Rafael Bay

Significant Impact

As presented in and determined by the analysis contained on pages 3.8-21 through 3.7-25 of Volume 1 (DEIR, Edited) and in Volume 4 (Response to Comments), the project, as amended would result in construction-related erosion and non-point pollution of the San Rafael Bay. Although initially identified as a significant, unavoidable environmental effect in the DEIR, this impact was re-evaluated during the preparation of the FEIR. This impact was reduced to less-than-significant given that the project site is currently developed and runoff leaving the site under existing conditions is untreated. With the imposing of water quality measures and adherence to applicable regulations and Best Management Practices (BMPs), the project, as amended would improve the quality of storm water runoff from the current, untreated conditions.

Finding

As authorized by Public Resources Code Section 21081(a)(1) and Title 14, California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the project, or required as a condition of project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in the FEIR. The City further finds that the change or alteration in the project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

Facts in Support of Finding

The significant impact listed above would be reduced to a less-than-significant level with the implementation of Mitigation Measures 3.8-1a, 3.8-1b, 3.8-1c, 3.8-1d, 3.8-1e and 3.8-1f, as presented in the FEIR and provided in the attached Mitigation Monitoring and Reporting Program. These measures require, among others: 1) the preparation and implementation of a Storm Water Pollution Prevention Program (SWPPP); 2) the installation of water quality control measures in the drainage plan, which could include the use of pervious pavers, grassy swales, and Vortech storm water treatment units to filter and treat runoff before it enters the Bay; and 3) implementation of property maintenance measures such as regular street sweeping.

s. Impact 3.8-3: Exposure of People to Flood Hazards

Significant Impact

As presented in and determined by the analysis contained on pages 3.8-29 and 3.7-30 of Volume 1 (DEIR, Edited) and in Volume 4 (Response to Comments), the project, as amended would expose people to flood hazards as a majority of the project site is located within the FEMA 100-year flood hazard zone.

Finding

As authorized by Public Resources Code Section 21081(a)(1) and Title 14, California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the project, or required as a condition of project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in the FEIR. The City further finds that the change or alteration in the project or the requirement to impose the mitigation as a condition of project approval is

within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

Facts in Support of Finding

The significant impact listed above would be reduced to a less-than-significant level with the implementation of Mitigation Measure 3.8-3, as presented in the FEIR and provided in the attached Mitigation Monitoring and Reporting Program. This measure requires that the final drainage plan be designed to accommodate storm water storage during high tide conditions, so that storm water runoff is time-released into the Bay as the tide subsides.

t. Impact 3.9-2: Exposure of People or Structures to Hazards Related to Ground Shaking

Significant Impact

As presented in and determined by the analysis contained on page 3.9-21 of Volume 1 (DEIR, Edited) and Volume IV (Response to Comments), the project, as amended may expose people and structures to hazards related to ground shaking.

Finding

As authorized by Public Resources Code Section 21081(a)(1) and Title 14, California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the project, or required as a condition of project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in the FEIR. The City further finds that the change or alteration in the project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

Facts in Support of Finding

The significant impact listed above would be reduced to a less-than-significant level with the implementation of Mitigation Measure 3.9-2, as presented in the FEIR and provided in the attached Mitigation Monitoring and Reporting Program. This measure requires that the project be designed to follow and meet the seismic requirements of the latest Uniform Building Code (UBC) for Seismic Zone 4.

u. Impact 3.9-3: Exposure of People or Structures to Potential Ground Failure or Liquefaction

Significant Impact

As presented in and determined by the analysis contained on pages 3.9-22 through 3.9-24 of Volume 1 (DEIR, Edited) and Volume IV (Response to Comments), the project, as amended would expose people and structures to adverse effects associated with ground failure and liquefaction. Given the current soil conditions and the location of the project site, the potential for liquefaction is high.

Finding

As authorized by Public Resources Code Section 21081(a)(1) and Title 14, California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the project, or required as a condition of project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in the FEIR. The City further finds that the change or alteration in the project or the requirement to impose the mitigation as a condition of project approval is

within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

Facts in Support of Finding

The significant impact listed above would be reduced to a less-than-significant level with the implementation of Mitigation Measures 3.9-3a, 3.9-3b and 3.9-3c, as presented in the FEIR and provided in the attached Mitigation Monitoring and Reporting Program. These measures require: 1) that the grading and soil import material and compaction follow the specific recommendations set forth in the geotechnical investigations that have been prepared for the project site; 2) appropriate foundation design; and 3) testing be performed by a licensed geotechnical engineer during the grading and construction phases to ensure that the surcharge material is appropriately placed and settled.

v. Impact 3.9-4: Exposure of People or Structures to Hazards Associated with Landslides

Significant Impact

As presented in and determined by the analysis contained on pages 3.9-24 through 3.9-27 of Volume 1 (DEIR, Edited), Volume IV (Response to Comments) and in the FEIR errata/supplement, the project, as amended would expose people and structures to hazards associated with landslides (slope failure).

Finding

As authorized by Public Resources Code Section 21081(a)(1) and Title 14, California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the project, or required as a condition of project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in the FEIR. The City further finds that the change or alteration in the project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

Facts in Support of Finding

The significant impact listed above would be reduced to a less-than-significant level with the implementation of Mitigation Measure 3.9-4, as presented in the FEIR and provided in the attached Mitigation Monitoring and Reporting Program. This measure requires that all site grading and slope design be completed in accordance with the design criteria cited in this mitigation measure and detailed in the geotechnical investigation, prepared by a licensed geotechnical engineer. Mitigation design criteria include: 1) limits for the thickness, placement, and timing of surcharge and permanent fill; 2) limiting the maximum fill slope to 3:1 (horizontal: vertical); 3) establishes a static factor of safety of 1.5 or greater for stock piles within 50 feet of the shoreline; 4) requirements that all heavy construction equipment working within 40 feet of the shoreline be done under the supervision of a geotechnical engineer or representative of the engineer; 5) specific criteria for finished fill slope angles and distance of slope toe from the shoreline; 6) a requirement for site specific analysis of any fill material in excess of one foot thickness placed within 30 feet of the top of the marina shoreline slope, and 7) requirement that no buildings within 60 feet of the top of marina shoreline slope be constructed with shallow foundations. TRC Geotechnical Engineers provided written confirmation that the application of these measures would minimize the potential for migrating bay mud and development of silt in the slough located east of the project site (see Exhibit A for letter).

w. Impact 3.9-6: Potential Hazards Related to Development on Expansive Soils

Significant Impact

As presented in and determined by the analysis contained on pages 3.9-28 and 3.9-29 of Volume 1 (DEIR, Edited) and Volume IV (Response to Comments), the project, as amended would expose people and structures to adverse effects associated with expansive soils. Given the current soil conditions and the location of the project site, the potential for expansive soils (soils expanding and contracting based on the extent of moisture) is high.

Finding

As authorized by Public Resources Code Section 21081(a)(1) and Title 14, California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the project, or required as a condition of project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in the FEIR. The City further finds that the change or alteration in the project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

Facts in Support of Finding

The significant impact listed above would be reduced to a less-than-significant level with the implementation of Mitigation Measures 3.9-6a, 3.9-6b, 3.9-6c and 3.9-6d, as presented in the FEIR and provided in the attached Mitigation Monitoring and Reporting Program. These measures require: 1) that the grading and soil import material and compaction follow the specific recommendations set forth in the geotechnical investigations that have been prepared for the project site; 2) soil imported to the site be limited to an expansion index of 50 or less; and 3) that a cap of competent soil be placed over fill to further reduce exposure to soil expansion.

x. Impact 3.10-2: Increased Demand for Police Services

Significant Impact

As presented in and determined by the analysis contained on pages 3.10-8 and 3.10-9 of Volume 1 (DEIR, Edited) and Volume IV (Response to Comments), the project, as amended would increase the demand for law enforcement services. While the project would not increase the demand or need for Police Department staffing or new facilities, it would increase the number of enforcement responses.

Finding

As authorized by Public Resources Code Section 21081(a)(1) and Title 14, California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the project, or required as a condition of project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in the FEIR. The City further finds that the change or alteration in the project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

Facts in Support of Finding

The significant impact listed above would be reduced to a less-than-significant level with the implementation of Mitigation Measure 3.1-2, as presented in the FEIR and provided in the attached Mitigation Monitoring and Reporting Program. This measure requires

specific crime prevention measures to be included in the design of the project to reduce the potential for crimes, through increased natural surveillance, thus reducing the amount of calls for police response.

y. Impact 3.12-1: Potential Impacts to Prehistoric or Historic Resources

Significant Impact

As presented in and determined by the analysis contained on pages 3.12-11 and 3.11-12 of Volume 1 (DEIR, Edited), project grading and demolition could encounter and/or disturb unidentified prehistoric or historic resources.

Finding

As authorized by Public Resources Code Section 21081(a)(1) and Title 14, California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the project, or required as a condition of project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in the FEIR. The City further finds that the change or alteration in the project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

Facts in Support of Finding

The significant impact listed above would be reduced to a less-than-significant level with the implementation of Mitigation Measure 3.12-1, as presented in the FEIR and provided in the attached Mitigation Monitoring and Reporting Program. This measure requires that prior to commencement of grading or demolition, a qualified archaeologist be hired to train construction workers on methods for identifying cultural resources.

z. Impact 3.12-2: Potential to Uncover Human Remains

Significant Impact

As presented in and determined by the analysis contained on pages 3.12-12 and 3.11-13 of Volume 1 (DEIR, Edited), project grading and demolition could encounter and/or uncover human remains.

Finding

As authorized by Public Resources Code Section 21081(a)(1) and Title 14, California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the project, or required as a condition of project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in the FEIR. The City further finds that the change or alteration in the project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

Facts in Support of Finding

The significant impact listed above would be reduced to a less-than-significant level with the implementation of Mitigation Measure 3.12-2, as presented in the FEIR and provided in the attached Mitigation Monitoring and Reporting Program. This measure establishes the necessary steps and protocol required by State law to address human remains, if uncovered during site grading and construction.

aa. Impact 3.13-1: Potential Hazard to Public Health and Environment Due to Impaired Fill Material

Significant Impact

As presented in and determined by the analysis contained on pages 3.13-16 through 3.13-18 of Volume 1 (DEIR, Edited) and in Volume 4 (Response to Comments), areas of fill on the project site may contain hazardous materials, which may pose as a health risk if exposed to people.

Finding

As authorized by Public Resources Code Section 21081(a)(1) and Title 14, California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the project, or required as a condition of project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in the FEIR. The City further finds that the change or alteration in the project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

Facts in Support of Finding

The significant impact listed above would be reduced to a less-than-significant level with the implementation of Mitigation Measures 3.13-1a and 3.13-1b, as presented in the FEIR and provided in the attached Mitigation Monitoring and Reporting Program. These measures require the preparation and implementation of a Phase II Environmental Site Assessment (ESA) has been prepared and incorporated into the FEIR, as recommended by these mitigation measures. The Phase II ESA discloses the type and extent of hazards, recommending measures for clean-up and remediation.

bb. Impact 3.13-2: Potential Hazard to Public and Environment Due to Transport and Handling of Contaminated Soil

Significant Impact

As presented in and determined by the analysis contained on pages 3.13-18 and 3.13-19 of Volume 1 (DEIR, Edited) and in Volume 4 (Response to Comments), the project, as amended could result in the transport and handling of hazardous materials associated with the historic on-site chemical storage and use.

Finding

As authorized by Public Resources Code Section 21081(a)(1) and Title 14, California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the project, or required as a condition of project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in the FEIR. The City further finds that the change or alteration in the project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

Facts in Support of Finding

The significant impact listed above would be reduced to a less-than-significant level with the implementation of Mitigation Measure 3.13-2, as presented in the FEIR and provided in the attached Mitigation Monitoring and Reporting Program. A Phase II Environmental Site Assessment has been prepared and incorporated into the FEIR, as recommended by Mitigation Measures 3.13-1a and 3.13-1b.

cc. Impact 3.13-3: Potential Hazard to Public and Environment Due to History of Contaminated Soil and Groundwater from Former Fueling Station

Significant Impact

As presented in and determined by the analysis contained on pages 3.13-19 through 3.13-22 of Volume 1 (DEIR, Edited) and in Volume 4 (Response to Comments), areas of fill on the project site may contain contaminated soil and groundwater associated with the former fueling station use at the southeast corner of Point San Pedro Road and Lochinvar Road, which may pose as a health risk if exposed to people.

Finding

As authorized by Public Resources Code Section 21081(a)(1) and Title 14, California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the project, or required as a condition of project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in the FEIR. The City further finds that the change or alteration in the project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

Facts in Support of Finding

The significant impact listed above would be reduced to a less-than-significant level with the implementation of Mitigation Measure 3.13-3, as presented in the FEIR and provided in the attached Mitigation Monitoring and Reporting Program. A Phase II Environmental Site Assessment has been prepared and incorporated into the FEIR, as recommended by Mitigation Measures 3.13-1a and 3.13-1b.

dd. Impact 3.13-4: Potential Hazard to Public and Environment Due to History of Contaminated Soil and Groundwater from Underground Storage Tanks on the West Jetty

Significant Impact

As presented in and determined by the analysis contained on pages 3.13-22 and 3.13-23 of Volume 1 (DEIR, Edited) and in Volume 4 (Response to Comments), the project, as amended could create hazards to the public and the environment due to the site history of contaminated soil and groundwater associated with the underground storage tanks on the west jetty.

Finding

As authorized by Public Resources Code Section 21081(a)(1) and Title 14, California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the project, or required as a condition of project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in the FEIR. The City further finds that the change or alteration in the project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

Facts in Support of Finding

The significant impact listed above would be reduced to a less-than-significant level with the implementation of Mitigation Measure 3.13-4, as presented in the FEIR and provided in the attached Mitigation Monitoring and Reporting Program. A Phase II Environmental

Site Assessment has been prepared and incorporated into the FEIR, as recommended by Mitigation Measures 3.13-1a and 3.13-1b.

ee. Impact 3.13-5: Potential Hazard to Public and Environment Through the Release of Asbestos-Containing Materials Associated with Demolition

Significant Impact

As presented in and determined by the analysis contained on pages 3.13-24 and 3.13-25 of Volume 1 (DEIR, Edited), project demolition and grading activities could create hazards to the public and the environment through the release of asbestos-containing materials.

Finding

As authorized by Public Resources Code Section 21081(a)(1) and Title 14, California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the project, or required as a condition of project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in the FEIR. The City further finds that the change or alteration in the project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

Facts in Support of Finding

The significant impact listed above would be reduced to a less-than-significant level with the implementation of Mitigation Measure 3.13-5, as presented in the FEIR and provided in the attached Mitigation Monitoring and Reporting Program. This measure requires that a pre-demolition asbestos survey be conducted by a licensed asbestos abatement inspector, in accordance with the National Emissions Standards for Hazardous Air Pollutants and the Bay Area Air Quality Management District. The survey is to include specific measures for removing asbestos in a safe manner.

ff. Impact 3.13-6: Potential Hazard to Public and Environment Through the Release of Lead-Based Paint Associated with Demolition

Significant Impact

As presented in and determined by the analysis contained on pages 3.13-2 and 3.13-26 of Volume 1 (DEIR, Edited), project demolition and grading activities could create hazards to the public and the environment through the release of lead-based paint.

Finding

As authorized by Public Resources Code Section 21081(a)(1) and Title 14, California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the project, or required as a condition of project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in the FEIR. The City further finds that the change or alteration in the project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

Facts in Support of Finding

The significant impact listed above would be reduced to a less-than-significant level with the implementation of Mitigation Measures 3.13-6a and 3.13-6b, as presented in the FEIR and provided in the attached Mitigation Monitoring and Reporting Program. This

measure requires that a licensed lead-based paint inspector be hired to implement specific steps for evaluating, removing, containing and disposing of paint containing lead.

gg. Impact 3.13-7: Potential Hazard to Public and Environment Through the Release of PCBs and/or Mercury Associated with Demolition

Significant Impact

As presented in and determined by the analysis contained on pages 3.13-26 and 3.13-27 of Volume 1 (DEIR, Edited), project demolition and grading activities could create hazards to the public and the environment through the release of PBCs and mercury associated with the handling of fluorescent lighting.

Finding

As authorized by Public Resources Code Section 21081(a)(1) and Title 14, California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the project, or required as a condition of project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in the FEIR. The City further finds that the change or alteration in the project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

Facts in Support of Finding

The significant impact listed above would be reduced to a less-than-significant level with the implementation of Mitigation Measure 3.13-7, as presented in the FEIR and provided in the attached Mitigation Monitoring and Reporting Program. This measure requires the removal and disposal of fluorescent lighting that potentially contains PCBs and mercury at an approved landfill or recycling center.

hh. Impact 3.13-8: Potential Hazard to Public and Environment Through the Release of Transformer Oil Associated with Construction

Significant Impact

As presented in and determined by the analysis contained on pages 3.13-27 and 3.13-28 of Volume 1 (DEIR, Edited) and Volume IV (Response to Comments),, the project, as amended could create a hazard to the public or the environment through release of transformer oil from the PG & E transformer and the single-phase transformer located north of the marina docks.

Finding

As authorized by Public Resources Code Section 21081(a)(1) and Title 14, California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the project, or required as a condition of project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in the FEIR. The City further finds that the change or alteration in the project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

Facts in Support of Finding

The significant impact listed above would be reduced to a less-than-significant level with the implementation of Mitigation Measure 3.13-8, as presented in the FEIR and provided in the attached Mitigation Monitoring and Reporting Program. This measure requires

that if the transformers are removed during construction and grading, they are required to be tested for PCB levels and remediated, if necessary.

ii. Impact 3.13-9: Potential for Emission of Hazardous Materials That May Impact Students at San Pedro Elementary School

Significant Impact

As presented in and determined by the analysis contained on pages 3.13-28 and 3.13-29 of Volume 1 (DEIR, Edited), project demolition and grading activities could result in the emission or handling of hazardous materials that may adversely affect students at the nearby San Pedro Elementary School.

Finding

As authorized by Public Resources Code Section 21081(a)(1) and Title 14, California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the project, or required as a condition of project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in the FEIR. The City further finds that the change or alteration in the project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

Facts in Support of Finding

The significant impact listed above would be reduced to a less-than-significant level with the implementation of Mitigation Measure 3.13-9, as presented in the FEIR and provided in the attached Mitigation Monitoring and Reporting Program. This measure requires implementing Mitigation Measure 3.13-1, which recommends the preparation and implementation a Soil Management Work Plan (SMWP). The SMWP is required to include measures for containing and controlling dust generated during grading and construction phases of the project.

3. IMPACTS DETERMINED TO BE INSIGNIFICANT OR LESS-THAN-SIGNIFICANT IN THE INITIAL STUDY CHECKLIST

During the preparation of the Initial Study Checklist, it was determined that a number of possible environmental effects of the project would be insignificant, less-than-significant or would be adequately addressed through the City review process. For these topics, no need for further environmental assessment was required for the preparation of the FEIR.

Finding

Consistent with CEQA Guidelines 15128, FEIR Volume 1 (DEIR, Edited), Section 1.7 contains a statement as to why such effects were determined to be insignificant or less-than-significant.

Facts in Support of Finding

The Initial Study Checklist prepared and published on January 6, 2005 and revised and republished on February 15, 2005 determined that the initial project design and, subsequently, in the FEIR assessment of the Mitigated Plan (the project, as amended) presented in Volume IV (Response to Comments) would result in insignificant environmental affects related to the following Initial Study topics:

- The project will not cause the conversion of farmland or conflicts with agricultural use zoning (e.g., Williamson Act contract)

- The project will not involve other changes in the existing environment, which due to their location or nature, could result in conversion of farmland to non-agricultural use
- The project will not conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan or other approved local, regional, or state habitat conservation plan
- The project will not directly or indirectly destroy a unique paleontological resource or site or unique geologic feature
- The project is not located within a designated Alquist Priolo Earthquake Fault Zone, so development improvements and uses would not be exposed to a fault rupture
- The project would use existing City wastewater infrastructure and would not incorporate use of septic tanks for the disposal of wastewater
- The project would permit land uses where hazardous materials would be limited to small quantities of household cleaners, pesticides and fertilizers, which if used or transported would not create a significant hazard to the public or the environment
- The project would not deplete or make use of ground water. Domestic and irrigation water service would be provided by the Marin Municipal Water District; this District prohibits the use of well water for any new development
- The project would not physically divide an established community in that the project site is currently developed and surrounded by residential communities to the north, east and west, and the San Rafael Bay to the south
- The project site is not within the boundaries of an adopted airport land use plan, nor within 2 miles of a public airport
- The project would not involve changes in air traffic patterns and would not conflict with or affect air traffic
- The project would not result in the use of mineral resources or impacts to a designated, known mineral resource or resource recovery site
- The project would not displace people or housing
- The project would not impact solid waste service and landfill capacity, as it is within the density and intensity limits studied for the project site in the San Rafael General Plan 2020 and accompanying General Plan FEIR

In summary, these topics related to the initial project design and the project, as amended, has been determined to be insignificant or less-than-significant for the following reasons:

- a. The project site is level, is developed, and is located in a suburban area that is developed.
- b. The project site represents urban infill as it is bordered by developed properties.
- c. The project site is designated in the San Rafael General Plan 2020 for marine-related, neighborhood commercial/residential and conservation land uses.

The Initial Study Checklist, which is contained in FEIR Volume I (DEIR Edits), Appendix A, provides further details and rationale for this conclusion.

4. SIGNIFICANT IMPACTS WHICH CANNOT BE AVOIDED

As authorized by Public Resources Code Section 21081(a)(1) and Title 14, California Code of Regulations Sections 15091 and 15092, the FEIR is required to identify the significant impacts that cannot be reduced to a less-than-significant level through mitigation measures. These impacts are considered significant and unavoidable. The DEIR found that the initial project design could result in potentially significant and unavoidable impacts associated with the potential to exceed water quality standards and non-point pollution of San Rafael Bay (DEIR Volume 1, Chapter 4, Impact 3.8-1, pages 3.8-21-25; Chapter 5, page 5-1). However, a quantitative analysis of water quality impacts was not included in the Draft EIR. A quantitative water quality analysis was prepared for incorporation in the FEIR. The water quality analysis found that project compliance with the Regional Water Quality Control Board's Best Management Practices (BMPs) for the treatment of surface water runoff will effectively reduce constituent loads that currently are discharged from the site into the Bay's waters and the seasonal wetlands. Incorporation of BMPs into the site plan will improve the surface water quality being discharged to San Pablo Bay from the Loch Lomond Marina site with a net beneficial impact on Bay water quality compared to the existing condition.

The FEIR impact concluded that the project, as amended would result in fewer water quality impacts than under current site conditions, provided that recommended Mitigation Measures 3.8-1a through 3.8-1f are implemented. At present, urban runoff from the project site is untreated and the implementation of these mitigation measures into the project design would improve the quality of runoff. Accordingly, the water quality impacts of the project were found to be less-than-significant level with mitigation in the FEIR.

5. REVIEW AND REJECTION OF ALTERNATIVES

CEQA Guidelines Section 15126.6 mandates that every FEIR evaluate a no-project alternative, plus a feasible and reasonable range of alternatives to the project or its location. The Alternatives were formulated considering the Objectives of the City of San Rafael and the Project Sponsor Objectives outlined on pages 6-1 through 6-3 of FEIR Volume I (DEIR Edited). Alternatives provide a basis of comparison to the project in terms of beneficial, significant, and unavoidable impacts. This comparative analysis is used to consider reasonable feasible options for minimizing environmental consequences of a project.

Typically, where a project causes significant impacts and an EIR is prepared, the findings must discuss not only how mitigation can address the potentially significant impacts but whether project alternatives can address potentially significant impacts. But where all significant impacts can be substantially lessened, in this case to a less-than-significant level, solely by adoption of mitigation measures, the lead agency, in drafting its findings, has no obligation to consider the feasibility that project alternatives might reduce an impact, even if the alternative would mitigate the impact to a greater degree than the proposed project, as mitigated (Public Resources Code Section 21002; *Laurel Hills Homeowners Association v. City Council* (1978) 83 Cal.App.3d 515, 521; *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 730-733; *Laurel Heights Improvement Association v. Regents of the University of California* (1988) 47 Cal.3d 376, 400-403).

Nevertheless, as explained below, these findings describe and reject, for reasons documented in the FEIR and summarized below, each one of the project alternatives, and

the City finds that approval and implementation of the initial project design or the “Mitigated Plan” (the project design, as amended) as described and assessed in FEIR Volume 4 (Responses to Comments) is appropriate. The evidence supporting these findings is presented in Chapter 6 of the Volume I DEIR Edited, pages 6-1 through 6-65.

a. Alternative 1: No Project Alternative

This alternative assumes that the proposed project would not occur and that the project site would remain in its present condition operating with marina neighborhood commercial and medical office uses.

Finding

Specific economic and other considerations make infeasible the No Project Alternative identified in the FEIR and described above.

Facts in Support of Finding

- 1) The No Project Alternative would not meet the project sponsor’s objectives in that no development would occur on the project site.
- 2) The No Project Alternative would not be consistent with the City’s objectives and General Plan 2020 Policy NH-118, which encourage a mixed-use development on the project site that retains the marina and neighborhood commercial uses, promotes expanded waterfront recreation and park opportunities and introduces residential use with a variety of housing types.
- 3) The No Project Alternative would not promote long-needed improvements to an underdeveloped site, would not provide an opportunity to expand public access and use of the site or permanently protect of on-site resources (wetlands and conservation areas).
- 4) While most of the potential impacts associated with the project would be avoided under this alternative, this alternative would not achieve the water quality treatment measures proposed with the project, as amended would: a) not remove the site from the 100-year floodplain; and b) not provide any new housing that would be affordable to low- and moderate-income households.

b. Alternative 2: No Project-Development per General Plan 2020 Alternative

This alternative assumes that the project site would be developed with nine acres of neighborhood commercial (15,000 square feet) and residential (59 cottage and detached single-family residential units) uses, approximately 14.9 acres of the upland would be reserved for marina and marine-related land uses and approximately 5.6 acres of the site would remain as open space and conservation area.

Finding

Specific economic, legal and other considerations make Alternative 2, identified in the FEIR and described above, a less desirable alternative for the project sponsor and the City of San Rafael.

Facts in Support of Finding

- 1) Alternative 2 would not meet the project sponsor’s objectives as residential development would be limited to 59 detached single-family and cottage units, which would not provide the density and the range of housing types and sizes proposed with the project.

- 2) Alternative 2 would meet most of the City's objectives and General Plan 2020 Policy NH-118 as it would provide a mixed-use development consisting of marina and neighborhood commercial uses, expanded waterfront recreation and park opportunities and preservation of open space and conservation areas. However, the residential use component is limited to two similar housing types and would result in a density that is at the low-end of the General Plan density range established for this site, which would not meet the objectives of the City or the mix of housing types encouraged by Policy NH-118.
- 3) Alternative 2 would be legally infeasible, as the City would be unable to make the findings required by California Government Code Section 65589.5(j), since the housing project as proposed by the project sponsor has no specific adverse impact upon the public health or safety, which would be negated by project approval at a lower density.
- 4) Similar to the project, Alternative 2 would promote long-needed improvements to an underdeveloped site, would provide an opportunity to expand public access and use of the site and would result in permanent protection of on-site resources (wetlands and conservation areas).
- 5) Alternative 2 would generate impacts that are comparatively similar to the project, as amended with reduced impacts in the areas of aesthetics, biological resources, hydrology/drainage, water quality, traffic, air quality and noise. However, this alternative would not eliminate a significant impact of the project that would be cause for selection as a preferable plan. Alternative 2 would achieve the water quality treatment measures proposed with the project, as amended and would remove the site from the 100-year floodplain. While Alternative 2 would provide new housing, it would result in fewer market-rate and below-market rate units than the project, which would be further from meeting the City's housing development goals.

c. Alternative 3: Medium Density-Low Range General Plan 2020 Alternative

This alternative assumes that the project site would be developed with 9.6 acres of neighborhood commercial (21,785 square feet) and residential (59 cottage and detached single-family residential units) uses, approximately 14.1 acres of the upland would be reserved for marina and marine-related land uses and approximately 5.8 acres of the site would remain as open space and conservation area.

Finding

Specific economic, legal and other considerations make Alternative 3, identified in the FEIR and described above, a less desirable alternative for the project sponsor and the City of San Rafael.

Facts in Support of Finding

- 1) Alternative 3 would not meet the project sponsor's objectives as residential development would be limited to 59 detached single-family and cottage units, which would not provide the density and range of housing types and sizes proposed with the project.
- 2) Alternative 3 would meet most of the City's objectives and General Plan 2020 Policy NH-118 as it would provide a mixed-use development consisting of marina and neighborhood commercial uses, expanded waterfront recreation and park

opportunities and preservation of open space and conservation areas. However, the residential use component is limited to two similar housing types that would be developed at the low-end of the General Plan density range established for this site, which would not meet the objectives of the City or the mix of housing types encouraged by Policy NH-118.

- 3) Alternative 3 would be legally infeasible, as the City would be unable to make the findings required by California Government Code Section 65589.5(j), since the housing project as proposed by the project sponsor has no specific adverse impact upon the public health or safety, which would be negated by project approval at a lower density.
- 4) Similar to the project, Alternative 3 would promote long-needed improvements to an underdeveloped site, would provide an opportunity to expand public access and use of the site and would result in permanent protection of on-site resources (wetlands and conservation areas).
- 5) Alternative 3 would generate impacts that are comparatively similar to the project, as amended with reduced impacts in the areas of aesthetics, biological resources, hydrology/drainage, water quality, traffic, air quality and noise. However, this alternative would not eliminate a significant impact of the project that would be cause for selection as a preferable plan. Alternative 3 would achieve the water quality treatment measures proposed with the project, as amended and would remove the site from the 100-year floodplain. While Alternative 3 would provide new housing, it would result in fewer market-rate and below-market rate units than the project, which would be further from meeting the City's housing development goals.

d. Alternative 4: Medium Density-High Range General Plan 2020 Alternative

This alternative assumes that the project site would be developed with 11.3 acres of neighborhood commercial (37,300 square feet) and residential (99 cottage, detached single-family and town home residential units) uses, approximately 12.4 acres of the upland would be reserved for marina and marine-related land uses and approximately 5.8 acres of the site would remain as open space and conservation area.

Finding

While City housing goals would be met with the implementation of Alternative 4, specific environmental considerations make this alternative, identified in the FEIR and described above, a less desirable alternative for the project sponsor and the City of San Rafael.

Facts in Support of Finding

- 1) Alternative 4 would meet the project sponsor's objectives as residential development would result in 99 residential units, which would provide the range of housing types and sizes proposed with the project.
- 2) Alternative 4 would meet most of the City's objectives and General Plan 2020 Policy NH-118 as it would provide a mixed-use development consisting of marina and neighborhood commercial uses, expanded waterfront recreation and park opportunities and preservation of open space and conservation areas. The residential use component would meet the 99-unit housing goal established for this housing opportunity site by the San Rafael General Plan 2020, which would include a broad mix of housing types encouraged by Policy NH-118.

- 3) Similar to the project, Alternative 4 would promote long-needed improvements to an underdeveloped site, would provide an opportunity to expand public access and use of the site and would result in permanent protection of on-site resources (wetlands and conservation areas).
- 4) Alternative 4 would generate impacts that are comparatively similar to the project, as amended with increased impacts in the areas of aesthetics, biological resources, hydrology/drainage, water quality, public services, public utilities and noise. However, this alternative would: a) result in greater traffic and air quality impacts than those generated under Phase II of the project, as amended (build-out); and b) not eliminate a significant impact of the project that would be cause for selection as a preferable plan. Alternative 4 would achieve the water quality treatment measures proposed with the project and would remove the site from the 100-year floodplain.

e. Alternative 5: Expanded Commercial Alternative

This alternative assumes that the project site would be developed with 7.9 acres of neighborhood commercial (36,300 square feet) and residential (59 cottage, detached single-family and town home residential units) uses, approximately 13.6 acres of the upland would be reserved for marina and marine-related land uses and approximately 8.0 acres of the site would remain as open space and conservation area.

Finding

Specific economic, legal and other considerations make Alternative 5, identified in the FEIR and described above, a less desirable alternative for the project sponsor and the City of San Rafael.

Facts in Support of Finding

- 1) Alternative 5 would not meet the project sponsor's objectives as residential development would be limited to 59 units, but would provide the mix of housing types and sizes proposed with the project.
- 2) Alternative 5 would meet most of the City's objectives and General Plan 2020 Policy NH-118 as it would provide a mixed-use development consisting of marina and neighborhood commercial uses, expanded waterfront recreation and park opportunities and preservation of open space and conservation areas. However, the residential use component would be developed at the low-end of the General Plan density range established for this site, which would result in fewer housing units on a housing opportunity site that is capable of accommodating a greater number of housing units.
- 3) Alternative 5 would be legally infeasible, as the City would be unable to make the findings required by California Government Code Section 65589.5(j), since the housing project as proposed by the project sponsor has no specific adverse impact upon the public health or safety, which would be negated by project approval at a lower density.
- 4) Similar to the project, Alternative 5 would promote long-needed improvements to an underdeveloped site, would provide an opportunity to expand public access and use of the site and would result in permanent protection of on-site resources (wetlands and conservation areas).

- 5) Alternative 5 would generate impacts that are comparatively similar to the project, as amended, with reduced impacts in the areas of hydrology/drainage, water quality, geology/soils and seismicity, public services and utilities. However, this alternative would not eliminate a significant impact of the project that would be cause for selection as a preferable plan. Alternative 5 would achieve the water quality treatment measures proposed with the project, as amended and would remove the site from the 100-year floodplain. While Alternative 5 would provide new housing, it would result in fewer market-rate and below-market rate units than the project, which would be further from meeting the City's housing development goals.

f. Alternative 6: 36-Unit Loch Lomond Homeowner's Association Alternative

This alternative assumes that the project site would be developed with 9.6 acres of neighborhood commercial (28,000 square feet) and residential (36 cottage, detached single-family and town home residential units) uses, approximately 14.1 acres of the upland would be reserved for marina and marine-related land uses and approximately 7.5 acres of the site would remain as open space and conservation area.

Finding

Specific economic, legal and other considerations make Alternative 6, identified in the FEIR and described above, a less desirable alternative for the project sponsor and the City of San Rafael.

Facts in Support of Finding

- 1) Alternative 6 would not meet the project sponsor's objectives as residential development would be limited to 36 units, but would provide the mix of housing types and sizes proposed with the project.
- 2) Alternative 6 would meet most of the City's objectives and General Plan 2020 Policy NH-118 as it would provide a mixed-use development consisting of marina and neighborhood commercial uses, expanded waterfront recreation and park opportunities and preservation of open space and conservation areas. However, the residential use component would be developed well below the General Plan density range established for this site, which would result in fewer housing units on a housing opportunity site that is capable of accommodating a greater number of housing units.
- 3) Alternative 6 would be legally infeasible, as the City would be unable to make the findings required by California Government Code Section 65589.5(j), since the housing project as proposed by the project sponsor has no specific adverse impact upon the public health or safety, which would be negated by project approval at a lower density.
- 4) Similar to the project, Alternative 6 would promote long-needed improvements to an underdeveloped site, would provide an opportunity to expand public access and use of the site and would result in permanent protection of on-site resources (wetlands and conservation areas).
- 5) Alternative 6 would generate impacts that are comparatively similar to the project with reduced impacts in the areas of aesthetics, biological resources, hydrology/drainage, water quality, geology/soils and seismicity, public services, utilities, traffic and air quality impacts. Alternative 6 would achieve the water quality treatment measures proposed with the project, as amended and would remove the site

from the 100-year floodplain. While Alternative 6 would provide new housing, it would result in far fewer market-rate and below-market rate units than the project, which would be further from meeting the City's housing development goals.

g. Alternative 7: Density Bonus Alternative

This alternative would implement the California Affordable Housing Density Bonus Law (Government Code Section 65915 et seq.) by proposing to develop the project site with 11.3 acres of neighborhood commercial (38,085 square feet) and residential (182 detached single-family, town home and apartment/condominium residential units) uses, approximately 12.4 acres of the upland would be reserved for marina and marine-related land uses and approximately 5.8 acres of the site would remain as open space and conservation area.

Finding

While City housing goals would be met with the implementation of Alternative 7, specific environmental considerations make this alternative, identified in the FEIR and described above, a less desirable alternative for the project sponsor and the City of San Rafael.

Facts in Support of Finding

- 1) Alternative 7 would exceed the project sponsor's objectives for residential development density but would not provide the housing types and sizes proposed with the project.
- 2) Alternative 7 would meet most of the City's objectives and General Plan 2020 Policy NH-118 as it would provide a mixed-use development consisting of marina and neighborhood commercial uses, expanded waterfront recreation and park opportunities and preservation of open space and conservation areas. The residential use component would exceed the 99-unit housing goal established for this housing opportunity site by the San Rafael General Plan 2020, which would include a broad mix of housing types encouraged by Policy NH-118.
- 3) Similar to the project, Alternative 7 would promote long-needed improvements to an underdeveloped site, would provide an opportunity to expand public access and use of the site and would result in permanent protection of on-site resources (wetlands and conservation areas).
- 4) Alternative 7 would generate impacts that are comparatively similar to the project, as amended with increased impacts in the areas of aesthetics, traffic, biological resources, hydrology/drainage, water quality, geology/soils and seismicity, public services, public utilities, air quality and noise. Alternative 7 would achieve the water quality treatment measures proposed with the project, as amended and would remove the site from the 100-year floodplain.

The foregoing Resolution No. 12330 was read and introduced at a regular meeting of the City Council on the 6th day of August 2007, and ordered for a second reading by the following vote to wit:

AYES: Councilmembers: Cohen, Heller, Miller, Phillips and Mayor Boro

NOES: Councilmembers: None

ABSENT: Councilmembers: None


JEANNE M. LEONCINI, City Clerk

Attachments:

EXHIBIT 'A': FEIR Errata/Supplement, May 2007/Revised July 2007

EXHIBIT 'B': Mitigation Monitoring and Reporting Program; revised June 2007

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